

4409-R: REGULATION (FAQS)
REGARDING EMPLOYEE CONFLICTS OF INTEREST

This list of questions and answers is intended to provide you with clear guidance on expectations found in policy 4409

Who Can Answer Questions About Policy 4409?

1. I am not sure if policy 4409 applies to a situation I am in and do not know what to do. Who should I talk to about my concern?

Please talk to your supervisor about the applicability of policy 4409. If you are not comfortable doing that, or if you still have questions or some uncertainty after that conversation, either of you may contact the office of the chief financial officer or the district's legal counsel. Policy 4409 is an important policy for everyone in the district to comply with, so please do not hesitate to raise concerns or ask questions.

Second Jobs and Employee Businesses

2. I am a bus driver who has been offered a part-time job during the school year after my workday has ended for TPS. Is it okay for me to work this second job?

You may work for other employers so long as that work does not interfere with your work for the district—especially your work hours. You must not be doing work of any kind for that other employer while you are working your district job.

3. I am a teacher with a small personal training business, is that a problem?

You may own a business in whole or in part and still work for the district, but there are important rules that come along with this situation. First, like a second job, this business must not interfere with your work for the district. You should not be doing any aspect of this work during the district workday, including marketing or otherwise promoting your business. Second, it appears you own more than 3% of the business. As described below, if more than 3% of a business is owned by a district employee, that business may not contract with the district (or attempt to) – even if the work for the district would be done on holidays and other district breaks. See the part in the policy called “Conflicting Business Situations” for a full description of the rules relevant to this situation.

4. May I sell products or services to the district in my free time?

Policy 4409 expressly prohibits employees and their immediate family members from soliciting the district or other employees—whether it is for personal benefit, or for political or charitable causes. Moreover, the policy explicitly prohibits employees from doing business with the district—even in their spare time. The exception to this rule is when the employee owns 3% or less of the relevant business and the employee does not have the ability to influence or recommend purchases by the district.

Family Members' Businesses

5. Can a business owned by a family member be a contractor or vendor for the district?

The district cannot do business with any business organization owned by an immediate family or household member of a district employee unless that family or household member only owns 3% or less of the business. Immediate family member is typically defined as parents, siblings, spouse, and children (including in-laws, step-family, and half-siblings).

Gifts

6. A consultant with the district gave me a **small present** around the holidays—a nice book bag and water bottle, both of which have the name of the consultant's business on it. I do not know the value of the gifts. What should I do?

You should return the gift *if* the combined value appears to be more than \$125. A good way to check the approximate value of the gift is to look up the cost of similar items on the internet. Also, gifts of any kind or value should never be received if they would impair or appear to impair the objectivity of the district's business operations. Consequently, even a small present around the holidays is not appropriate if the district is currently evaluating the vendor's performance or a proposal by the vendor.

7. What should I do if a business wishing to contract (do business with) with the district is sending electronic **gift cards** to me and my colleagues?

Policy 4409 prohibits employees from receiving gift cards of any value from a person or organization doing business or seeking to do business with the district. Consequently, you should decline the gift card and promptly report this activity to your supervisor. To prevent the activity from continuing, you and/or your supervisor should also inform the business that it is prohibited from this activity and should contact the office of the chief financial officer for clarification of the district's rules regarding conflicts of interest.

8. What should I do if a vendor/prospective **vendor offers me a gift** valued more than \$125, or if the gift is nominal but is offered at a time when the district is evaluating a proposal from the vendor?

Any gift offers that violate policy 4409 (like these do) should be declined and the situation should be reported to your supervisor and the chief financial officer—or the superintendent directly.

9. May I accept gifts from a parent or student of the district—even gift cards or cash?

Assuming the parent does not do business with the district, you may accept a gift from a parent—even gift cards or other cash equivalents. However, remember that there are rules of ethics that apply to educators, including rules stating that you must not use your professional relationships with students for private advantage. Consequently, the context of the gift and the value of the gift are highly relevant to this question. To be safe, an individual gift from a parent/student should be declined if its value is more than \$125, and you should be sensitive to whether the parents are expecting favorable treatment in return for the gift. In short, you do not want there to be any impression or explicit expectation of favoritism.

