

**POLICY TITLE: BOARD MEMBER CONFLICT OF INTEREST**

Definitions

“Relative” is defined as a person related to the Board member by blood or marriage within the second degree. Relation by blood within the second degree includes grandparents and grandchildren. Laterally, it includes brothers and sisters.

Prohibited Activity

A trustee may not:

1. use the trustee’s official power to further the trustee’s own interests;
2. have a pecuniary interest directly or indirectly (except a remote interest) in any contract or other transaction pertaining to the maintenance or conduct of the school district. A “remote interest” means:
  - A. the trustee is a non-salaried employee of a nonprofit corporation; or
  - B. the trustee is an employee or agent of a contracting party where the compensation of the trustee as an employee or agent consists entirely of fixed wages or salary; or
  - C. the trustee is a landlord or tenant of a contracting party; or
  - D. the trustee is a holder of less than one percent (1%) of the shares of a corporation or cooperative a contracting party ; AND
  - E. the trustee discloses such remote interest to the Board of Trustees;
3. accept any reward or compensation for services rendered as a trustee except as expressly provided by law;
4. accept and award contracts involving the school district to businesses in which a trustee or person related to him or her by blood or marriage within the second degree has a direct or indirect interest except when the procedures set forth in I.C. §§ 18-1361 or 18-1361A are followed;
5. be involved in the employment of a relative related by affinity or consanguinity within the second degree (the trustee shall be absent from the meeting while such employment is being considered and/or determined);
6. employ the spouse of a trustee when such employment requires or will require the payment or delivery of any school district funds, money, or property to such spouse except when the procedures set forth in I. C. § 33-507(3) are followed;
7. enter into a contract in the trustee’s individual capacity, the effect of which is to create a personal interest which may conflict with the officer’s public duty;
8. accept a bribe for money, a promise, gift, or any other form of personal advantage or engage in a substantial financial transaction for the trustee’s

- private business purpose with a person whom the trustee inspects or supervises in the course of official duties;
9. be a purchaser or vendor at any sale or purchase made by the trustee in the trustee's official capacity;
  10. use public funds or property to obtain a pecuniary benefit for himself or herself;
  11. solicit, accept, or receive a pecuniary benefit as payment for services, advice, assistance, or conduct customarily exercised in the course of the trustee's official business;
  12. use or disclose confidential information gained in the course of or by reason of the trustee's official position or activities in any manner with the intent to obtain a pecuniary benefit for the trustee or any other person or entity in whose welfare the trustee is interested or with the intent to harm the District;
  13. appoint or vote for the appointment of any person related to him or her by blood or marriage within the second degree to any clerkship, office, position, employment or duty, when the salary, wages, pay or compensation of such appointee is to be paid out of public funds or fees of office, or appointment or furnish employment to any person whose salary, wages, pay or compensation is to be paid out of public funds or fees of office, and who is related by either blood or marriage within the second degree to any other public servant making or voting for such appointment.

### Contracts

It will be unlawful for any Board member to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the school district, or to accept any reward or compensation for services rendered as a Board member except as otherwise provided by law. The Board may accept and award contracts involving the school district to businesses in which a trustee, or his or her relative, has a direct or indirect interest if three or less suppliers of a good or service exist within a fifteen mile radius of where the good or service is to be provided and the contract is necessary to respond to a disaster.

If no disaster exists the following procedures must be followed:

1. The contract is completely bid and the Board member or his or her relative submits the low bid;
2. Neither the Board member nor his or her relative takes part in the preparation of the contract or bid specifications, and the Board member takes no part in voting on or approving the contract or bid specifications;
3. The Board member makes full disclosure, in writing, to all members of the Board of his or her interest, or the interest of his or her relative, and sets forth his or her intention, or the intention of his or her relative, to bid on the contract; and

4. Neither the Board member nor his or her relative has violated any provisions of Idaho law pertaining to competitive bidding or improper solicitation of business.

The receiving, soliciting, or acceptance of monies of a school district for deposit in any bank or trust company, or the lending of money by any bank or trust company to any district, will not be deemed to be a contract pertaining to the maintenance of conduct of the district. The payment by any school district of compensation to any bank or trust company for services rendered in the transaction of any banking business with such Board will also not be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company.

#### Contracts with a Board Member's Spouse

It will be unlawful for the Board of any school to enter into or execute any contract with the spouse of any member of such Board, the terms of which said contract requires, or will require, the payment of delivery of any school district funds, money, or property to such spouse, except as provided above.

#### Trustee Spouse Employment

It is generally unlawful for a trustee to have their spouse employed by the District in any paying position whereby such employment would require the payment or delivery of any District funds, money, or property to their spouse.

However, trustees in districts that annually meet the following criteria may have a spouse employed in the District under the following conditions:

1. The District had a fall student enrollment of 1,200 or less in the prior school year;
2. The spouse will be employed in a non-administrative position;
3. The position has been listed as open for application on the District's website or in a local newspaper for at least sixty (60) days unless the opening occurred during the school year, in which case the position must have been listed as open for at least fifteen (15) days on the District's website or in a local newspaper;
4. No applications were received that met the minimum certification, endorsement, education, or experience requirements of the position except the trustee's spouse; and
5. The trustee abstained from voting in the employment of the spouse and was absent from the meeting while such employment was being considered and determined.

The above five (5) criteria must be met in each subsequent school year in which the trustee's spouse is employed. Additionally, the following provisions are applicable in such situations:

1. Throughout the course of the spouse's employment, the trustee shall abstain from voting in any decision that affects the compensation, benefits, individual performance evaluation, or disciplinary action relating to the spouse and shall be absent from the meeting while such issues are being considered. Such limitation shall include a prohibition on voting and attendance with regard to the following subject matters:
  - a. Negotiations regarding compensation and benefits;
  - b. Discussion and negotiation with district benefits providers; and
  - c. Any matters relating to the spouse and letters of reprimand, direction, probation or termination.
2. Regardless of spouse employment status, the trustee may participate in deliberations and vote upon the District's annual fiscal budget and annual audit report.
3. Should the spouse of a trustee be hired as a certificated teacher, notwithstanding any other policy or law to the contrary, such spouse may only be employed under a Category 1 annual contract pursuant to section 33-514A, Idaho Code, and so long as the status of trustee and spouse employee remains, shall not progress to subsequent contract stages with the District.

#### **LEGAL REFERENCE:**

I.C. § 33-507	Limitation upon authority of trustees
I.C. § 18-1359	Use public position for personal gain
I.C. § 18-1361	Self-Interest Contracts - Exception
I.C. § 18-1361A	Non-compensated Appointed Public Servant – Relative of Public Servant -- Exceptions
I.C. § 59-201	Officers not to be interested in contracts
I.C. § 59-202	Officers not to be interested in sales

#### **POLICY HISTORY:**

**Adopted: 5/19/2016**