

STANDARDS OF CONDUCT IN PURCHASING AND CONTRACTING

R 672.2

This rule serves to clarify the School Board's standards of conduct for District-related purchasing and contracting activities as those standards relate to (1) the Board's modified application of the state's Code of Ethics for Local Government Officials ("Code") to District employees beyond those employees who are considered local public officials, and (2) specific federal restrictions on the conduct of District officers, employees, and agents who are involved in the selection, award, and administration of contracts (including procurement transactions) supported by federal funds.

This rule does not provide a complete list or explanation of all situations in which a conflict of interest may exist under applicable law or District policy. For example, this rule does not address any aspect of the state criminal statute that forbids private interests in public contacts. In addition, this rule's summary of the state Code is incomplete as to some specific details. Reliance on this clarifying rule or its authorizing policy does not excuse any violation of independently-applicable state or federal law. Accordingly, officers, agents, and employees of the District should approach conflict-of-interest issues conservatively and seek clarification of specific fact situations and restrictions prior to participating in related purchasing or contracting activities.

Application of the State Code as Standards of Conduct for District Employees

In connection with District purchasing and contracting activities, Board policy expressly extends the application of the state Code by (1) adopting the Code's requirements and restrictions as local standards of conduct that apply to all District employees involved in such activities in other than a purely ministerial capacity, and (2) substituting broader definitions of "immediate family" and organizational "associations" in place of the Code's narrower definitions for those terms. In general, the state's Code and Board policy work together to jointly prohibit the following conduct:

1. No District employee may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated.
2. No person may offer or give to a District employee, directly or indirectly, and no District employee may solicit or accept from any person, directly or

indirectly, anything of value if it could reasonably be expected to influence the employee's vote, official actions, or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the employee.

3. No District employee may take any non-ministerial action in connection with his or her duties or responsibilities as an employee that substantially affects a matter in which the employee, a member of his or her immediate family, or an organization with which the employee is associated has a substantial financial interest.
4. No District employee may use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the employee, one or more members of the employee's immediate family (either separately or together), or an organization with which the employee is associated.

The Board's policy otherwise adopts the state Code's applicable definitions and the Code's exceptions to and exclusions from the conduct that is generally prohibited by the Code. For example, the Board's extension of the Code to all employees involved in District purchasing and contracting activities in other than a purely ministerial capacity does not prohibit an employee's:

1. Negotiation and acceptance, on his or her own behalf, of his or her employment agreement and/or compensation arrangement with the District.
2. Acceptance of District-authorized compensation, benefits, or expense reimbursement.
3. Acceptance of any nominally-valued item(s) of the type that may be accepted by local public officials under the state Code (e.g., widely-distributed items of token value given away by an exhibitor at a conference or convention). While the state Code does not set a specific dollar value applicable to any and all situations, officers, employees and agents should treat any item valued at more than a few dollars as suspect and should be aware that acceptance of items valued as low as \$15 may violate the Code.

4. Receipt of any merely incidental amenities that are provided in connection with the representative's authorized participation in a conference, meeting, or similar activity, provided that such incidentals primarily facilitate the representative's efficient and effective performance of his or her District-related responsibilities and that, therefore, primarily benefit the District (rather than serving as a private benefit to the representative). An employee's immediate supervisor has authority to determine whether a particular amenity may be accepted, and employees are strongly encouraged to review program agendas/schedules with their supervisor in advance of work-related conferences and similar events.
5. Receipt of personal gifts for purposes completely unrelated to District activities/operations from a person with whom the representative of the District has a pre-existing familial or social relationship (such as a brother, sister, or close friend), even though the person giving the gift (or the person's business or employer) also is, or is seeking to become, a vendor or contractor of the District. (Note: Although such personal gifts may be accepted, the employee may be separately prohibited by law or by a District policy or directive from participating in purchasing or contracting processes involving the particular vendor or contractor.)

Federal Restrictions on the Conduct of Officers, Employees, and Agents Involved in the Selection, Award, and Administration of Contracts Supported by Federal Funds

Separate from any state or local standards of conduct that apply to officers, agents and employees of the District who are involved in purchasing and contracting activities in the District, federal regulations impose several minimum restrictions on the conduct of such representatives of the District whenever the transaction in question is supported by federal funds that are subject to the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." Under the federal guidelines:

1. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a substantial financial or other interest in or

would obtain a substantial tangible personal benefit from a firm considered for a contract.

2. The officers, employees, and agents of the non-federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

These minimum federal requirements are not waivable in connection with any transaction or contract to which they apply. In determining whether a financial or other interest is "substantial," or whether anything solicited or accepted for private benefit is of "value," the District follows the standards applicable to local public officials under similar provisions of the state Code.

Adopted: 11/01/22