

Conflict of Interest/Full Disclosure

This policy prohibits Bon Homme School Board members, its fiscal agent, and its administrators from having an interest in a contract, or receiving a direct benefit from a contract, if the school district is a party to that contract or has a separate contract which is related to the contract of the Bon Homme School Board member, fiscal agent, or administrator, unless the Bon Homme Board of Education grants a waiver. Disclosure requirements apply to public contracts for labor or services to be rendered, the purchase of commodities, materials, supplies, or equipment of any kind, and any kind of contract related to facilities.

Disclosure is required by Bon Homme School Board members, the fiscal agent, and the administrators in each of the following situations:

1. When a Bon Homme Board member, the fiscal agent, and administrators has an interest in a contract or receives a direct benefit from a contract.
2. If the spouse of a Bon Homme Board member, the fiscal agent, and administrators has an interest in a contract or receives a direct benefit from a contract.
3. If another person with whom a Bon Homme Board member, the fiscal agent, and administrators lives and commingles assets has an interest in a contract or receives a direct benefit from a contract.

A Bon Homme Board member, the fiscal agent, and administrators derive a direct benefit from a contract, or their spouse or other person with whom assets are commingled derives a direct benefit from a contract:

1. If the person has more than a five percent ownership or other interest in an entity that is a party to the contract.
2. If the person derives income, compensation, or commission directly from the contract or from the entity that is a party to the contract.
3. If the person acquires property under the contract.
4. If the person serves on the Board of Directors of an entity that derives income directly from the contract or acquires property under the contract.

A person does not derive a direct benefit from a contract based solely upon the value associated with the person's investments or holdings, or the investments or holdings the officer or employee lives with and commingles assets.

If in doubt whether an actual conflict exists, this policy also requires disclosure of possible or potential conflicts.

If other specific conflict of interest laws or administrative regulations relating to Bon Homme Board members, the fiscal agent, and administrators apply in addition to SDCL Chapter 3-23 and this policy, the more restrictive conflict of interest law shall apply.

Any Bon Homme School Board member, the fiscal agent, or administrator who knowingly violates SDCL Chapter 3-23 commits a criminal offense (Class 1 misdemeanor). Any Bon Homme School Board member who knowingly violates the provisions of this policy is subject to being removed as a Board member. Any administrator or fiscal agent who knowingly violates the provision of this policy is subject to his or her employment relationship with the Bon Homme School District being terminated. Unless the Bon Homme School Board has granted a waiver, the contract in which the School Board member, school administrator, or fiscal agent has an interest or receives a direct benefit is voidable by the Bon Homme Board and any benefit received by the Bon Homme School Board member, school administrator, or fiscal agent is subject to forfeiture.

A waiver may be granted by the Bon Homme School Board to authorize a Board member, school administrator, or the fiscal agent to receive a direct benefit from the Bon Homme School District's contract with a person or entity (public, private, for-profit, non-profit) if the following conditions are met:

1. The Bon Homme School Board member, school administrator, or fiscal agent provides a full written disclosure to the Board.
2. The Bon Homme School Board reviews the essential terms of the contract or transaction and the School Board member's, school administrator's or school's fiscal agent role in the contract or transaction.
3. The Bon Homme School Board determines that the transaction and terms of the contract are fair and reasonable and not contrary to the public interest.
4. The authorization of the Bon Homme School Board is in writing and file with the Auditor-General.

The public records laws (SDCL Chapter 1-27) apply to all requests for waiver.

APPLYING FOR WAIVER

1. If the potential for a conflict exists, the Bon Homme School Board member, administrator, or fiscal agent having the potential conflict of interest must submit the Request for School Waiver Form AH-E(1).
2. The request should be submitted to the Bon Homme School Board before entering into a conflicted contract or transaction.
3. Disclosures and requests for a waiver should be submitted to the President/Chairperson of the Bon Homme School Board, the Superintendent, or the Business Manager, at least five (5) calendar days before the scheduled hearing in order to be included in the posted agenda and acted upon at the next scheduled meeting. Disclosures and requests received by the President/Chairperson or the School Board, the Superintendent, or the Business Manager less than five (5) calendar days before the scheduled meeting may be deferred until the following school board meeting.
4. The person applying for the waiver must describe the relationship to the contract in question and why the applicant believes the contract may be subject to disclosure, including how this person, his/her spouse or anyone with whom he/she lives and commingles assets might benefit from the contract. Examples of persons other than a spouse might include a girlfriend, boyfriend, roommate, or an adult child.
5. The person requesting the waiver must identify and describe the essential terms of the contract:
 - (a) All parties to the contract.
 - (b) The person's role in the contract or transaction.
 - (c) The purpose(s)/objective(s) of the contract.
 - (d) The consideration or benefit conferred or agreed to be conferred upon each party.
 - (e) The length of time of the contract.
 - (f) Any other relevant information.
6. The person requesting the waiver should briefly describe why he/she believes a waiver would not be contrary to the public interest (i.e., the contract was part of a competitive bidding process, there are other school district people involved in the decision-making process to enter into the contract, or the terms of the contract are consistent with other, similar contracts).
7. The Bon Homme School District's Attorney may answer general questions about the applicability of SDCL Chapter 3-23, or about the other laws that address conflict of interest. However, the attorney represents the Bon Homme School District, and the School Board, and not School Board members, administrators, and the fiscal agent in their individual capacities. Bon Homme School Board

