

## **307 CONFLICTS OF INTEREST AND FIDUCIARY DUTY**

### **I. PURPOSE**

The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals the Board of Directors adopts policies related to conflicts of interest and fiduciary duty for all officials and employees whether elected or appointed, paid or unpaid.

The purpose of this policy is to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interest of the Duluth Public Schools and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the Duluth Public Schools.

### **II. GENERAL STATEMENT OF POLICY**

A. This policy establishes minimum standards of conduct for public officials, employees, contractors, council and advisory council members, site-based council members, and other district personnel. Failure to meet these standards shall subject the actor to disciplinary action.

B. The employee manual will contain information on this policy. New employees will receive information on this policy during the onboarding process.

C. The Duluth Public Schools contract template will require all contractors to review and abide by this policy. The policy will be available on the District's website.

D. Responsibilities of Public Office

Public officials and employees are agents of public purpose and hold office for the benefit of the public. Their conduct in both their official and private affairs should be above reproach. They must avoid misconduct and are bound to:

1. uphold the Constitution of the United States and the Constitution of this State;
2. carry out impartially the laws of the nation, state, and school district; and
3. discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern.

E. Dedicated Service and Fiduciary Duty

1. Appointed officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.
2. Public officials and employees and other district personnel may not exceed their authority or break the law or ask others to do so, and they should work

in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

3. Public officials and employees and other district personnel shall not disclose any confidential or private, nonpublic, educational or employee data during their term of appointment, election or employment and shall likewise refrain from disclosing any private educational or employee data after their term of election or appointment, or employment has ended unless permitted by law.
4. Public officials, employees and other district personnel shall not disclose or use any confidential, private, nonpublic, privileged or proprietary information gained by reason of their employment, election or appointment by or to the District other than in the course of their duties. Such a prohibition shall continue after the term of their election, appointment or employment ends.
5. Public officials and employees shall manage the assets both real and personal of the district with highest integrity, and exercise any discretionary powers they may have for the benefit of the District with the care a reasonably prudent person would do.

F. Fair and Equal Treatment

1. No public official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
2. Schools, programs and departments may enter into partnerships with corporate or business citizens to promote civic engagement, sponsorship of district activities or support of academic programs. Such partnerships shall not imply preference or endorsement of or for the services or products of those corporate or business partners. Any such partnerships are subject to the terms of this policy.

G. Conflicts of Interest

1. No public official or employee shall engage in any business or transaction or shall have a financial or personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.
2. "Personal interest" may be defined as an interest arising from:
  - a) blood or marriage relationships;
  - b) domestic partnerships;
  - c) status of dependent of the person;
  - d) membership in the same household;
  - e) close business or political associates.

3. Conflicts of interest include but are not limited to:

- a) Use of confidential information, obtained as a result of public position, for personal gain.
- b) Any use of official position for personal gain or to benefit a personal interest.
- c) Holding (possession) investments which interfere, or tend to interfere, with the proper discharge of public duty.
- d) Representation by public officials or employees of private interests before the Duluth Board of Education or departments and participation in the profits from such representation.
- e) Participation in transactions as a public representative with a business entity in which the public official or employee has a direct or indirect financial or other personal interest.
- f) Personal interest in legislation to the extent that private interest takes precedence over public interest and public duty.
- g) Entry by the district into contracts or other conduct of business for profit with a business in which a public official or employee has substantial or controlling interest, when the public official or employee can influence such contract or business because of his or her public position.

H. Use of Position for Influence

1. Recommendations

- a) School personnel shall not make recommendations for a provider of professional services. School personnel may be asked by parents to recommend providers; this is particularly true of health care staff, who may be asked to recommend a physician, a dentist, or an optometrist. School personnel shall not make such recommendations.
- b) Employees may prepare and distribute lists of professional organizations or providers of professional services available in the region for the purposes of informing parents, but shall make no evaluation of the services or organizations, and shall not indicate a preference for any of them.
- c) Persons making requests for referrals to providers should be directed to the proper professional association for advice.

