

BOARD MEMBER CONFLICT OF INTEREST

Code **BCB** Issued **11/2112/09**

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

~~A trustee may provide services or sell products to the district where he/she is a board member provided all transactions are in accordance with the State Ethics Act (see policy BCA).~~

Board members are required to disclose any potential conflict of interest to the board. A board member with a personal or private interest in a matter proposed or pending before the board will disclose such interest to the board, will not deliberate on the matter, will not vote on the matter, and will not attempt to influence other members of the board regarding the matter.

If, in the discharge of official responsibilities, the board member is required to take action or make a decision which affects his/her economic interest or the economic interest of a family member or an individual **or business** 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.

The board member may vote on matters where he/she has no greater interest than does any other member of the board. For example, a board member may vote on a budget that includes salaries of all ~~employees~~ **staff members**, even if the board member has a family member employed by the district. However, the board member may not vote on the contract of the family member.

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.

A board member may provide services or sell products to the district in which he/she serves, provided all transactions are in accordance with the State Ethics Act and the board member is excluded from deliberating or voting on the matter.

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 public school that is located in the same school district where such person is a trustee.~~

~~A board member will not be employed by the district. This does not apply to a board member’s service as a trustee.~~

Nepotism

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~~South Carolina law Section 59-25-10 provides that no board member's immediate family member of a board member will be employed as a teacher without the written consent approval of the board.~~

~~No employee who is an immediate family member (spouse, parent, child, sibling) of a board member/superintendent is eligible for position promotion during the tenure of such board member/superintendent.~~

~~When a board member's immediate family member is being recommended for any position in the district, the board member will disclose this to the other board members and recuse him/herself from the vote to hire that employee.~~

~~An individual who is a candidate for employment in the district will, upon offer of employment, disclose that he/she has an immediate family member who is an employee of the district.~~

~~The district will not place an employee in a position wherein an employee will exercise **direct** administrative or supervisory authority over a member of his/her immediate family. Supervisory authority includes principal and assistant principal in a school. Neither a board member nor an employee may participate in an action relating to the discipline of his/her immediate family member. This rule applies to all levels and categories of certified, administrative and support staff employees in the school district.~~

~~This prohibition of employment and/or promotion does not apply to individuals employed and/or promoted prior to the passage of this policy.~~

~~This does not apply to teachers employed before his/her family member became a member of the board.~~

~~*Immediate family member* is defined as a child residing in a board member's household; a spouse of a board member; or an individual claimed by the board member or his/her spouse as a dependent for income tax purposes.~~

~~OR>>>~~

~~"Family Member" means an individual who is a 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.~~

Employment and Volunteering Prohibited

~~A board member may not receive pay as a teacher of a public school, or otherwise be employed, in the same district where he/she serves. This includes employment handled through third party entities such as temporary agencies that place substitute teachers. A board member is not permitted to serve in a ~~volunteer~~ position in the district as he/she would have responsibility for a curricular, co-curricular, extracurricular program or activity, or students and would report directly to the superintendent, principal, athletic director, or other school administrator.~~

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Other Conflicts of Interest

In carrying out his/her duties, a board member **will not** do the following:

- perform an official act which directly and substantially confers an economic benefit on a business or other undertaking in which he/she has a substantial financial interest or in which he/she is engaged as a counsel, consultant, representative, or agent
- accept a gift of substantial value, or substantial economic benefit tantamount to a gift of substantial value, as a payment or reward for official action taken or advice and assistance given
- disclose or use confidential information acquired in the course of official duties for personal financial gain, which includes, but is not limited to, economic gain for family members, associates, or business interests
- employ or promote a family member to a position which the board member supervises or manages (i.e. superintendent)
- participate in an action relating to the discipline of a family member
- accept anything of value for speaking before a public or private group as a board member
- neglect to annually submit a statement of economic interest to the South Carolina Ethics Commission

It will not be considered a breach of ethics for a board member to receive the following:

- an occasional non-pecuniary gift which is insignificant in value
- a non-pecuniary award publicly presented in recognition of public service
- payment or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a speaking engagement, convention, or other meeting at which he/she is scheduled to participate
- a benefit as an indirect consequence of transacting district business

Each board member will be knowledgeable of and comply with these and all other applicable provisions of the S.C. Ethics, Government Accountability, and Campaign Reform Act.

Adopted 8/1/73; Revised 11/16/81, 4/6/92, 1/9/06, 12/14/09, ^

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.