10. I hear that **booster clubs** are giving stipends and other gifts to certain district employees. Is that okay?

While policy 4409 is applicable in many respects to this situation, policy 5707 and 5707-R are the most instructive on this question, and they set out the rules on when (if at all) a booster may provide gifts to district employees. Those policies only authorize gifts, reimbursements, stipends, etc. when there is a prior written approval of the superintendent or their designee. Any approved monetary contributions made to the employee must go through the district's payroll. As a result, boosters may not provide gift cards to district employees.

11. A **nonprofit organization** wishes to give me a \$200 end-of-year check to show its appreciation of my work for the district. They do not contract with the district, so may I accept the check?

Your compensation as an employee is set by the board of education and subject to a variety of rules regarding reporting, withholdings, etc. Consequently, you should not seek or receive payment for your work from anyone other than the district. In this situation, you should not accept any bonus payment from other individuals or organizations unless it is approved by the superintendent or chief financial officer in consultation with the general counsel. They will ensure that any additional compensation is properly authorized by the board of education and that there is no appearance that your professional judgment or loyalty to the district is impacted.

Meals

12. A business representative who wishes to do work with the district has asked me to go to lunch with them. Can they pick up the lunch tab?

The answer to this question depends a lot on the situation. A meal would never be allowable if the value is more than \$125, but if the value is less than \$125 *and* such meals are common business practices in the vendor's industry, it is allowable so long as it does not impair or appear to impair the district's objectivity in its business operations. For example, meals should never be accepted from a vendor or prospective vendor when the district is soliciting or considering proposals from similar vendors. Nor would it ever be appropriate to receive regular or frequent meals from this vendor, as the frequency of the meals would (at a minimum) appear to others as creating bias in your judgment of the vendor.

Travel

13. Can I travel to and attend a conference at the expense of a vendor? It's a very valuable conference and I will learn a significant amount of new information that will help my work at the district. They wouldn't pay for the travel directly. They say they will reimburse the district.

Generally speaking, vendors and prospective vendors should never pay for your travel—even if it is to attend a conference that will be valuable to the district. Travel to a conference paid by (or reimbursed by) a vendor or prospective vendor is only allowed in unusual situations authorized in writing by the superintendent in advance of the travel. Those unusual situations may arise when the employee will be attending the conference as a district representative with special expertise in their field of work and when similar employees from other entities are invited to attend.

Membership on Business and Nonprofits' Boards

14. I have been offered a position on an organization's board of directors. Am I allowed to accept the position? Does it matter that they are a nonprofit?

If the organization—whether it's a profit or nonprofit or for-profit—provides services or products to others for a fee, you should email the general counsel or other legal counsel for the district before accepting the position. Board memberships are typically not a concern for most employees, but it is important to be certain. The attorney will ask you about the role on the board, the organization's history with the district, and what kind of involvement you may have, if any, in evaluating the performance of the vendor or any proposal they may submit to the district. Please note that if you have already accepted it because you did not know about the rule, contact the general counsel to talk through the situation.

Reporting a Conflicts of Interest Concern

15. I am an assistant principal, and it has come to my attention that the principal at our school may have violated policy 4409. Am I obligated to take any action?

Any employee who knows or has reason to know of a potential violation of policy 4409 is required to report the matter to their supervisor and the office of the chief financial officer.

16. In the middle of a project—after a selection committee chose the vendor to work with the district—I became aware that there may be a conflict of interest for the district in working with this vendor. What do I do since the vendor has already begun work with the district?

You should talk to our supervisor about the concern. If there is any question about whether or not working with this vendor is a violation of policy 4409, you or your supervisor should contact the office of the chief financial officer to talk through the matter. Talking through the matter with the district's legal counsel is also an option.