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POLICY 1-4.1 CONFLICT OF INTEREST

Purpose

This Policy is intended to assure that the judgment of the board members and employees of the Hanover County School Board will be guided by State and Local Government Conflict of Interests Act, which defines and prohibits inappropriate conflicts and requires disclosure of economic interests.

Areas of Regulation

The State and Local Government Conflict of Interests Act establishes five principal areas of regulation applicable to board members and employees of the Hanover County School Board. They include:

1. Special anti-nepotism rules
2. General rules governing public conduct by school board members and employees regarding acceptance of money, things of value, gifts and favors.
3. Prohibited conduct regarding contracts.
4. Required conduct regarding transactions.
5. Disclosure required from certain school board members.

Definitions

The State and Local Government Conflict of Interests Act defines the following terms as:

“*Advisory agency*” means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

“*Affiliated business entity relationship*” means a relationship, other than a parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

“*Business*” means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

“*Candidate*” means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this chapter upon the filing of a statement of qualification pursuant to § 24.2-501 of the Code of Virginia.

“*Contract*” means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision of thereof. “*Contract*” includes a subcontract only when the contract of which it is a part is with the officer’s or employee’s own governmental agency.

“*Council*” means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355 of the Code of Virginia.

“*Employee*” means all persons employed by a governmental or advisory agency.

“*Financial institution*” means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in Va. Code § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

“*Gift*” means any gratuity, favor, discount, entertainment, hospitality, loan forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings, and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. “*Gift*” does not include (i) any offer of a ticket, coupon or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program’s financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 of title 24.2 of the Code of Virginia; (v) any gift related to the private profession or occupation or volunteer service of an officer or employee or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act; (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House or Senate Committee on Rules; (xiii) travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than \$20.00; (xv) attendance at a reception or similar function where food, such as hors d’oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered; or (xvi) gifts from relatives and personal friends. For the purposes of this definition, “relative” means the donee’s spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee’s or his spouse’s parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee’s brother’s or sister’s spouse or the donee’s son-in-law or daughter-in-law. For the purpose of this definition, “personal friend” does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 of Chapter 4 of Title 2.2 of the Code of Virginia; (b) a lobbyist’s principal as defined in §2.2-419 of the Code of Virginia; (c) for an officer or employee of a local governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the School Board. For purposes of this definition, “person, organization, or business” includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

“*Governmental agency*” means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are “governmental agencies” for purposes of this policy.

“*Immediate family*” means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and, who is a dependent of the officer or employee or of whom the officer or employee is a dependent.

“*Officer*” means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office.

“*Parent-subsidiary relationship*” means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.

“*Personal interest*” means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of:

1. ownership in a business if the ownership interest exceeds three percent of the total equity of the business;
2. annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;
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, \$5,000 annually;
4. ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income or salary, other compensation, fringe benefits or benefits from the use of property;
5. personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business;
6. an option for ownership of a business or real or personal property if the ownership interest will consist of 1 or 4.

“*Personal interest in a contract*” means a personal interest which 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.

“*Personal interest in a transaction*” means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction.

“*Transaction*” means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

Special Anti-Nepotism Rules Relating to School Board Members and Superintendents

The School Board may not employ, and the division superintendent may not recommend for employment, the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law, of the division superintendent or of a School Board member. This provision shall not be construed to prohibit the employment, promotion, or transfer within the school division, of any person within a relationship described above when such person:

1. has been employed pursuant to a written contract with the School Board or employed as a substitute teacher or teacher’s aide by the School Board prior to the taking of office of any member of the School Board or the division superintendent; or

2. has been employed pursuant to a written contract with the School Board or employed as a substitute teacher or teacher's aide by the School Board prior to the inception of such relationship; or
3. was employed by the School Board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of the School Board or division superintendent.

A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of such board member or division superintendent or to the inception of such relationship.

No family member (as listed, above) of any employee may be employed by the School Board if the family member is to be employed in a direct supervisory and/or administrative relationship either supervisory or subordinate to the employee. The employment and assignment of family members in the same organizational unit shall be discouraged.

General Rules Governing Public Conduct by School Board Members Regarding Gifts and Favors

Prohibited Conduct

No member or employee of the School Board shall:

1. Solicit or accept money, or other thing of value for services performed within the scope of his official duties, except the compensation, expenses or other remuneration paid by the School Board. This prohibition shall not apply to the acceptance of special benefits that may be authorized by law;
2. Offer or accept any money, or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with the school division or any governmental or advisory agency;
3. Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain a contract for any person or business with the school division or any governmental or advisory agency.
4. Use for his own economic benefit or that of another party confidential information he has acquired by reason of his public position and which is not available to the public;
5. Accept any money, loan, gift, favor, service or business or professional opportunity that reasonably tends to influence him in the discharge of his official duties;
6. Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties;
7. Accept any honoraria for any appearance, speech or article in which the School Board member or employee provides expertise or opinions related to the performance of his official duties. The term "honoraria" shall not include any payment for or reimbursement to such person for his actual travel, lodging, or subsistence expenses incurred in connection with such appearance, speech or article, or in the alternative a payment of money or anything of value not in excess of the per diem deduction allowable under § 162 of the Internal Revenue Code, as amended from time to time;
8. Accept a gift from a person who has interests that may be substantially affected by the performance of the School Board member's or employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the School Board member's or employee's partiality in the matter affecting the donor;
9. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his public office for private gain; or
10. Use his public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law, provided however, that this subdivision shall not restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action, in accordance with applicable law.

