

## **1001 - CONFLICT OF INTEREST**

### **I. PURPOSE**

- A. The purpose of the conflict of interest policy is to observe federal and state statutes regarding conflicts of interest and to engage in education district business activities in a fashion designed to avoid any conflict of interest or the appearance of impropriety.
- B. Additionally, the purpose of the conflict of interest policy is to protect the education district's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a board member, director, staff member, or other interested party of the education district.

### **II. GENERAL STATEMENT OF POLICY**

It is the policy of the governing board to procure and/or contract for goods and services in conformance with statutory conflict of interest laws and in a manner that will avoid any conflict of interest or the appearance thereof. Accordingly, the governing board will procure and/or contract under the statutory exception provisions only when it is clearly in the best interest of the education district because of limitations that may exist on goods or services otherwise available to the education district.

### **III. DEFINITIONS**

#### **A. Interested Person**

Employee, board member, or agent, or any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the parties indicated herein who has a direct or indirect financial interest, as defined below, is an interested person.

#### **B. Financial Interest**

A person has a financial interest if the person has, directly or indirectly, through business, investment or family:

1. An ownership or investment interest, other than de minimis, in any entity with which the education district has a transaction or arrangement,
2. A compensation arrangement with the education district or with any entity or individual with which the education district has a transaction or arrangement, or
3. A potential ownership or investment interest, other than de minimis, in, or compensation arrangement with, any entity or individual with which the education district is negotiating a transaction or arrangement.

Compensation includes direct or indirect remuneration as well as gifts or favors that are not insubstantial.

#### **IV. GENERAL PROHIBITIONS AND RECOGNIZED STATUTORY EXCEPTIONS**

- A. A board member, director, or other staff member who is authorized to take part in any manner in making any sales, purchase, lease, or contract in his or her official capacity shall not voluntarily have a personal financial interest in that sales, purchase, lease, or contract or personally benefit financially therefrom.
  
- B. In the following circumstances, however, the governing board may as an exception, by unanimous vote, contract for goods or services with an interested person of the education district:
  - 1. In the designation of a bank or savings association, in which an interested person has a financial interest, as an authorized depository for school district funds and as a source of borrowing, provided such deposited funds are protected in accordance with Minn. Stat. Ch. 118A. Any interested person having said interest shall disclose that interest and the interest shall be entered upon the minutes of the governing board. Disclosure must be made when such bank or savings association is first designated as a depository or source of borrowing, or when such board member is appointed to the board, or director or other district staff member is hired, whichever is later. Disclosure serves as notice of the interest and must only be made once;
  - 2. The designation of an official newspaper, or publication of official matters therein, in which the interested person has a financial interest when it is the only newspaper complying with statutory requirements relating to the designation or publication;
  - 3. A contract with a cooperative association of which the interested person is a shareholder or stockholder but not an officer or manager;
  - 4. A contract for which competitive bids are not required by law. A contract made under this exception will be void unless the following procedures are observed:
    - a. The governing board must authorize the contract in advance of its performance by adopting a resolution setting out the essential facts and determining that the contract price is as low as or lower than the price at which the goods or services could be obtained elsewhere.
    - b. In the case of an emergency when the contract cannot be authorized in advance, payment of the claims must be authorized by a like resolution wherein the facts of the emergency are also stated.

- c. Before a claim is paid, the interested person must file with the clerk of the governing board an affidavit stating:
  - (1) The name of the interested person and the office or position held;
  - (2) An itemization of the goods or services furnished;
  - (3) The contract price;
  - (4) The reasonable value;
  - (5) The financial interest of the interested person in the contract; and
  - (6) That to the best of the interested person's knowledge and belief, the contract price is as low as, or lower than, the price at which the goods or services could be obtained from other sources.
- 5. An interested person may contract with the education district to provide construction materials or services, or both, when the sealed bid process is used. When the contract comes before the governing board for consideration, if the interested party is a board member, the interested board member may not vote on the contract.
- 6. An interested person may rent space in a public facility at a rate commensurate with that paid by other members of the public.
- C. In the following circumstances, the governing board may as an exception, by majority vote at a meeting where all governing board members are present, contract for services with a governing board member of the education district: a governing board member may be newly employed or may continue to be employed by the education district as an employee where there is a reasonable expectation on July 1, or at the time the contract is entered into or extended, that the amount to be earned by that governing board member under that contract or employment relationship, will not exceed \$8,000 in that fiscal year. If the governing board member does not receive majority approval to be initially employed or to continue in employment at a meeting where all governing board members are present, that employment must be immediately terminated and that governing board member will have no further rights to employment while serving as a governing board member in the education district.
- D. The governing board may contract with a class of education district employees, such as teachers or custodians, where the spouse of a governing board member is

