

ORGANIZATION, PHILOSOPHY, AND GOALS

School Board Bylaws

Conflict of Interest and Statement of Economic Interest—School Board Members and Superintendent of Schools

This policy supersedes Policy 1801.4 and is intended to be consistent with the Virginia State and Local Government Conflict of Interests Act (the act). In the event of any conflict or inconsistency between this policy and the act, the terms of the act shall govern.

I. PURPOSE

To provide abstracts of applicable portions of the act, indicate additional local provisions, and cover the following four areas:

- A. Special rules relating to School Board members or the Superintendent of Schools.
- B. General rules governing public conduct by School Board members.
- C. Prohibited conduct regarding contracts.
- D. Required conduct regarding transactions.

II. DEFINITIONS

A. Personal Interest

A personal interest is defined as any financial benefit or liability accruing to a School Board member or a member of his or her immediate family. A personal interest exists by reason of:

1. Ownership in a business if the ownership interest exceeds three percent of the total equity of the business.
2. Annual income that exceeds, or may reasonably be anticipated to exceed, \$10,000 from ownership in real or personal property or a business.
3. Salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or government agency that exceeds, or may reasonably be anticipated to exceed, \$10,000 annually.
4. Ownership of real or personal property if the interest exceeds \$10,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits, or benefits from the use of property.

5. Personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business.
6. An option for ownership of a business or real or personal property if the ownership interest will consist of 1. or 4. above.

B. Contract

Any agreement to which the School Board is a party, or any agreement on behalf of the School Board that involves the payment of money appropriated by the General Assembly or political subdivision, whether or not such agreement is executed in the name of the commonwealth or some political subdivision thereof.

C. Transaction

Any matter considered by the Fairfax County School Board on which official action is taken or contemplated.

D. Immediate Family

A School Board member's spouse and/or any other person residing in the same household as the School Board member who is a dependent of the School Board member or of whom the School Board member is a dependent.

E. Gift

Any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value, including services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket that is actually used, payment in advance, or reimbursement after the expense has been incurred.

III. SPECIAL RULES RELATING TO SCHOOL BOARD MEMBERS OR THE SUPERINTENDENT OF SCHOOLS

- A. The School Board shall not employ or pay any person who is a close relative of the Division Superintendent or of any member of the School Board. A "close relative" is defined to be a father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law.
- B. This prohibition shall not prohibit the employment, promotion, or transfer within the school system of any person who has been employed by the school system pursuant to a written contract or as a substitute teacher or teacher's aide (1) prior to the School Board member or Division Superintendent taking office or (2) before the establishment of the relationship described above or (3) if the person was employed by the school system at any time prior to June 10, 1994, and also had been employed at any time as a teacher or other employee of any other Virginia school board prior to the School Board member or Division Superintendent taking office.

- C. Any such person employed as a substitute teacher may not be employed to any greater extent than he or she was employed by the school system in the last full year before the School Board member or Division Superintendent taking office or before the establishment of the relationship described above.

IV. GENERAL RULES GOVERNING PUBLIC CONDUCT BY SCHOOL BOARD MEMBERS

A. Prohibited Conduct

Neither the School Board collectively nor any member of the Board shall:

1. Solicit or accept money, or anything else of value, for services performed within the scope of his or her official duties other than his or her regular compensation, expenses, or other remuneration, unless otherwise authorized by law.
2. Offer or accept money, or anything else of value, for or in consideration of obtaining employment, appointment, or promotion with any governmental or advisory agency.
3. Offer or accept any money or other thing of value for or in consideration of the use of his or her public position to obtain a contract for any person or business with any governmental or advisory agency.
4. Use for his or her own economic benefit, or anyone else's, confidential information that is gained by reason of his or her office and that is not available to the public.
5. Accept any money, loan, gift, favor, service, or professional or business opportunity that might reasonably tend to influence the performance of official duties. This prohibition does not apply to any political contribution actually used for political campaign or constituent service purposes and reported as required by Virginia law.
6. Accept any business or professional opportunity when the School Board member knows that there is a reasonable likelihood that the opportunity is being afforded to the member to influence the member in the performance of official duties.
7. Accept a gift from a person who has interests that may be substantially affected by the performance of the School Board member's official duties under circumstances in which the timing and nature of the gift would cause a reasonable person to question the member's impartiality in the matter affecting the donor.
8. Accept gifts, even of negligible value, from sources on a basis so frequent as to raise an appearance of the use of his or her public position for private gain.

9. Use, or permit the use of, vehicles, equipment, material, or property owned by Fairfax County or the school system, or the services of school system employees while on duty, for business or personal reasons not related to official Fairfax County Public Schools programs or activities.

B. Exceptions

The above limitations are not intended to prohibit the receipt of:

1. Gifts or entertainment of negligible value that are distributed generally and are not otherwise prohibited by this section.
2. Honorary degrees.
3. Gifts, given for reasons clearly unrelated to the School Board member's public position, from a member's spouse, child, uncle, aunt, niece, or nephew; a person to whom the member is engaged to be married; the member's or his or her spouse's parent, grandparent, grandchild, brother, or sister; the member's brother's or sister's spouse; or the member's personal friends.
4. Business entertainment related to the member's private profession or occupation.
5. Any political contribution actually used for political campaign or constituent service purposes and publicly reported under Virginia law.

