

REVISED POLICY - VOL. 9, NO. 1 - EDGAR

CONFLICT OF INTEREST

A. The proper performance of school business is dependent upon the maintenance of unquestionably high standards of honesty, integrity, impartiality, and professional conduct by Board of Education's **employees members, and the District's employees, officers and agents**. Further, such characteristics are essential to the Board's commitment to earn and keep the public's confidence in the **County District**. For these reasons, the Board adopts the following guidelines to assure that conflicts of interest do not occur. **These guidelines are apply to all District employees, officers and agents, including members of the Board**. These guidelines are not intended to be all inclusive, nor to substitute for good judgment on the part of all service employees, **officers and agents**.

1. No service employee, **officer or agent** shall engage in or have a financial **or other** interest, directly or indirectly, in any activity that conflicts or raises a reasonable question of conflict with his/her duties and responsibilities in the school system.
2. Service employees, **officers and agents** shall not engage in business, private practice of their profession, the rendering of services, or the sale of goods of any type where advantage is taken of any relationship they may have with any student, client, or parents of such students or clients in the course of their employment **or professional relationship** with the Board.

Included, by way of illustration rather than limitation, are the following:

- a. **the provision of any private lessons or services for a fee;**

- b. **the use, sale, or improper divulging of any privileged information about a student or client gained in the course of the employee's, officer's or agent's employment or professional relationship with the District through his/her access to School District records;**
 - c. **the referral of any student or client for lessons or services to any private business or professional practitioner if there is any expectation of reciprocal referrals, sharing of fees, or other remuneration for such referrals; and**
 - d. **the requirement of students or clients to purchase any private goods or services provided by an employee, officer or agent or any business or professional practitioner with whom any employee, officer or agent has a financial or other relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations.**
3. No service employee, member of his/her immediate family, or business with which s/he is associated shall have or develop, directly or indirectly, a pecuniary interest in the proceeds, profits, or benefits of any contract with the **CountyDistrict**, or in providing goods or services to the **CountyDistrict** for compensation, if s/he has voice, influence, or control over the decision by the **CountyDistrict** to contract or acquire the goods or services. A service employee who has an interest in the profits or benefits of a contract is prohibited from making, participating in making, or in any way attempting to use his/her employment to influence a **CountyDistrict** decision affecting his/her financial interest.

4. No service employee having any official action to perform in connection with bids, contracts, purchases, claims or other pecuniary transactions shall solicit, accept, or agree to accept any gift or gratuity from any person known by the employee to be interested in any such bid, contract, claim, purchase or transaction.
5. Every service employee is prohibited from using his/her position of employment for his/her own private gain or that of another person.
6. No service employee may solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the employee or his/her immediate family. Even then, a service employee is prohibited from soliciting a charitable gift from any ~~county~~**District** school official or employee whose position is subordinate to the soliciting service employee.
7. No service employee may knowingly and improperly disclose any confidential information acquired in the course of his/her duties nor use such information to further his/her personal interests or the interests of another person.
8. No service employee may solicit private business from a subordinate employee whom s/he has the authority to direct, supervise or control, except when the solicitation is a) a general solicitation directed to the public at large through the mailing or other means of distribution of a letter, pamphlet, handbill, circular or other written or printed media; or b) limited to the posting of a notice in a communal work area; or c) for the sale of property of a kind that the person is not regularly engaged in selling; or d) made at the location of a private business owned or operated by the service employee to which the subordinate public official or public employee has come on his/her own initiative.

By way of illustration rather than limitation, this policy forbids the following:

- a. the provision to the ~~County's~~ **District's** students of any private lessons or services for a fee, provided, however, that tutorial services may be furnished to a student off of school premises by appropriate personnel at a fee negotiated between the student, the student's parent or guardian, and the service employee, with prior approval of the Superintendent;
 - b. the use, sale, or improper divulging of any privileged information about a student or client gained in the course of the service employee's employment or through his/her access to ~~County~~ **District** records;
 - c. the referral of any student or client for lessons or services to any private business or professional practitioner if there is any expectation of reciprocal referrals, sharing of fees, or other remuneration for such referrals;
 - d. the requirement of students or clients to purchase any private goods or services provided by a service employee or any business or professional practitioner with whom any employee has a financial relationship, as a condition of receiving any grades, credits, promotions, approvals, or recommendations.
9. A service employee may use frequent flyer bonus points earned while traveling on official ~~County~~ **District** business only if his/her participation in the frequent flyer program results in no additional cost to the ~~County~~ **District**.