a member of the class of employees contracting with the governing board and the employee spouse receives no special monetary or other benefit that is substantially different from the benefits that other members of the class receive under the employment contract. In order for the governing board to invoke this exception, it must have a majority of disinterested governing board members vote to approve the contract, direct the governing board member spouse to abstain from voting to approve the contract, and publicly set out the essential facts of the contract at the meeting where the contract is approved.

- E. Board members, directors, and other district staff must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontractors unless the gratuities, favors, or items are so inconsequential as to be considered de minimis.

#### **IV. LIMITATIONS ON RELATED EMPLOYEES**

- A. The governing board can hire or dismiss teachers only at duly called meetings. Where a husband and wife, brother and sister, or two brothers or sisters, constitute a quorum, no contract employing a teacher may be made or authorized except upon the unanimous vote of the full governing board.
- B. The governing board may not employ any teacher related by blood or marriage to a governing board member, within the fourth degree as computed by the civil law, except by a unanimous vote of the full governing board.

#### **V. CONFLICTS PRIOR TO BOARD APPOINTMENT OR EMPLOYMENT**

An interested person with personal financial interest in a sale, purchase, lease, or contract with the education district which was entered before appointment to the board or before the hiring of that individual and presents an actual or potential conflict of interest, shall immediately notify the governing board of such interest. It shall thereafter be the responsibility of the interested person to refrain from participating in any action relating to the sale, lease, or contract. At the time of renewal of any such sale, purchase, lease, or contract, the governing board may enter into or renew such sale, purchase, lease, or contract only if it falls within one of the enumerated exceptions for contracts relating to goods or services provided above and if the procedures provided in this policy are followed.

#### **VI. PROCEDURES**

##### **A. DUTY TO DISCLOSE**

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of a financial interest and be given the opportunity to disclose all material facts to the board considering the proposed transaction or arrangement.

## **B. DETERMINATING WHETHER A CONFLICT OF INTEREST EXISTS**

A financial interest is not necessarily a conflict of interest. The determination as to whether a conflict of interest exists is to be made by the governing board. Any interested person who has an actual or potential conflict shall notify the education district governing board of such conflict immediately. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

## **C. PROCEDURES FOR ADDRESSING A CONFLICT OF INTEREST**

1. The chairperson of the governing board shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
2. After exercising due diligence, the governing board shall determine whether the education district can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
3. If a more advantageous transaction or arrangement is not reasonably possible under the circumstances not producing a conflict of interest, the governing board shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the education district's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.

## **D. VIOLATIONS OF THE CONFLICT OF INTEREST POLICY**

If the Governing board has a reasonable cause to believe an interested person has failed to disclose actual or possible conflicts of interest, the board shall inform the interested person of the basis for such belief and afford that individual an opportunity to explain the alleged failure to disclose.

If, after hearing the individual's response and after making further investigation as warranted by the circumstances, the governing board determines the individual has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

## **VII. ANNUAL STATEMENTS**

Each board member and district staff member shall annually sign a statement which affirms such person:

- A. Understands that the education district is a governmental institution that relies on state and federal funding to accomplish its purpose and such funding is dependent on compliance with federal and state law, including those related to conflict of interest

- B. Has received a copy or has access to an on-line or hard copy of the conflict of interest policy,
- C. Has read and understands the policy,
- D. Has agreed to comply with the policy.

**— ACKNOWLEDGMENT —**  
**CONFLICT OF INTEREST POLICY**

The Zumbro Education District No. 6012-61, Byron, Minnesota has adopted a Conflict of Interest Policy and that policy requires that all board members and district staff annually certify their knowledge of and compliance with that policy.

I acknowledge that:

- A. The education district is a governmental institution that relies on state and federal funding to accomplish its purpose and such funding is dependent on compliance with federal and state law, including those related to conflict of interest,
- B. I have received a copy or have access to an on-line or hard copy of the Conflict of Interest Policy,
- C. I have read and understand the policy,
- D. I agree to comply with the policy.

Dated: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Employee*

\_\_\_\_\_  
*Typed or Printed Name*