

Policy BBFA: BOARD MEMBER CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE **Status:** ADOPTED

Original Adopted Date: 01/23/2020 | **Last Revised Date:** 01/31/2022 | **Last Reviewed Date:** 01/31/2022

All directors of the board of education shall adhere to the laws regarding conflict of interest and avoid situations where their decisions or actions in their capacity as board members conflict with the mission of the district.

Purchases Involving Federal Funds

In addition to the requirements of this policy, board members must follow the provisions of policy DJFA and related procedures and are also subject to the conflict of interest provisions of federal law.

Definitions

Business with Which a Board Member Is Associated – For the purposes of this policy:

1. A sole proprietorship owned by the board member, his or her spouse or any dependent children in the board member's custody;
2. A partnership or joint venture in which the board member or his or her spouse is a partner, other than as a limited partner of a limited partnership, and any corporation or limited partnership in which the board member is an officer or director or of which the board member or his or her spouse or dependent children in the board member's custody, whether singularly or collectively, own more than ten percent of the outstanding shares of any class of stock or partnership units; or
3. Any trust in which the board member is the trustee or settlor or in which the board member or his or her spouse or dependent children in his or her custody, whether singularly or collectively, are beneficiaries or holders of a reversionary interest of ten percent or more of the corpus of the trust.

Fourth Degree of Consanguinity or Affinity – Includes parents, grandparents, great-grandparents, great-great-grandparents, spouse, children, siblings, grandchildren, great-grandchildren, great-great-grandchildren, nieces, nephews, grand-nieces, grand-nephews, aunts, uncles, great-aunts, great-uncles, and first cousins by virtue of a blood relationship or marriage.

Special Monetary Benefit – Being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected.

Substantial Interest – A substantial interest exists when the board member or his or her spouse or dependent children in his or her custody, either singularly or collectively, directly or indirectly:

1. Own(s) ten percent or more of any business entity; or
2. Own(s) an interest having a value of \$10,000 or more in any business entity; or
3. Receive(s) a salary, gratuity or other compensation or remuneration of \$5,000 or more from any individual, partnership, organization or association within any calendar year.

Sale, Rental or Lease of Personal Property (Property Other Than Real Estate)

No elected or appointed official of the district shall sell, rent or lease any personal property to the school district for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per year to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received.

Sale, Rental or Lease of Real Property (Real Estate)

No elected or appointed official of the district shall perform a service or sell, rent or lease any real property to the school district for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per year to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice.

Employment

The district shall not employ board members for compensation even on a substitute or part-time basis. The district will not accept applications of employment from board members, consider board members for employment or decide to employ board members while they remain on the school board. Board members may provide services on a volunteer basis.

Independent Contractor Services

No elected or appointed official of the district shall perform service as an independent contractor for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per year to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received.

Businesses That Employ Board Members

A board member may participate in discussions and vote on motions for the district to do business with entities that employ the board member as long as the business is not owned by the board member and the board member will not receive any financial benefit from the transaction. The board member may need to submit a statement of interest as described below.

Statement of Interest

Before voting, board members who have a substantial personal or private interest in a decision before the board shall provide a written report of the nature of the interest to the board secretary. The written statement will be recorded in the minutes. Board members who have disclosed the interest in a financial interest statement filed or amended prior to the vote will be in compliance with this requirement.

Self-Dealing

1. Board members may not act or refrain from acting by reason of any payment, offer to pay, promise to pay or receipt of anything of actual pecuniary value, whether received or not, to themselves or any third person. This includes a gift or campaign contribution made or received in relationship to or as a condition of the performance of an official act.
2. Board members shall not favorably act on any matter that is specifically designed to provide a special monetary benefit to them, their spouses or dependent children in their custody.
3. Board members will not use their decision-making authority for the purpose of obtaining a financial gain that materially enriches them, their spouses or dependent children in their custody by acting or refraining from acting for the purpose of coercing or extorting anything of actual pecuniary value.
4. Board members shall not offer, promote or advocate for a political appointment in exchange for anything of value to any political subdivision.
5. A board member will not attempt to directly or indirectly influence or vote on a decision when the board member knows the result of the decision may be the acceptance by the district of a service or the sale, rental or lease of property to the district and the board member, his or her spouse, dependent children in his or her custody or any business with which the board member is associated will benefit financially. If such a transaction is presented to the board, the board member will abstain and leave the room during any deliberation.