Prohibited Gifts

For purposes of this section:

“*Person, organization, or business*” includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

“*Widely attended event*” means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

- A. No School Board member or employee required to file the disclosure form prescribed in § 2.2-3117 of the Code of Virginia or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to § 2.2-418 et seq. of the Code of Virginia; (ii) a lobbyist’s principal as defined in § 2.2-419 of the Code of Virginia; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the School Board. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.
- B. Notwithstanding the provisions of subsection A above, such School Board member, employee, or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117 of the Code of Virginia.
- C. Notwithstanding the provisions of subsection A above, such School Board member, employee, or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection A above if such gift was provided to such School Board member, employee, or a member of his immediate family on the basis of a personal friendship. A person listed in subsection A above may be a personal friend of such School Board member, employee, or his immediate family for purposes of this subsection. In determining whether a person listed in subsection A above is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111 of the Code of Virginia.
- D. Notwithstanding the provisions of subsection A above, such School Board member, employee, or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection A above when the School Board member or employee has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1 of the Code of Virginia. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117 of the Code of Virginia.
- E. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

Return of Gifts

No person shall be in violation of any provision of this policy prohibiting the acceptance of a gift if:

1. The gift is not used by such person and the gift or its equivalent in money is returned to the donor or delivered to a charitable organization within a reasonable period of time upon the discovery of the value of the gift and is not claimed as a charitable contribution for federal income tax purposes; or
2. Consideration is given by the donee to the donor for the value of the gift within a reasonable period of time upon the discovery of the value of the gift provided that such consideration reduces the value of the gift to an amount not in excess of \$100 as provided in subsection B or C of § 2.2-3103.1 of the Code of Virginia.

Prohibited Conduct Regarding Contracts

No School Board member shall have a personal interest in (i) any contract with the School Board or (ii) any contract with any government agency that is subject to the ultimate control of the School Board.

Exceptions

The above prohibition shall not be applicable to:

1. A School Board member's personal interest in a contract of employment provided the employment first began prior to the member becoming a member of the School Board;
2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public;
3. A contract awarded to a member of the School Board as a result of competitive sealed bidding where the School Board has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the School Board. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the School Board, by written resolution, shall state that it is in the public interest for the member to bid on such contract;
4. The sale, lease or exchange of real property between a School Board member or employee and a governmental agency, provided the School Board member or employee does not participate in any way as such School Board member or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;
5. The publication of official notices;
6. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of \$5,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;
7. Contracts between the school division and a public service corporation, financial institution, or company furnishing public utilities in which the School Board member or employee has a personal interest provided the School Board member or employee disqualifies himself as a matter of public record and does not participate on behalf of the School Board in negotiating or approving the contract;
8. Contracts for the purchase of goods or services when the contract does not exceed \$500;
9. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency; or
10. An officer or employee whose sole personal interest in a contract with the School Board is by reason of his marriage to his spouse who is employed by the School Board, if the spouse was employed by the School Board for five or more years prior to marrying such officer or employee;

11. Employment contracts or renewals thereof and other contracts entered into prior to August 1, 1987, which were in compliance with the Virginia Conflict of Interests Act (or the Comprehensive Conflict of Interests Act) at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. The employment by the School Board of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of the persons is employed in a direct supervisory and/or administrative position with respect to the spouse or other relative residing in his household and the annual salary of the subordinate is \$35,000 or more.

Prohibited Conduct Regarding Transactions

Each School Board member and employee who has a personal interest in a transaction:

1. Shall disqualify himself from participating in the transaction if (i) the transaction has application solely to property or a business or governmental agency in which he has a personal interest or a business that has a parent-subsiary or affiliated business entity relationship with the business in which he has a personal interest, or (ii) he is unable to participate pursuant to 2.a., b., or c., below. Any disqualification under the provisions of this subdivision shall be recorded in the public records of the School Board. The School Board member or employee shall disclose his personal interest, as required by this policy, and shall not vote or in any manner act on behalf of the School Board in the transaction. The School Board member or employee shall be prohibited from (a) attending any portion of a closed meeting of the School Board when the matter in which he has a personal interest is discussed and (b) discussing the matter in which he has a personal interest with other School Board members or employees at any time;
2. A School Board member or employee who has a personal interest in a transaction may participate in the transaction:
 - a. If he is a member of a business, profession, occupation, or group of three or more persons, the members of which are affected by the transaction, and he complies with the declaration provisions of this policy;
 - b. When a party to the transaction is a client of his firm if he does not personally represent or provide services to such client and he complies with the declaration requirements of this policy;
 - c. If it affects the public generally, even though his personal interest, as a member of the public, may also be affected by that transaction.