members, administrators, and the Business Manager should contact a private attorney if they have questions as to how SDCL Chapter 3-23 and this policy apply to their individual interests and contracts.

BOARD ACTION ON A REQUEST FOR WAIVER

1. The Bon Homme Board of Education will have a regular agenda item at the beginning of the School Board meeting agenda when the School Board will address disclosures and requests for a waiver.
2. Disclosures and requests for a waiver submitted to the President/Chairperson of the School Board, the superintendent, or the Business Manager, at least five (5) calendar days before the scheduled meeting will be included in the posted agenda and acted upon at the next scheduled meeting.
3. Disclosures and requests received by the President/Chairperson of the Bon Homme School Board, the superintendent, or the Business Manager less than five (5) calendar days before the scheduled meeting may be deferred until the following School Board meeting.
4. If possible, waiver requests will be acted upon at the meeting in which the request is brought forth. If the Bon Homme School Board believes the request for information is incomplete, the School Board must ask the person requesting the waiver for additional information. The Board will avoid using an incomplete request form as the basis for extending the time for review and decision on the waiver request. The School Board may receive the needed information from the requesting party at the School Board meeting when the waiver request is being addressed.
5. When considering a waiver request, the Bon Homme School Board should be able to determine the requesting party's relationship to the contract, the requesting party's relationship to the outside contracting party, whether the contractual terms are reasonable and in the public interest, and any other factors the School Board believes will help establish the relevant facts and circumstances surrounding the contract(s) and the request for waiver.
6. At the meeting when the waiver request will be considered by the Bon Homme Board of Education, the School Board member, administrator, or Business Manager submitting the waiver request must be present and prepared to answer questions from the School Board about the request for a waiver.
7. The request and the Board's determination must be included in the Bon Homme School Board's meeting minutes.
8. If the authorization is granted, a written authorization [AH-E (2)] shall be prepared following the meeting and signed by the President/Chairperson of the School Board or another authorized School Board member, and filed with the Auditor General.
9. Only on the recommendation of the school attorney will this disclosure be discussed in executive session.

Legal References: SDCL 1-27; SDCL 3-23-6; SDCL 3-23-7; SDCL 3-23-8; SDCL 3-23-9.

Policy References: BBF (Board Member Code of Ethics); BBFA (Board Member Conflict of Interest); GBC (Staff Ethics); GBCA (Staff Member Conflict of Interest).

Adopted: August 8, 2016

BON HOMME SCHOOL DISTRICT #04-2

AH-E (1) Conflict of Interest – Request for Bon Homme Board Waiver

Date: _____

Name of Bon Homme School District Board member, administrator, or Business Manager requesting the waiver: _____

Explanation of Potential Conflict of Interest:

Explain the essential terms of the contract(s) or transactions from which a potential conflict of interest may arise, including:

1. All parties to the contract.
2. The requesting person's role in the contract/transaction.
3. The purpose(s)/objective(s) of the contract.
4. The consideration of benefit conferred or agreed to be conferred upon each party.
5. The length of the contract.
6. Any other relevant information.

Explain how or why the transaction or the terms of the contract are fair, reasonable, and not contrary to the public interest such that a waiver should be granted.

Signature of person requesting the waiver: _____

This is public document and was approved/denied on (date): _____

BON HOMME SCHOOL DISTRICT #04-2

AH-E (2) Conflict of Interest – Waiver Authorization (SDCL 3-23-2)

A written request for waiver of conflict, dated _____, was received from _____ (print name).

The request was acted upon by the members of the Bon Homme Board of Education during a meeting held on _____.

_____ Request for waiver was denied because the terms of the contract were not considered fair and reasonable, or contrary to the public interest.

_____ The request for waiver was authorized because the terms of the contract are fair and reasonable, and not contrary to public interest such that a waiver should be granted.

_____ The request for waiver was authorized because terms of the contract are fair and reasonable, and not contrary to public interest such that waiver should be granted, subject to the following conditions:

Signature of President/Chairperson: _____

Printed Name: _____

Date: _____

Date mailed to Auditor General: _____

Approved: