

BOARD AGENDA ITEM

July 13, 2021

SUBJECT:

Policy BCB Board Member Conflict of Interest, Final Reading

BACKGROUND INFORMATION:

Policy BCB provides guidance to the school board when potential conflict of interest occurs among members and the business of the District.

ADMINISTRATIVE CONSIDERATION:

The Board received legal advice on Policy BCB during executive session at the called meeting on June 15, 2021. The board then approved updates clarifying board member participation as a volunteer on first reading

RECOMMENDATION:

Adopt Policy BCB Board Member Conflict of Interest on final reading

ATTACHMENTS:

Policy BCB Board Member Conflict of Interest

PREPARED BY:

Salvatore Minolfo

BOARD MEMBER CONFLICT OF INTEREST

Code **BCB** Issued **7/21/21**

Purpose: To establish the basic structure for determining board member conflict of interest.

A trustee may provide services or sell products to the district of which he/she is a board member provided all transactions are in accordance with the State Ethics Act (see policy BCA, *Board Member Code of Ethics*).

If, in the discharge of official responsibilities, the board member is required to take an action or make a decision which affects his/her economic interest or the economic interest of a member of his/her immediate family or an individual with whom he/she is associated, the board member must prepare a written statement outlining the conflict and give it to the chairman of the board. The board member must also be excused from deliberating or voting on the matter. The minutes of the meeting should reflect the disqualification and reasons for it.

However, the S.C. Ethics, Government Accountability, and Campaign Reform Act (“Ethics Act”) provides that a public official may not have an economic interest in a contract with the district if the official is authorized to perform an official function relating to the contract. The law defines official function to include accepting bids and awarding contracts.

No family member (see definitions) of a board member will be employed without the written approval of the board of education. This does not apply to persons employed before his/her family member became a member of the board of education. This section does not apply to bus drivers.

The administrative recommendation to employ, transfer, promote, or make salary adjustments for any family member of a board member will be considered as a separate agenda item. This policy does not apply to across the board salary increases and approval of the district’s salary schedule.

A board member may not participate in an action relating to the discipline of his/her family member.

A board member may not receive pay as a teacher of a free public school that is located in the same school district of which such person is a trustee. A board member may not be a staff member in the district in any capacity. Board members also will not serve as a volunteer in the district (including while on school property, off school property at a school-sponsored activity, or on a school bus), where the member has a position of authority, control or responsibility for any of the district’s students or staff (outside of the board member’s responsibilities as a board member).

Adopted 9/9/75; Revised 9/27/83, 1/24/89, 8/17/93, 7/17/01, 2/23/21, 07/13/21

Legal References:

- A. S.C. Constitution:
 1. Article XVII, Section 1A - Dual office holding prohibited.
- B. S.C. Code of Laws, 1976, as amended:
 1. Section 8-13-100, *et seq.* - Ethics, Government Accountability, and Campaign Reform Act.
 2. Section 59-19-300 - Prohibits receiving pay as teacher in same district where serving on board.
 3. Section 59-25-10 - Prohibits board from employing members of immediate family as a teacher, with exceptions.
 4. Section 59-31-590 - Prohibits service as agent of school book publisher.

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5. Section 59-69-260 - Authorizes board members to provide services or sell products to the district so long as these transactions are in accordance with state ethical provision of law.

C. Attorney General's Opinion:

1. Op. S.C. Att'y Gen., 2016 WL 386066 (January 5, 2016) A master-servant conflict would arise if a board member were to serve as the head or assistant coach, even on a volunteer basis, and as a trustee of the board in the same district.

Definitions – (a) *Family Member*: the spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild of a board member; [or] a member of the board's immediate family; (b) *Immediate Family*: a child residing in a board member's household; a spouse of a board member; or an individual claimed by the board member or the Board Member's spouse as a dependent for income tax purposes.