Gifts and Gratuities

Board members and others who are subject to this policy are prohibited from accepting gifts or gratuities in excess of the amount established by the board from any vendor, vendor's representative or person who does or is attempting to do business with the district. Gifts and

gratuities include, but are not limited to, money, personal property, free meals, tickets to events, travel expenditures and games of golf. Door prizes and other randomly awarded prizes, such as those awarded from raffles or other fundraising events, are not considered a gift or gratuity.

Use of Confidential Information

Board members shall not use or disclose confidential information obtained in the course of or by reason of their official capacities in any manner with intent to result in financial gain for themselves, their spouses, dependent children in their custody, any business with which the board member is associated or any other person.

Even when there is no financial gain involved, failure to keep information confidential violates board ethics and board policy and could also violate state and federal law.

Nepotism

Board members shall not vote to employ or appoint any person who is related to them within the fourth degree by consanguinity or affinity. In the event that an individual is recommended for employment or appointment and the individual is related within the fourth degree to a board member, the related board member shall abstain from voting and shall leave the room during consideration of the question and the vote, unless the motion is part of a consent agenda and there is no discussion, in which case, the member need not leave the room but will refrain from voting.

For the purposes of this section, to "employ" includes hiring persons to be employees of the district and approving independent contractors who provide services to the district.

Financial Interest Statements

The board hereby adopts a policy establishing and making public its own method of disclosing financial interests of board members, candidates and specified administrators, in accordance with law. Financial interest statements (also known as personal financial disclosure statements) as described below shall be filed with the Missouri Ethics Commission (MEC) and the district board on or before May 1 for the preceding calendar year, unless the person filing is a board candidate. Candidates must file their reports within 14 days after the last day to file for office. The reports will be made available for public inspection and copying during normal business hours.

This portion of the policy dealing with the financial interest statement will be adopted in an open meeting at least once every other year by September 15. A certified copy of this policy shall be sent to the MEC within ten days of adoption.

Board Member Disclosure

All school board members and candidates for school board will file the short-form version of the

MEC's financial interest statement each year. This form is also known as the "Financial Disclosure Statement for Political Subdivisions." School board members and candidates will report the following transactions if they occurred during the previous calendar year. If no such transactions occurred, the board member or candidate will still file, but will mark the items as not applicable.

1. Each transaction in excess of \$500 per year between the district and the individual or any person related within the first degree by consanguinity or affinity to the individual. The statement does not need to include compensation received as an employee or payment of any tax, fee or penalty due the district and other transfers for no consideration to the district. The statement shall include the dates and identities of the parties in the transaction.

"First degree of consanguinity or affinity" includes parents, spouse or children by virtue of a blood relationship or marriage.

2. Each transaction in excess of \$500 between the district and any business entity in which the individual has a substantial interest. The statement does not need to include any payment of tax, fee or penalty due the district or payment for providing utility service to the district and other transfers for no consideration to the district. The statement shall include the dates and identities of the parties in the transactions.

Superintendent, Chief Purchasing Officer and General Counsel Disclosure

The superintendent, chief purchasing officer and general counsel, if employed full-time, will file the short-form version of the MEC's financial interest statement each year. This form is also known as the "Financial Disclosure Statement for Political Subdivisions." These employees will report the following transactions if they occurred during the previous calendar year. If no such transactions occurred, these employees will still file, but will mark the items as not applicable.

