

CONFLICT OF INTEREST AND GIFTS (Officers, Employees and Agents)

Officers, employees and agents of the New Hanover County Board of Education (Board) have an obligation to conduct all Board and school system related business transactions without incurring actual or potential "conflicts of interest". Officers, employees and agents of the Board shall avoid incurring any kind of financial or personal obligation that might affect their judgment when acting on behalf of the Board or school system. Officers, employees and agents of the Board and school system must act in a manner that is consistent with the spirit of this Policy and their specific responsibilities and take all necessary precautions to avoid any actual or potential "conflict of interest." Officers, employees and agents of the Board and school system shall not engage in or have a financial interest, directly or indirectly, in any activity that conflicts with their duties and responsibilities. This Policy is intended to establish requirements that meet or exceed the State law and the Uniform Guidance for contracts involving federal funds.

All officers, employees and agents of the Board shall follow all laws and the provisions of this Policy pertaining to the avoidance of actual or potential "conflicts of interest" and the receipt of gifts and things of value. The term "conflict of interest" as used in this Policy means a situation in which the officer, employee or agent of the Board receives, directly or indirectly, a "restricted benefit" in connection with a contract to which the Board is a party.

1. Restricted Benefits Prohibited; Required Disclosures. No officer, employee or agent of the Board or school system who is involved in "making" or "administering" a contract (as defined herein) on behalf of the Board may derive a "restricted benefit" (as defined herein) from or in connection with a contract in which the Board is a party. An officer, employee or agent who will or may derive a "restricted benefit" (as defined herein) from or in connection with a contract in which Board is a party, but who is not involved in "making" or "administering" the contract (as defined herein) shall not attempt to influence any other person who is involved in "making" or "administering" the contract (as defined herein). In addition, before any contract shall be entered into by or on behalf of the Board with any entity that has as an owner, shareholder, officer, director, partner, executive, manager, joint venturer or guarantor that is an "immediate relative" (as defined herein) of a Senior Staff member, such a relationship must be: disclosed to the Superintendent and the Board and approved by the Board in an open session meeting. The burden of disclosure of such a relationship shall be on the applicable Senior Staff member. Except as otherwise specified by applicable state or federal law, officers, employees and agents of the Board who have influence over transactions involving purchases, contracts, leases or business matters must disclose the existence of any actual, apparent or potential "conflict of interest" (as defined herein) in writing to their immediate supervisor promptly so that safeguards will be established to protect all parties. All officers, employees and agents with knowledge of any actions that may violate this Policy shall immediately report the situation to the Division of Human Resources in writing. If the actual, apparent or potential "conflict of interest" (as defined herein) involves a contract paid for, in whole or in part, by federal funds, it shall also be disclosed promptly in writing to the federal award agency or pass through agency in accordance with applicable federal awarding agency policy.

2. Solicitations or Receipts of Gifts or Benefits Prohibited; Required Disclosures.

No officer, employee or agent of the Board or school system may solicit or receive any gift, gratuity, favor, reward, service, or promise of reward, including a promise of future employment for any person, or anything of monetary value, from any contractor, supplier, or subcontractor of the Board, any person or entity desiring to have a contract with the Board, or any person or entity who has performed under a contract with the Board within one year preceding the gift or thing of monetary value, except for items of nominal value (less than \$25.00), and which fall into one of the following categories:

- promotional items;
- honorariums for participation in meetings; or
- meals furnished at banquets

Officers, employees and agents who knowingly accept an item of nominal value allowed under this Policy shall report each such item to his or her immediate supervisor promptly in writing. The Superintendent or designee or Board may make specific exceptions to the provisions of this Section 2 as long as the transaction complies with all applicable State laws and the entity making the gift or reward does not and is not desiring to have a contract with the Board that would involve payment by the Board of federal funds to such entity.

3. Outside Work or Consulting by Employees. The Board authorizes the Superintendent to review requests by employees to engage in outside consulting activities and to approve or disapprove such requests on the merits of the individual case presented. Such activities shall not be permitted to infringe on the obligations of employees or affect the educational programs of the school system. The Board recognizes that some employees may, during their own time, pursue additional compensation. Any such employee shall not engage in the following: employment which adversely affects the employee's availability or effectiveness in fulfilling job responsibilities to the school system or substantially disrupts the educational process of the school system, work of any type where the sources of information concerning customers, clients or employers originates from any information obtained through the school system which is not a matter of public record or any type of business during the school system work day or on school system property.

