

Conflict of Interests

Richmond Public Schools
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State and Local Government Conflict of Interests Act

- ❑ Code of Virginia §§ 2.2-3100-3131.
- ❑ Recognizing that our system of representative government is dependent in part upon:
 - ❑ Citizen legislative members representing fully the public in the legislative process; and
 - ❑ Its citizens maintaining the highest trust in their public officers and employees...

State and Local Government Conflict of Interests Act

...Citizens are entitled to be assured that the judgment of public officers and employees will be guided by law that defines and prohibits inappropriate conflicts and requires disclosure of economic interests.

To Whom Does This Apply?

State and Local public officers and employees.

§2.2-3102

Regulatory Sources

- State and Local Government Conflict of Interests Act, §§2.2-3100-3131
- RPS School Board Policy, Article IV, Policy 1-4.1



DEFINITIONS

Definition: "Immediate Family"

- ❑ Spouse; and
- ❑ Any other person residing in the same household as the officer or employee who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

§2.2-3101

Definition: "Personal Interest"

A financial benefit or liability accruing to an officer or employee or member of his immediate family.

1. Ownership in a business if the ownership interest exceeds 3% of the total equity of the business;
2. Annual income that exceeds, or may reasonably be anticipated to exceed, \$10,000 from ownership in real or personal property or a business;

§2.2-3101

Definition: "Personal Interest"

3. Salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed \$10,000 annually;
4. Ownership of real or personal property if the interest exceeds \$10,000 in value and excluding ownership in a business, income or salary, other compensation, fringe benefits or benefits from the use of property;

§2.2-3101

Definition: "Personal Interest"

5. Personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or
6. An option for ownership of a business or real or personal property if the ownership interest will consist of 1 or 4 above.

§2.2-3101

Personal Interest

- ❑ Three types of "personal interest" defined in the code:

- ❑ Personal interest
- ❑ Personal interest in a contract
- ❑ Personal interest in a transaction

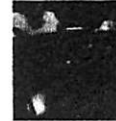
Categories of Prohibition

- ❑ Conduct
- ❑ Contracts
- ❑ Employment Recommendations

PROHIBITED CONDUCT

Prohibited Conduct

- ❑ Nine categories of prohibited conduct in §2.2-3103.
- ❑ One category does not apply to Richmond Public Schools, §2.2-3103(7)



Prohibited Conduct

YOU SHALL NOT SOLICIT OR ACCEPT:

- ❑ Money or other thing of value for services performed within the scope of your official duties.
- ❑ Except the compensation, expenses or other remuneration paid by the agency of which you are an officer or employee.
- ❑ This does not apply to legally authorized special benefits.

Prohibited Conduct

YOU SHALL NOT OFFER OR ACCEPT:

- ❑ Any money or other thing of value for or in consideration of:
 - ❑ obtaining employment, appointment, or promotion of any person with any governmental or advisory agency; or
 - ❑ the use of your public position to obtain a contract for any person or business with any governmental or advisory agency.

Prohibited Conduct

YOU SHALL NOT :

- ❑ Use for your own economic benefit or that of another party confidential information that you acquire by reason of your public position and which is not available to the public.

Prohibited Conduct

YOU SHALL NOT :

- ❑ Accept any:
 - ❑ Money
 - ❑ Loan
 - ❑ Gift
 - ❑ Favor
 - ❑ Service
 - ❑ Business
 - ❑ Professional opportunity that reasonably tends to influence you in the performance of your official duties.
- ❑ This does not apply to:
 - ❑ political campaign contributions actually used for that purpose; or
 - ❑ For constituent services and reported as required by Chapter 9.3 (§24.2-945 et seq.) of Title 24.2.

Prohibited Conduct

YOU SHALL NOT:

- ❑ Accept a gift from a person who has interests that may be substantially affected by the performance of the your official duties as an officer or employee under circumstances where the timing and nature of the gift would cause a reasonable person to question the officer's or employee's impartiality in the matter affecting the donor.
- ❑ Violations of this prohibition are not subject to criminal law penalties.

Prohibited Conduct

YOU SHALL NOT:

- ❑ Accept any business or professional opportunity when you know there is a reasonable likelihood that the opportunity is being afforded you to influence you in the performance of your official duties.

