

Regulation Code: GBEA-R Conflicts of Interest

Definitions

For purposes of Board of Education Conflicts of Interest Policy GBEA and this administrative regulation, the following definitions shall apply:

1. A relative is any person who is related by blood or marriage, or whose relationship with the officer, employee or Board member is similar to that of person who are related by blood or marriage.
2. An associate is any person or entity acting for, on behalf of, or in the name of an officer, employee or Board member or who is otherwise directly associated or connected to the officer, employee or Board member for business or other purposes.
3. An owner or shareholder shall include all equity and non-equity ownership arrangements with covered entities, except for beneficially owning stock or options to acquire stock totaling less than 10% of the outstanding shares of an entity.
4. Senior staff shall mean all central office staff administrators, including directors, supervisors, specialists, staff officers, assistant superintendents, area superintendents, superintendents and principals.
5. A Board of Education officer, employee or Board member is deemed to have derived a personal direct benefit from a contract, transaction or other decision if the individual or his or her spouse: (1) has more than a ten percent (10%) ownership or other interest in an entity that is a party to a contract or transaction; (2) derives any income or commission directly from such contract, transaction or decision; or (3) acquires property under or as a result of the contract, transaction or decision.
6. A Board of Education officer, employee or Board member is deemed to be involved in making a contract, transaction or other decision if he or she participates in the development of specifications or terms or in the preparation or aware of the same. In addition, even it not actually participating in a particular action, a Board member is deemed to be involved in making a contract, transaction or other decision if he or she will receive a direct benefit from the same and the Board of Education takes action on the contract, transaction or decision, unless: (1) such action is otherwise approved under an exception as allowed by state law (including but not limited to [N.C.G.S. § 14-234](#)) under which the Board member is allowed to benefit; and (2) the Board member is prohibited from voting on such action.
7. A Board of Education officer, employee or Board member is deemed to be involved in administering a contract, transaction or other decision if he or she oversees the performance of such actions or has authority to make decisions regarding or to interpret the same.

8. A Board of Education officer, employee or Board member is *not* deemed to be involved in the making or administration of a matter solely because of the performance of ministerial duties related to it.

Examples of Prohibited Conduct

Examples of conflicts of interest that are strictly prohibited include, but are not limited to:

1. Holding substantial financial interest (i.e., more than a ten percent ownership or other interest) and/or acting as an officer, director, partner, joint venturer, creditor or guarantor in an outside firm or entity that provides goods, wares, merchandise, services, supplies, material, equipment or property to the Board of Education;
2. Speculating, dealing in or having any pecuniary interest, either directly or indirectly, in supplying or providing any goods, wares, merchandise, services, supplies, material, equipment, or property purchased, used or to be purchased or used by the Board of Education;
3. Acting as an agent for any manufacturer, merchant, dealer, publisher or author for any article of merchandise or service to be used by, sold or distributed to the Board of Education;
4. Borrowing money from suppliers, customers or other individual firms or entities with whom the Board of Education does business, with the exception of lending institutions;
5. Soliciting or receiving any gift, reward, or promise of reward in exchange for recommending, influencing or attempting to influence the award or outcome of a contract, transaction or other decision; or
6. Soliciting or receiving any gift, reward, or promise of reward in exchange for recommending, influencing, procuring or attempting to influence the procurement or use of any goods, wares, merchandise, services, supplies, material, equipment, or real or personal property purchased, used or to be purchased or used by the Board of Education.

The above-listed prohibitions, however, do not include real property conveyed by an officer, employee or member of the Board of Education under a court order in a condemnation proceeding initiated by the Board of Education or other transactions or actions otherwise allowed by state or federal law.

Additional Gift Guidelines

In addition to the express gift-related prohibitions listed above, with the exception of: (1) nominal perishable, consumable or other small gifts provided by students and/or their parents or guardians; or (2) items or meals of less than \$50.00 in value from any party, officers, employees and Board members should not accept gifts or services from third-parties in connection with their employment and/or service with the Board. Care should also be exercised to ensure that continuation of even nominal gifts does not build up to or create an appearance of impropriety.

Federal Funding Additional Requirements:

Requirements of CMS Staff that are recipients of federal funds are subject to additional requirements. The compliance statement is listed below:

“Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200).”

Supplemental conflict of interest regulations applicable for purchases funded with federal funds are attached hereto as **Appendix 1**.

Outside Employment and Disclosures

In addition to the above guidelines, officers, employees and Board members are prohibited from engaging in, soliciting, negotiating for or promising to accept outside employment with or render services for private interests when: (a) the private interests are doing or seek to do business with the Board of Education and the employee is or will soon be in a position to influence the business relationship either directly or indirectly, or (b) such conduct by the officer, employee or Board member impairs the proper discharge of official Board of Education business. Officers, employees and Board members are further prohibited from misusing information to which they have access by reason of their position with the Board of Education, such as the disclosure of confidential Board of Education information to developers, service providers or other third parties.

Questions or additional information regarding the Conflicts of Interest Policy or administrative Regulation or potential conflicts of interest, may be obtained from the Legal Department.

Legal References: [N.C.G.S. §§ 14-234, -236, -237, -238](#); [§§ 115C-37\(g\), -47\(6\), -48](#); [§ 133-32](#); [16 NCAC 6C.0602\(b\)\(4\)](#)

Cross References: GBAC, GBEB, GCR

Adoption Date: December 10, 2002

Charlotte-Mecklenburg Schools

Appendix 1: Conflict of Interest Federal Fund Regulations

I. Purpose

The purpose of this policy is to establish conflicts of interest guidelines that meet or exceed the requirements under state law and local policy when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects paid for in part or whole by federal funds and required under 2 C.F.R. § 200.318(c)(1).

II. Regulation

This regulation applies when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects funded in part or whole with federal financial assistance (direct or reimbursed). This policy also applies to any sub recipient of the funds.

The employee responsible for managing the federal financial assistance award shall review the notice of award to identify any additional conflicts of interest prohibitions or requirements associated with the award, and shall notify all employees, officers, and agents, including sub recipients, of the requirements of this policy and any additional prohibitions or requirements.

A. Conflicts of Interest. In addition to the prohibition against self-benefiting from a public contract under G.S. 14-234, no officer, employee, or agent of the Charlotte Mecklenburg Board of Education may participate directly or indirectly in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A real or apparent conflict exists when any of the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

1. the employee, officer, or agent involved in the selection, award, or administration of a contract;
2. any member of his or her immediate family;
3. his or her partner; or
4. an organization which employs or is about to employ any of these parties.

Any officer, employee, or agent with an actual, apparent, or potential conflict of interest as defined in this policy shall report the conflict to his or her immediate supervisor. Any such conflict shall be disclosed in writing to the federal award agency or pass-through entity in accordance with applicable Federal awarding agency policy.

B. Gifts. In addition to the prohibition against accepting gifts and favors from vendors and contractors under G.S. 133-32, officers, employees, and agents of the Charlotte Mecklenburg Board of Education are prohibited from accepting or soliciting gifts, gratuities, favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Items of nominal value consistent with board policy (GBEA) and/or regulation (GBEA-R) which fall into one of the following categories may be accepted:

1. promotional items;
2. honorariums for participation in meetings; or
3. meals furnished at banquets.

Any officer, employee or agent who knowingly accepts an item of nominal value allowed under this policy shall report the item to his or her immediate supervisor.

III. Violation

Employees violating this policy will be subject to discipline up to and including termination. Contractors violating this policy will result in termination of the contract and may not be eligible for future contract award