Disqualification under the provisions of this section shall not prevent any employee having a personal interest in a transaction in which his employer is involved from representing himself or a member of his immediate family in such transaction provided he does not receive compensation for such representation and provided he complies with the disqualification and relevant disclosure requirements of this policy.

If disqualification of school board members or employees in accordance with this section leaves less than the number required by law to act, the remaining member or members of the School Board shall constitute a quorum for the conduct of business and have authority to act for the School Board by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members.

The provisions of this Policy shall not prevent a School Board member or employee from participating in a transaction merely because such a member or employee is a party in a legal proceeding of a civil nature concerning such transaction.

Disclosure Requirements for School Board Members

School Board members shall file, as a condition of assuming office, a disclosure statement of their personal interests and other information, as is specified on the form set forth in Virginia Code § 2.2-3117, and thereafter file such statement annually on or before February 1. The disclosure forms shall be filed and maintained as public records for five years in the office of the clerk of the School Board. Such forms shall be made public no later than six weeks after the filing deadline.

Any School Board member or employee who has a personal interest in any transaction before the School Board and who is disqualified from participating in that transaction under this Policy or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall be reflected in the public records of the School Board for five years in the office of the division superintendent.

The clerk of the school board that releases any form to the public pursuant to this policy shall redact from the form any residential address, personal telephone number, or signature contained on such form.

Any School Board member or employee who is required to disclose his interest under this Policy shall declare his interest by stating:

- a. The transaction involved,
- b. The nature of the School Board member's or employee's personal interest affected by the transaction,
- c. That he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and
- d. That he is able to participate in the transaction fairly, objectively, and in the public interest.

The School Board member or employee shall either make his declaration orally to be recorded in written minutes of the School Board or file a signed written declaration with the clerk of the School Board or division superintendent who shall, in either case, retain and make available for public inspection such declaration for a period of five (5) years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the School Board member or employee shall prepare and file the required declaration by the end of the next business day. The School Board member or employee shall also orally disclose the existence of the interest during each meeting of the School Board at which the transaction is discussed and such disclosure shall be recorded in the minutes of the meeting.

Disclosure Form and Filing Requirements

- A. A School Board member required to file an annual disclosure on or before February 1 under this policy shall disclose his personal interests and other information as required on the form prescribed by the Council for the preceding calendar year complete through December 31. A School Board member required to file a disclosure as a condition to assuming office shall file such disclosure on or before the day such office is assumed and disclose his personal interests and other information as required on the form prescribed by the Council for the preceding 12-month period complete through the last day of the month immediately preceding the month in which the office is assumed; however, any School Board member who assumes office in January shall be required to only file an annual disclosure on or before February 1 for the preceding calendar year complete through December 31.
- B. When the deadline for filing any disclosure pursuant to this policy falls on a Saturday, Sunday, or legal holiday, the deadline for filing shall be the next day that is not a Saturday, Sunday, or legal holiday.

LEGAL REFERENCE: Code of Virginia, 1950, as amended, §§ 2.2-3102, 2.2-3103, 2.2-3013.1, 2.2-3013.2, 2.2-3104.1, 2.2-3108, 2.2-3109, 2.2-3110, 2.2-3112, 2.2-3115, 2.2-3118.2, 2.2-3119.

Recodified: August 2000

Amended: July 16, 2003, July 10, 2007, July 13, 2010, December 8, 2015, June 13, 2017

POLICY 1-4.2 SCHOOL VISITATIONS

Each Hanover County School Board member will attempt to visit various schools throughout the year when invited for regular programs and special events or when the School Board member has time available or has special interest in a particular program.

Each School Board member will spend at least one day per academic year in school visitation during a time period recommended by the School Board Chairman. The purpose of the visits is to obtain background information for intelligent policy making. Upon completion of the visits, School Board members will participate in a scheduled committee of the whole School Board to discuss their observations.

School Board members acknowledge that they are guests in any school they visit. They will stop first at the principal's office to advise the principal of their presence and determine if there are any special considerations that should be observed while visiting. Principals are encouraged to have School Board members visit the total school when possible rather than attempting to present only selected programs.

School Board members will contact the division superintendent if they have questions or concerns resulting from their visits.

LEGAL REFERENCE: Code of Virginia, 1950, as amended, § 22.1-79.

Recodified August 2000