V. PROHIBITED CONDUCT REGARDING CONTRACTS

- A. No School Board member shall have a personal interest in (1) any contract with the School Board or (2) any contract with any government agency that is subject to the ultimate control of the School Board.

B. Exceptions

The above prohibitions shall not be applicable to:

1. A School Board member's personal interest in a contract of employment provided the employment first began prior to the member becoming a member of the School Board.
2. Contracts for the sale by a government agency of services or goods at uniform prices available to the general public.
3. A contract awarded as a result of a competitive sealed bidding in which the School Board has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the School Board. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining School Board members, by written resolution, shall state that it is in the public interest for the member to bid on such contract.

4. The sale, lease, or exchange of real property between a School Board member and the school system or other government agency, provided that the member does not participate in any way as a School Board member in such sale, lease, or exchange and that this fact is set forth as a matter of public record by the School Board or the Division Superintendent.
5. The publication of official notices.
6. Contracts between the school system and a public service corporation, financial institution, or company furnishing public utilities in which the School Board member has a personal interest, provided that the member disqualifies himself as a matter of public record and does not participate on behalf of the school system in negotiating or approving the contract.
7. Contracts for the purchase of goods or services when the contract does not exceed \$500.
8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering government agency.
9. Employment contracts, renewals thereof, and other contracts entered into prior to August 1, 1987, provided that such contracts were in compliance with the Virginia Conflict of Interests Act or the former Comprehensive Conflict of Interests Act at the time of their formation and thereafter. Such contracts shall continue to be governed by the provisions of the appropriate prior act.
10. A School Board member whose sole personal interest in a contract with the School Board is by reason of income from the contracting firm or the School Board in excess of \$10,000 per year, provided the School Board member or a member of his or her immediate family does not participate and has no authority to participate in the procurement of letting of such contract on behalf of the contracting firm and the School Board member disqualifies himself or herself as a matter of public record and does not participate on behalf of the School Board in the procurement, negotiation, letting, or approval of the contract.
11. A School Board member whose sole interest in a contract with the School Board is by reason of the member's marriage to a school system employee so long as the member's spouse was employed by the school system for five or more years prior to the marriage.

VI. REQUIRED CONDUCT REGARDING TRANSACTIONS

- A. A School Board member shall disqualify himself or herself from participating in any transaction on behalf of the school system if he or she has a personal interest in the transaction or in a business with a parent-subsidary or affiliated entity relationship with the business involved in the transaction, unless the School Board member satisfies the requirements of subsection B. or C. of this section. Any School Board

member who is disqualified from participating in a transaction shall comply with the disclosure requirements of section 2.2-3115(E) of the Code of Virginia.

- B. A School Board member may participate in the transaction if he or she is a member of a business, profession, occupation, or group of three or more persons, the members of which are affected by the transaction, and the member complies with the declaration requirements described in section 2.2-3115(G) of the Code of Virginia. The School Board member must be able to declare that he or she is able to participate in the transaction fairly, objectively, and in the public interest.
- C. A School Board member may participate in the transaction when a party to the transaction is a client of the School Board member's firm if the School Board member does not personally represent or provide services to such client and the School Board member complies with the declaration requirements described in section 2.2-3115(H) of the Code of Virginia. The School Board member must be able to declare that he or she is able to participate in the transaction fairly, objectively, and in the public interest.
- D. A School Board member may participate in the transaction if it affects the public generally, even though the School Board member's personal interest, as a member of the public, may also be affected by the transaction.
- E. If the School Board member is disqualified from participating in a transaction, the member may not (1) attend any portions of a closed meeting at which the matter in which he or she has a personal interest is discussed, (2) discuss the matter in which he or she has a personal interest with other School Board members or school system employees at any time, or (3) vote or in any manner act on behalf of the School Board in the transaction.
- F. If such disqualifications leave less than the number of School Board members required by law to act, the remaining member or members of the Board shall have authority to act for the Board by majority vote unless a unanimous vote is required by law, in which case authority to act shall require a unanimous vote of the remaining members.
- G. The provision of subsection A. of this section shall not be construed to prevent a School Board member from participating in a transaction merely because the member is a party to a civil legal proceeding concerning the transaction.

VII. STATEMENT OF ECONOMIC INTEREST

School Board members shall file as a condition of assuming office and thereafter annually, on or before January 15, a disclosure statement of personal interests. The clerk of the School Board shall maintain such disclosure statements for a period of five years.

The School Board may provide that employees who fill certain designated positions of public trust, as designated by the Division Superintendent, file as a condition of assuming employment and thereafter annually, or before January 15, a disclosure

statement of personal interests. These statements shall be filed and maintained as a public record for five years in the School Board office.

Legal reference: Code of Virginia, Section 2.2-3100 through 2.2-3127

See also the current version of: Policy 4430, Conflict of Interest--Employees

Policy
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