These employees will disclose in writing the information required in 1) and 2) above. In addition, these employees will disclose the following information for themselves, their spouses and dependent children in their custody:

1. The name and address of each employer from whom income of \$1,000 or more was received during the year covered by the statement.
2. The name and address of each sole proprietorship the individual owned.
3. The name, address and general nature of business conducted by each general partnership or joint venture in which he or she was a partner or participant.
4. The name and address of each partner or coparticipant in the partnership or joint venture unless the information is already filed with the secretary of state.
5. The name, address and general nature of business of any closely held corporation or limited partnership in which the individual owned ten percent or more of any class of the outstanding stock or limited partners' units.

6. The name of any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the individual owned two percent or more of any class of outstanding stock, limited partnership units or other equity interests.
7. The names and addresses of each corporation for which the individual served in the capacity of director, officer or receiver.

© 2020, Missouri School Boards' Association
Version BBFA-C.2N (07/20)

© 2020 (7/20), Missouri School Boards' Association.
Version: [BBFA-C.2N]

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

| State | Description |
|---|------------------------------------|
| §§ 105.450-.458, RSMo. | State Statute |
| §§ 105.461-.462, RSMo. | State Statute |
| §§ 105.476-.492, RSMo. | State Statute |
| §105.472, RSMo. | State Statute |
| §162.261, RSMo. | State Statute |
| §162.401, RSMo. | State Statute |
| §168.126, RSMo. | State Statute |
| §171.181, RSMo. | State Statute |
| Mo. Const. art.VII § 6 | State Constitution |
| Federal | Description |
| 2 C.F.R. § 200,.22,.23,.38,.92,.112,.113,.317,.318 | Federal Regulation |

Cross References

| Code | Description |
|-------------|--|
| DA | FISCAL RESPONSIBILITY |
| DD | GRANTS |
| DD-AP(1) | GRANTS - (State and Federal Programs Administration) |
| DJF-AP(1) | PURCHASING |

| | |
|------------|--|
| DJF-AP(2) | <u>PURCHASING - (Credit and Purchasing Cards)</u> |
| DJF-1 | <u>PURCHASING</u> |
| DJF-2 | <u>PURCHASING</u> |
| DJFA | <u>FEDERAL PROGRAMS AND PROJECTS</u> |
| DJFA-AP(1) | <u>FEDERAL PROGRAMS AND PROJECTS - (Managing Federal Funds—Allowable Expenses)</u> |
| DJFA-AP(2) | <u>FEDERAL PROGRAMS AND PROJECTS - (Managing Federal Funds—Cash Management)</u> |
| DJFA-AP(3) | <u>FEDERAL PROGRAMS AND PROJECTS - (Time and Effort)</u> |
| FEF-1 | <u>CONSTRUCTION CONTRACTS BIDDING AND AWARDS</u> |
| FEF-2 | <u>CONSTRUCTION CONTRACTS BIDDING AND AWARDS</u> |
| GBCA | <u>STAFF CONFLICT OF INTEREST</u> |
| GBL | <u>PERSONNEL RECORDS</u> |
| GBL-AP(1) | <u>PERSONNEL RECORDS</u> |
| GCD-1 | <u>PROFESSIONAL STAFF RECRUITING AND HIRING</u> |
| GCD-2 | <u>PROFESSIONAL STAFF RECRUITING AND HIRING</u> |
| GDC-1 | <u>SUPPORT STAFF RECRUITING AND HIRING</u> |
| GDC-2 | <u>SUPPORT STAFF RECRUITING AND HIRING</u> |
| JO-AP(2) | <u>STUDENT RECORDS - (Disclosure of Photographs, Images and Recordings Maintained by the District)</u> |
| JO-1 | <u>STUDENT RECORDS</u> |
| JO-1-AP(1) | <u>STUDENT RECORDS - (K-12 Districts)</u> |
| JO-2 | <u>STUDENT RECORDS</u> |
| JO-2-AP(1) | <u>STUDENT RECORDS - (K-8 Districts)</u> |