Prohibited Conduct

YOU SHALL NOT:

- ❑ Accept gifts from sources on a basis so frequent as to raise an appearance of the use of your public office for private gain.
- ❑ Violations of this prohibition are not subject to criminal law penalties.

NOT Prohibited Conduct

- ❑ Teachers and employees of local school boards may accept awards or payments in honor of meritorious or exceptional services performed by the teacher or employee and made from a 501(c)(3) organization.



PROHIBITED CONTRACTS

Prohibited Contracts

- ❑ Two categories of generally prohibited contracts in §2.2-3106.
- ❑ Two categories of prohibited contracts specific to members of school boards in §2.2-3108.



Definition: "Personal interest in a contract"

A personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

§2.2-3101

Prohibited Contracts: Generally

- ❑ You **cannot have a personal interest** in a contract with the government agency of which you are an officer or employee.
- ❑ Exception: your own employment contract.

Prohibited Contracts: Generally

- ❑ You **cannot have a personal interest** in a contract with any other governmental agency of state government unless the contract is:
 - ❑ Awarded as a result of competitive sealed bidding/negotiation as defined in §2.2-4301; or
 - ❑ Is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding/ negotiation is not in the public's best interests.

Prohibited Contracts: Exceptions

- ❑ Your personal interest in additional contracts of employment with your own governmental agency that accrue due to a member of your immediate family, provided you are not in a position to exercise any control over the employment or employment activities of the member of your immediate family and you are not in a position to influence those activities.
- ❑ Goods and services at uniform prices, publicly available.

Prohibited Contracts: Exceptions in the past

- ❑ Acquisition of an employee's scholarly works.
- ❑ Research and development contracts (given many conditions).

Prohibited Contracts: School Board Members

- ❑ No school board members shall have a **personal interest** in
 - ❑ Any contract with the school board; or
 - ❑ Any contract with any governmental agency that is subject to the ultimate control of the school board.

Prohibited Contracts Exclusions
§ 2.2-3100

- ❑ A member's personal interest in an employment contract that came about prior to your school board membership;
- ❑ Contracts for the sale of goods and services by a governmental agency at uniform prices available to general public; or
- ❑ A contract awarded to a member a result of competitive sealed bidding.
 - ❑ Need must be established prior to your school board membership; and
 - ❑ You have no involvement in preparations for specifics of contract; and
 - ❑ Other members state, in writing, that it is in the public's interest for a member to bid on the contract.

Prohibited Contracts Exclusions
§ 2.2-3100

- ❑ The exchange of real property, provided you do not participate as such in the transaction.
- ❑ Publication of official notices.
- ❑ Personal interest in a contract is due to income (more than \$10,000 per year) from the contracting firm or government agency and you either have no authority to participate on behalf of your government agency, or you disqualify yourself as a matter of public record and do not participate on behalf of your government agency in negotiating or approving the contract.

Prohibited Contracts Exclusions
§ 2.2-3100

- ❑ Contract for purchase of goods or services for \$500 or less.
- ❑ Personal interest is due to marriage to a spouse who is employed by the same agency, if spouse was employed by the agency for five or more years prior to marriage.

Prohibited Contracts Exclusions
§ 2.2-3100

- ❑ Grants or other payment under any program with uniform rates for, or amounts paid to, all qualified applicants are established solely by the administering governmental agency.
- ❑ Contracts between the School Board and a public service corporation, financial institution, or company furnishing public utilities in which you have a personal interest:
 - ❑ Provided you disqualify yourself as a matter of public record; and,
 - ❑ Do not participate on behalf of the school board in negotiating or approving the contract.

TRANSACTIONS

Definition: "Personal Interest in a Transaction"

- ❑ A personal interest of an officer or an employee in a matter considered by his agency.
- ❑ Exists when an officer or employee or a member of his immediate family:
 - ❑ Has a personal interest in property or a business or a governmental agency, or

§2.2-3101

Definition "Personal Interest in a Transaction" continued

- ❑ Represents or provides services to any individual or business and such property, business or represented or served individual or business;
- ❑ Is the subject of the transaction; or
- ❑ May realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the contemplated action.

§2.2-3101

"Personal Interest in a Transaction" Exception

- ❑ Personal interest in a transaction shall not be found if an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity.