10. Service employees shall not make use of materials, equipment, or facilities of the ~~County~~**District** in private practice. Examples would be the use of facilities before, during, or after regular business hours for service to private practice clients, or the checking out of items from an instructional materials center for private practice.
11. A full-time service employee is prohibited from personally participating in a decision, approval, disapproval, recommendation, rendering advice, investigation, inspection or other substantial exercise of administrative discretion involving a vendor with whom s/he is seeking employment or has an agreement concerning future employment.
12. A full-time service employee who exercises authority or control over a public contract between a vendor and the ~~County~~**District**, or whose subordinate exercises such authority or control, is prohibited from seeking employment by the vendor or to purchase, sell, or lease real or personal property to or from the vendor. Nor shall s/he have an agreement with the vendor concerning future employment.

By way of illustration, a service employee or subordinate is considered to exercise authority or control over a public contract by any of the following acts: drafting bid specifications or requests for proposals; recommending selection of the vendor; conducting inspections or investigations; approving the method or manner of payment to the vendor; providing legal or technical guidance on the formation, implementation, or execution of the contract; or taking other nonministerial action that may affect the financial interests of the vendor.

A person adversely affected by the restriction on purchasing personal property may make such a purchase only if the West Virginia Ethics Commission expressly approves, or if acting in good faith reliance upon a West Virginia Ethics Commission guideline, advisory opinion, or official policy.

- B. Exceptions to Part A of this policy shall be approved by the Superintendent **before** entering into any private relationship.
- C. ~~Employees may not~~ **Employees, officers and agents cannot** participate in the selection, award, or administration of a contract supported by a Federal grant/award if s/he has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, **officer or agent**, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the parties described in this section, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

~~No employee may~~ **Employees, officers and agents cannot** solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts involved with Federal grant funds.

- () ~~, except that an employee~~ **However, pursuant to Federal rules, the District has set standards for when an employee, officer or agent may accept the gift of an unsolicited item of nominal value. For purposes of this section, "nominal value" means that the gift has a monetary value of \$25.00 or less. [END OF OPTIONAL LANGUAGE]**

[DRAFTING NOTE: Section 200.318 allows for non-Federal entities (Districts) to set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.]

- D. **To the extent that the District has a parent, affiliate or subsidiary organization that is not a State, local government or Indian tribe, the School District may not conduct a procurement action involving the parent, affiliate or subsidiary organization if the School District is unable, or appears to be unable, to be impartial.**

- E. Employees, officers and agents must disclose any potential conflict of interest which may lead to a violation of this policy to the School District. Upon discovery of any potential conflict of interest, the School District will disclose, in writing, the potential conflict of interest to the appropriate Federal awarding agency or, if applicable, the pass-through entity.**

The District will also disclose, in a timely manner, all violations of Federal criminal law involving fraud, bribery or gratuity that affect a Federal award to the appropriate Federal awarding agency or, if applicable, the pass-through entity.

- F. Employees, officers and agents found to be in violation of this conflict of interest policy will be subject to disciplinary action up to and including termination, as permitted by applicable Board policy.**

[DRAFTING NOTE: The School District has discretion over the appropriate disciplinary actions. For example, the School District may suspend or terminate the individual's employment, transfer the individual, end the District's professional relationship with that individual, or temporarily re-assign the individual. All disciplinary actions must be in accordance with applicable Federal, State, and local law, as well as any collectively bargained agreements.]

Violation of this policy shall result in discipline, which may include termination from employment.

WV Code 6B-2-5
WV. Code 61-5A-6
WV Code 61-10-15
~~2 C.F.R. 200.318~~
2 C.F.R. 200.112, 200.113, 200.318
West Virginia State Board of Education 1224.1
West Virginia State Board of Education 8200