

This is a NEW policy and sets forth the ethical obligations of board members, school district employees and individuals employed on a consultative basis. It further defines "conflict of interest" and the legal obligations of notice and the prohibition of taking any official action or making a formal decision or recommendation that come into play when a conflict of interest is present. This policy also reflects the Idaho legislature's 2015 updated code section. Recommendation: Accept italics.

**DEFINITIONS:**

"Official action" means any decision on, or proposal, consideration, enactment, defeat, or making of any rule, regulation, rate-making proceeding or policy action or nonaction by a governmental body or any other policy matter which is within the official jurisdiction of the governmental body.

"Business" means any undertaking operated for economic gain, including, but not limited to, a corporation, partnership, trust, proprietorship, firm, association or joint venture.

"Business with which a public official is associated" means any business of which the public official or member of his household is a director, officer, owner, partner, employee or holder of stock over five thousand dollars (\$5,000) or more at fair market value.

"Conflict of interest" means any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or a member of the person's household, or a business with which the person or a member of the person's household is associated, unless the pecuniary benefit arises out of the following:

- (a) An interest or membership in a particular business, industry, occupation or class required by law as a prerequisite to the holding by the person of the office or position;
- (b) Any action in the person's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the person, or a member of the person's household or business with which the person is associated, is a member or is engaged;
- (c) Any interest which the person has by virtue of his profession, trade or occupation where his interest would be affected to the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation;
- (d) Any action by a public official upon any revenue measure, any appropriation measure or any measure imposing a tax, when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree.

“Economic gain” means increase in pecuniary value from sources other than lawful compensation as a public official.

“Governmental entity” means:

- (a) The state of Idaho and all agencies, commissions and other governmental bodies of the state; and
- (b) Counties and municipalities of the state of Idaho and all other political subdivisions including this school district.

“Members of a household” means the spouse and dependent children of the public official and/or persons whom the public official is legally obligated to support.

“Person” means an individual, proprietorship, partnership, association, trust, estate, business trust, group or corporation, whether operated for profit or not, and any other legal entity, or agent or servant thereof, or a governmental entity.

“Public office” means any position in which the normal and usual duties are conducted on behalf of a governmental entity.

“Public official” means any person holding public office in the following capacity:

- (a) As an elected or appointed board member; or
- (b) Any person holding public office as a legislator; or
- (c) Any employee of this school district, or any person employed by the district on a consultative basis.

**REQUIRED ACTION IN CONFLICTS:**

A public official shall not take any official action or make a formal decision or formal recommendation concerning any matter where he has a conflict of interest and has failed to disclose such conflict as required by Idaho Code 74-404. *If a potential conflict of interest exists, the nature of the potential conflict of interest shall be disclosed in writing prior to acting on a matter.*

Disclosure of a conflict *in writing to the board chair* does not affect a board member’s authority to be counted for purposes of determining a quorum and to debate and to vote on the matter, unless the board member requests to be excused from debate and voting at his or her discretion.

In order to determine whether a conflict of interest exists relative to any matter within the scope of the official functions of a public official, a public official may seek legal advice from the attorney representing that governmental entity or from the attorney general or from independent counsel. If the legal advice is that no real or potential conflict of interest exists, the public official may proceed and shall not be subject to the prohibitions herein.



**LEGAL REFERENCE:**

Idaho Code Sections

- 74-401 – Ethics in Government
- 74-402 – Policy and Purpose
- 74-403 – Definition
- 74-404 – Required Action in Conflicts
- 74-405 – Noncompensated Public Officials – Exception
- 74-406 - Civil Penalty

**ADOPTED:**

**AMENDED:**