4. Selling Goods or Services to Board Prohibited. Employees shall not engage in selling goods or services to the Board. This section shall not prevent companies which are owned in whole or in part by an employee from selling goods or services to the Board as long as the employee does not perform work under the contract and the employee is not involved in "making" or "administering" the contract (as defined herein).

5. Definitions. For purposes of this Policy:

- An officer, employee or agent is involved in "administering" a contract if he or she, directly or indirectly, oversees the performance of the contract or has authority to make decisions regarding the contract or to interpret the contract.
- An officer, employee or agent is involved in "making" a contract if he or she participates, directly or indirectly, in the development of specifications or terms or in the preparation, selection or award of the contract.

- An officer, employee or agent derives a “restricted benefit” from a contract in which the Board is a party if the person, his or her spouse, any member of his or her “immediate family” (as defined herein), his or her partner, or any organization with employs or is about to employ any of the persons mentioned previously in this sentence: (i) has a substantial financial or other interest in or receives a substantial tangible personal benefit from the person or entity contracting with the Board, (ii) derives any income or commission directly from the contract, (iii) acquires property under the contract, or (iv) receives or expects to receive any kickbacks, bribes, bonuses, fringe benefits or promises of employment in connection with or as a result of the contract.
- An officer, employee or agent is not involved in “making” or “administering” a contract (as defined herein) solely because of the performance of ministerial duties related to the contract.
- For purposes of this Policy, the terms “contract with the Board” and “contract by the Board”, and “selling goods or services to the Board”, whether used in the singular or plural, include contracts approved by the Board and contracts entered on behalf of the Board by an authorized officer or employee of the Board, including but not limited to contracts entered in the name of the New Hanover County Schools or similar name and contracts entered into in the name of any department, Division or school of the New Hanover County Schools or Board. Also, the term “school system” as used herein, refers to the New Hanover County Schools, which is operated and governed by the Board.
- For the purposes of this Policy, members of the “immediate family” (also referred to as immediate relatives) include spouse, children, stepchildren, wards, grandchildren, parents, grandparents, brothers, sisters, in-laws, uncles, aunts, nieces or nephews.
- As used in this Policy the term “Senior Staff” members means the Superintendent, Deputy Superintendent, all Associate and Assistant Superintendents, the Finance Officer and all other employees who are designated by the Superintendent as such.

6. Exceptions.

Paragraph 1 of this Policy does not apply to any of the following:

- Any contract between the Board and a bank, banking institution, savings and loan association, or with a public utility regulated under the provisions of Chapter 62 of the North Carolina General Statutes, which does not involve payments by the Board from federal funds.
- An interest in property conveyed by an employee under a judgment, including a consent judgment, entered by a superior court judge in a condemnation proceeding initiated by the Board, which does not involve payments by the Board from federal funds.

7. Required Disclosure of Conflicts or Potential Conflicts; Sanctions. Failure to make advance written disclosure of actual, apparent or potential conflicts of interest as required by this Policy, or to otherwise abide by the requirements set forth in this Policy may result in disciplinary action, up to and including termination.

8. Violation a Misdemeanor. Any officer, employee or agent violating certain provisions of this Policy may be guilty of a criminal offense as specified by law.

9. Contract in Violation of Policy May Be Void; Continuation of Contract. A contract entered into in violation of certain provisions of this Policy may be void. A contract that is void under this paragraph may continue in effect until an alternative can be arranged when: (i) immediate termination would result in harm to the public health or welfare, and (ii) the continuation is approved as provided in this subsection. The Board may request approval to continue contracts under this paragraph from the chair of the Local Government Commission. Approval of continuation of contracts under this paragraph shall be given for the minimum period necessary to protect the public health or welfare.

LEGAL REFS: NCGS §14-234; §133-32, the Federal Office of Management and Budget's (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (commonly called "Uniform Guidance"), 2 C.F.R., Part 200.

CROSS REF: Policy 6082 Code of Ethics and Standards of Conduct; Policy 1242 Board of Education Member Conflict of Interest

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