

NOTE: Footnotes are for reference only. They should be eliminated from an individual board's policy.

BOARD MEMBER CONFLICT OF INTEREST

Policy Code:

2121

All board members are subject to the criminal laws related to conflicts of interest in public office, including strict restrictions against having a pecuniary interest in any business of the board.¹ In addition, board members will not let any personal or business interest interfere with their duties as public officials, including ethical duties as specified in policy 2120, Code of Ethics for School Board Members.

A member of the board will not do any of the following:

1. obtain a direct benefit from a contract that he or she is involved in making or administering on behalf of the board, unless an exception is allowed pursuant to G.S. 14-234 or other law;
2. influence or attempt to influence anyone who is involved in making or administering a contract on behalf of the board when the board member will obtain a direct benefit from the contract;
3. solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract;
4. accept a gift or favor from any person or group desiring to do or doing business with the school system, unless such gifts are instructional products or advertising items of nominal value that are widely distributed;² or
5. solicit or accept any gifts from any potential provider of E-rate services or products in violation of federal gifting rules.³

A board member is involved in administering a contract if he or she oversees the performance of the contract or has authority to interpret or make decisions regarding the contract. A board member is involved in making a contract if he or she participates in the development of the specifications or terms of the contract or participates in the preparation or award of the contract.

¹ G.S. 14-234(d1) exempts board members in sparsely populated communities (those with cities that have populations of 15,000 or less) from the restrictions in G.S. 14-234(a)(1).

² The receipt of gifts from contractors, subcontractors, and suppliers is governed by G.S. 133-32. This provision may be expanded to include more details from G.S. 133-32.

³ Under federal gifting rules, gifts include meals, donated equipment, speaking opportunities, and trade show raffle prizes. Any gift or donation from an E-rate service provider must comply with gift rules applicable to federal agencies. The Federal Communications Commission (FCC) is clear that vendor gifts are subject to scrutiny for unfair influence on the competitive bidding process. See FCC Sixth Report and Order 10-175 issued September 2010 and 47 C.F.R. 54.503. At this time, the surest way for E-rate applicants to remain compliant with the federal gift rules is to prohibit employees and board members from accepting anything from an E-rate service provider.

A board member derives a direct benefit from a contract if the board member or his or her spouse does any of the following: (1) has more than a 10 percent ownership or other interest in an entity that is a party to the contract; (2) derives any income or commission directly from the contract; or (3) acquires property under the contract. An exception is allowed for employment contracts between the board of education and the spouse of a board member. However, the board member involved will not deliberate or vote on the spouse's employment contract or attempt to influence any other person who is involved in making or administering the contract.

Legal References:⁴ G.S. 14-234, -234.1; 133-32; 47 C.F.R. 54.503; FCC Sixth Report and Order 10-175

Cross References: Code of Ethics for School Board Members (policy 2120), Employee Conflict of Interest (policy 7730)

Issued: June 1997

Revised: May 7, 2004; September 30, 2010; March 28, 2014; November 13, 2015

⁴ Specify any local legislation regarding conflicts of interest.