

The Wake County Board of Education and each member of the Board recognize that they are subject to North Carolina's criminal laws related to conflicts of interest in public office and that a Board member may not use his or her office for personal benefit. The Board and each member of the Board further recognize that they are subject to the standards established by the federal government for recipients of federal grants as specified in policy 8305, Federal Grant Administration. The Board and each member of the Board understand that violation of state and federal laws and regulations on conflicts of interest may result in conviction of a crime, may render a contract of the Board void, or may result in loss of federal funds. In keeping with the ethical duties specified in policy 2120, Code of Ethics for School Board Members, Board members will not let any personal or business interest interfere with their duties as public officials.

All Board members will abide by the following conflict of interest rules. When in doubt, Board members will disclose any potential conflict of interest for discussion and guidance.

1. A Board member will not solicit or receive personal financial gain from the school system by means of intimidation, undue influence, or misuse of school system employees in violation of G.S. 14-234.2.

2. A Board member will not derive a personal benefit from a contract with the school system in violation of ~~state law~~ G.S. 14-234. Specifically, a Board member will not:

- a. 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;
- b. 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; or
- c. 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.

For the purposes of G.S. 14-234, 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. A Board member is also involved in making a contract if the Board takes action on the contract, even if the specific Board member did not actually participate in that action, unless the contract is approved under an exception to the law under which the Board member is allowed to benefit and is prohibited from voting.

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 (1) deliberate or vote on the spouse's employment contract; (2) attempt to influence any other person who is involved in making or administering the contract; or (3) participate in, deliberate on, vote on, or attempt to influence any person with respect to any other matter pertaining to any immediate family member's employment with Wake County Public Schools, including but not limited to hiring, contract renewal, transferring, promoting, demoting, suspending, disciplining, conducting performance evaluations, or reviewing or investigating complaints of any kind. "Immediate family" means spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

3. A Board member who is also a director, officer, or governing board member of a nonprofit will not (1) knowingly vote on, participate in deliberations on, or administer any contract with that nonprofit; (2) influence or attempt to influence the deliberation or vote of others on any such contract; or (3) solicit or receive any gift, reward, or other benefit in exchange for recommending, influencing, or attempting to influence the award of such contract in violation of G.S. 14-234.3. Once the Board member's recusal is recorded in the minutes of the Board, the Board may enter into or administer the contract.

For the purposes of G.S. 14-234.3, a nonprofit is a nonprofit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes, excluding any board, entity, or other organization created by the State or by any political subdivision of the State.

4. A Board member will not deliberate on, vote on, or otherwise engage in the selection, award, or administration of a contract supported in whole or part by federal funds when he or she has a real or apparent conflict of interest under federal rules as provided in 2 C.F.R. 200.318(c)(1) and policy 8305, Federal Grant Administration. For purposes of this paragraph, a conflict of interest arises when a Board member or his or her spouse, immediate family member, or partner, or the employer or pending employer of any of those persons, has a financial or other interest in or receives a tangible personal benefit from a firm considered for the contract. Any such conflict must be disclosed to the awarding agency.

For purposes of the previous paragraph, a "financial interest" means a financial interest which comprises more than five percent of the equity of the firm or business or more than five percent of the assets of the economic interest in indebtedness. It does not include an ownership interest held through a fiduciary, such as a mutual fund or blind trust, where

the individual or individual's employer has no control over the selection of holdings.

Also, for purposes of this policy, "tangible personal benefit" is interpreted broadly to include personal benefits such as improved employment opportunities, business referrals, or political influence.

5. A Board member will not solicit or accept trips, meals, gratuities, gifts, favors, or anything of monetary value from (i) current contractors, subcontractors, or suppliers; (ii) any contractor, subcontractor or supplier that has performed under a contract with the Board within the past year; or (iii) any contractor, subcontractor, or supplier that foreseeably may bid on a contract in the future, unless the item is an unsolicited gift of nominal value (\$50 or less) and is one of the following: an advertising item or souvenir that is widely distributed; an honorarium for participating in a meeting; a meal provided at a banquet; or other item that is clearly permitted by state and federal law.

Multiple permitted items from a single contractor, subcontractor, or supplier may not exceed an aggregate value of \$100 in a twelve-month period.

6. A Board member will not solicit or accept any gifts from a current or potential provider of E-rate services or products in violation of applicable federal E-rate program gifting rules.

7. A Board member will not misuse information in violation of G.S. 14-234.1. Specifically, a Board member will not use knowledge of contemplated Board action, or information known to the member in his or her official capacity and not made public, to:

- a. acquire a financial interest in any property, transaction, or enterprise or gain any financial benefit which may be affected by the information or contemplated action; or
- b. intentionally aid another to acquire a financial interest or gain a financial benefit.

Legal References: 2 C.F.R. 200.112 and 200.318(c)(1); 47 C.F.R. 54.503; ~~80 Fed. Reg. 67261 (Nov. 2, 2015)~~; FCC Sixth Report and Order 10-175; G.S. 14-234, -234.1, ~~-234.2, -234.3~~; 133-32; Attorney General Opinion requested by L.W. Lamar regarding G.S. 133-32, the Applicability to Attorneys and Law Firms Providing Professional Services to Local Boards of Education, dated May 13, 1993

Adopted: September 15, 2015

Revised: June 15, 2021; [DATE]