2. Politics

The District recognizes and encourages the rights of its employees, as citizens, to engage in political activity, with the following restrictions:

- a) No employee of the school district shall solicit support of any political candidate, partisan or non-partisan, during regular work hours or on school property.
- b) No employee of the school district shall solicit support of any referendum issue not directly related to public education, during regular work hours, or on school property.
- c) No employee may use the name of the district, or any school, department or program to support any political candidate, ballot proposition or referendum.
- d) No resources of the district may be used to support any political candidate, partisan or non-partisan, or any ballot proposition or referendum not directly related to public education.

### **III. APPLICABILITY**

- A. This policy applies to all Duluth Public Schools
  - 1. officials,
  - 2. employees,
  - 3. contractors on district premises,
  - 4. council and advisory council members, and
  - 5. site-based council members.
- B. This policy applies to all persons, whether
  - 1. elected, appointed, employed, or supplying goods or services to the district under contract,
  - 2. paid or unpaid,
  - 3. engaged in any activity on behalf of the Duluth School District including activities at every school, department or program of the District.
- C. When a public official or employee has doubt as to the applicability of a provision of this policy to a particular situation, he or she should submit the question to the Human Resources Office for review and determination of applicability. Questions may be made anonymously, in which case the Human Resources Department shall make such answers available to the appropriate persons subject to this policy. The Human Resources Department may make any question and response or guidance public.

#### **IV. REPORTING SUSPECTED VIOLATIONS**

- A. All employees, contractors, public officials or council members have a duty and obligation to report what they believe to be a violation of this policy as soon as possible.
- B. The report must be made to their supervisor or manager of the department or building concerned.
- C. In those instances in which the immediate supervisor is involved in the alleged violation, the report should be made to the person at the next highest supervisory level.
- D. In those instances in which the complainant feels uncomfortable reporting the suspected violation to any of the aforementioned persons, that person may make a direct report to Human Resources.
- E. Supervisors, Department Managers, Principals and Site Administrators will forward suspected violations of this policy to Human Resources **as soon as possible**. Any employee may also make a report to Human Resources.

#### **V. RETALIATION IS PROHIBITED**

- A. Suspected violations submitted in good faith and in an appropriate manner, whether or not further investigation substantiates the claim, will be free from retaliation in any form. The identity of complainants will be protected, within legal limits, and any public official, employee or other district personnel who retaliate against them will be disciplined.

#### **VI. INVESTIGATION AND RESOLUTION OF SUSPECTED VIOLATIONS**

- A. The Human Resources Department will promptly investigate alleged violations.
- B. Those accused of suspected violations will be given an opportunity to respond.
- C. When it is determined that a conflict of interest has occurred, ISD 709 will report it to MDE.
- D. The Human Resources Department will prepare a report of the investigation.
- E. If the investigation concerns the actions of an employee the report may be submitted to the employee's manager or supervisor. Release of this information will follow state statutes.
- F. If the investigation concerns the actions of a non-employee or contractor, the report will be submitted to the appropriate supervisor of the person's activities.
- G. Any discipline of an employee shall follow District policies, contracts and procedures, up to and including termination of employment.
- H. Any discipline of a contractor may include termination of the contract.

- I. Any discipline of an appointee to an advisory board or site council may include termination of the appointment.
- J. Human Resources will involve the Superintendent as needed or required.

**VII. REFRAINING FROM ABUSE**

Any complainant or witness who abuses the enforcement procedure by knowingly submitting false reports, claims, testimony or evidence will be subject to disciplinary action up to and including termination.

**VIII. RESPONSIBILITY**

- A. The Superintendent shall take the necessary steps to assure that all individuals are in compliance.
- B. The Superintendent is authorized to promulgate regulations to implement this policy.

**Legal References:** Minnesota Rules 3512.5200 (Code of Ethics for School Administrators)  
Minnesota Rules 8700.2100 (Code of Ethics for Minnesota Teachers)

**Cross References:** MSBA/MASA Model Policy 209 (Code of Ethics)  
MSBA/MASA Model Policy 210 (Conflict of Interest - School Board Members)

New Policy  
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