§2.2-3101

Prohibited Personal Interest in Transactions

YOU **MUST** DISQUALIFY YOURSELF FROM A TRANSACTION WHEN

- ❑ It relates solely to property, business or governmental agency (or parent-subsidiary) in which you have a **personal interest**.

EXCEPT WHEN

- ❑ You are member of a business, profession, occupation or group of 3 or more persons and you declare the interest as required by the act;
- ❑ A party to the transaction is represented by your firm, but not by you directly and you declare the interest as required by the act; or,
- ❑ It affects the public generally, even though you have a **personal interest as a member of the public**.

EMPLOYMENT RECOMMENDATIONS

Prohibited Employment Recommendations

- ❑ Superintendent cannot recommend for employment the :
 - ❑ father or mother;
 - ❑ brother or sister;
 - ❑ brother-in-law or sister-in-law;
 - ❑ spouse;
 - ❑ son or daughter; or
 - ❑ son-in-law or daughter-in-lawof a school board member or the superintendent.
- ❑ Exceptions

Prohibited Employment Recommendations

- ❑ Personal Liability - knowing violations of this provision shall result in a civil action for recovery of any amounts paid in violation of this law.
- ❑ Violator must refund the local treasury any amounts paid in violation of these provisions.

FINANCIAL/ECONOMIC INTERESTS

Who must file their financial interests?

- ❑ Virginia governmental officers and employees
 - ❑ Approximately 25,000 people.
- ❑ Members of School Boards of any city, county or town with a population of greater than 3,500.
- ❑ School Board may provide that employees who fill certain positions of public trust and others as designated file as a condition of employment.

Statement of Economic Interest

These categories are taken from the sample disclosure form that appears in §2.2-3117

- ❑ Categories include:
 - ❑ Offices and directorships
 - ❑ Personal liabilities
 - ❑ Securities
 - ❑ Payments for talks, meetings and publications
 - ❑ Gifts
 - ❑ Business interests
 - ❑ Payments for various representations
 - ❑ Real estate

Statement of Economic Interest

- ❑ Disclosure statements are public documents and are available for public review for no less than five years.
 - ❑ Maintained in HR Department (SB Policy Art. IV 1-4.1(C)).
- ❑ Available at:
 - ❑ www.commonwealth.virginia.gov/StateGovernment/Conflict/conflict.cfm

Statement of Economic Interest

- ❑ Available:
 - ❑ Clerk of the School Board distributes the required form(s) no later than December 10 of each year.
- ❑ Due Dates (SB Policy Art. IV, 1-4.1(C):
 - ❑ when the individual assumes office; and
 - ❑ annually on or before January 15 thereafter. (§2.2-3115)

SCHOOL BOARD POLICY

§1-4.1(D) Conflict of Interest

§1-4.1(D) Conflict of Interest

- ❑ Each School Board member and employee who holds a position at director level or above shall certify that he or she is in compliance with all applicable provisions of the State and Local Government Conflict of Interests Act
 - ❑ As a condition of assuming office or employment; and
 - ❑ Annually on or before January 15th of each year
- ❑ The Clerk will provide the statement of certification and statement will remain on file in HR Department.

§1-4.1(E) Conflict of Interest

§1-4.1(E) Conflict of Interest

- ❑ Each School Board member and employee holding a position at director level or above shall attend an orientation on the State and Local Government Conflict of Interests Act held annually in January of each year.
- ❑ The Clerk shall maintain a record of the attendance of each School Board member and employee. Attendance records shall be maintained in the HR Department.

Penalties for Violating Conflict of Interest Law

- ❑ Criminal
- ❑ Civil
- ❑ Any School Board member or employee who knowingly violates any provision of the Act shall be guilty of malfeasance in office or employment, and upon conviction thereof is subject to, in addition to any other fine or penalty provided by law, forfeiture of office or employment (§8 Policy Art. IV 1-4.1(E)).

Advisory Opinions §1-4.1(F)

- ❑ School board members may request written advisory opinions from the Commonwealth's Attorney regarding Act.
- ❑ Requests shall be in writing and shall set forth a full disclosure of the facts.
- ❑ The opinion of the Commonwealth's Attorney shall be a public record.

Questions?