

BCB - BOARD MEMBER CONFLICT OF INTEREST

Board Service is a matter of public trust. In making decisions that affect the Cape Elizabeth School Department schools, Board members have the duty to act in the interest of the common good and for the benefit of the people they represent.

A conflict of interest may arise when there is an incompatibility between a Board member's personal interest and the responsibilities as an elected official in a matter proposed or pending before the Board. Board members have a legal and ethical responsibility to avoid not only conflict of interest, but the appearance of conflict of interest as well.

I. Financial Interest & Material Benefit

A Board member has a financial interest in a question or contract under consideration when the Board member or member of the immediate family of a Board member may derive some financial or other material benefit or loss as a result of the Board action. The vote of the Board is voidable if a Board member has a financial interest and votes on that question or is involved in the discussion, negotiation, or award of a contract or other action in which the Board member has financial interest.

The Board and the School Department shall not enter into any contract in which a Board member (i) has a direct or indirect pecuniary interest (as defined by law),¹ (ii) or is employed by, contracts with or has any other financial interest in an entity which furnishes goods or services to the schools. In order to prevent the vote on a question or contract from being voidable, a Board member who has a financial interest must take the following action.

- I. The Board member having the interest makes full disclosure of interest before any action is taken and abstains from voting, negotiating or award of the contract and from otherwise attempting to influence the decision (with disclosure and abstention recorded in the minutes of the Board).

The minutes of the meeting shall reflect the member's disclosure and abstention from taking part in the decision in which there is an interest.

It is not the intent of this policy to prevent a Board member from voting or the school department from contracting with a business because a Board member is an employee of that business or has another, indirect interest but is designed to prevent the placing of Board members in a position where their interest in the schools and their interest in their places of employment may conflict and to avoid appearances of conflict of interest.

II. Employment

- III. A Board member may not, during the time the member serves on the Board and for one year after the member ceases to serve on the Board, be appointed to any civil office of profit or employment position which has been created or the compensation of which has been increased by action of the Board during the time the member serves on the Board.
- IV. A Board member or spouse of a member may not be an employee in the Cape Elizabeth School Department.
- V. The spouse of a Board member may be permitted to serve as a stipend employee on a contractual basis when this action is in the best interest of students and a summation of potential conflicts of interests is documented and mitigations are described in the signed contract. This exception is for school years 2021-2022, 2022-2023, and 2023-2024 as permitted by 20-A MRSA 1002(2)(A) and Board Policy BCC - Nepotism.

III. Volunteer Activities of Board Members and Spouses

- IV. A member of the Board or spouse of a member may not serve as a volunteer when that volunteer has primary responsibility for a curricular, co-curricular or extracurricular program or activity and reports directly to the Superintendent, Athletic Director, principal or other administrator in the School Department. "Volunteer means a person who performs personal services for a school unit without monetary payments or benefits of any kind or amount."
- V. Volunteer activities of a Board member or a member's spouse, other than in the roles that are prohibited by statute, may be prescribed by policies or rules developed and approved by the Board.
- VI. The spouse of a Board member may be permitted to serve as a volunteer in any capacity, the same as other school volunteers. This exception is for school years 2021-2022, 2022-2023, and 2023-2024 as permitted by 20-A MRSA 1002(2)(A) and Board Policy BCC - Nepotism.

IV. Code of Conduct for Federally Funded Procurements

When a Board member participates in the selection, award, or administration of a contract that is supported by a federal award, the Board member shall also comply with Policy DJH - Purchasing and Contracting; Procurement Staff Code of Conduct.

V. Appearance of Conflict of Interest

A Board member should do nothing to give the impression that the position or vote on an issue is influenced by anything other than a fair consideration of all sides of a question. Board members shall attempt to avoid the appearance of conflict of interest by disclosure and/or by abstention.

VI. Appointment to Office and Other Employment

A Board member may not, during the time the member services on the Board and for one year after the member ceases to serve on the Board, be appointed to any civil office or profit or employment position which has been created or the compensation of which has been increased by action of the Board during the time the member served on the Board.

Definitions

For the purposes of this policy, the following statutory definitions apply:

- I. "Employee" means a person who receives monetary payment or benefits, no matter the amount paid or hours worked, for personal services performed for a school administrative unit.

- II. “Stipend employee” means a person who receives limited monetary payment of benefits, through a series of payments or in a lump sum, for personal services performed in an advisory, mentoring, or coaching capacity for a school administrative unit.
- III. “Volunteer” means a person who performs personal services for a school administrative unit without monetary payments or benefits of any kind or amount.

Legal Reference:

20-A MRSA §§ 1002 - 1004

30-A MRSA § 2605

Cross Reference:

BCA - Board Member Code of Ethics

BCC - Nepotism

DJH - Purchasing and Contracting: Procurement Staff Code of Conduct

IJOC - School Volunteers

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