

B/

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL**Purpose**

The purposes of this Code of Ethics are:

- a) To establish high standards of ethical conduct for School Board members, officer, and employees of the Board of Education of the City of Buffalo;
- b) To afford Board members, officers and employees of the Board clear guidance to such standards;
- c) To promote public confidence in the integrity of governance and administration of the Board of Education of the Buffalo School District and its agencies and administrative offices and subdivisions.
- d) To establish clear standards and to prohibit acts incompatible with the public interest.
- e) By requiring public disclosure of financial interests that may influence or be perceived to influence the actions of Board members, officers, and employees; to facilitate consideration of potential problems before they arise; minimize unwarranted suspicion; and enhance the accountability of government to the people; and
- f) To provide for the fair and effective administration of this Code.

Definitions

- a) **Board:** Board of Education of the Buffalo City School District
- b) **Claim:** Any demand, oral or written, made upon the District, its Board or its Superintendent, to fulfill an obligation arising from law or equity.
- c) **Contract:** Any oral or written obligation to do an act or to refrain from doing an act, arising from an exchange of promises between or among persons.
- d) **District:** Buffalo City School District including its Board of Education.
- e) **Employee:** Any person, paid or unpaid, appointed, elected, or hired to serve the District in any capacity or position, including, without limitation, persons serving on a temporary, part-time or seasonal basis and persons serving on administrative or advisory boards, commissions or committees of the District, whether permanent or temporary.

(Continued)

B/

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL (Cont'd.)

- f) Family: Any parent, sibling, spouse, child, household member, domestic partner, grandparent, father-in-law, mother-in-law, stepparent, or stepchild of a District employee.
- g) Gift: Anything of value given gratuitously to a board member or employee.
- h) Interest: A benefit or advantage of an economic or tangible nature that a District employee would gain or lose as a result of a decision or action, or an omission to decide or to act on behalf of the District. A District employee shall be deemed to have an interest in a:
 - 1. Contract between the District and that District employee;
 - 2. Contract between the District and any member of the family of that District employee, except for a contract of employment;
 - 3. Contract between the District and any entity of which the District employee or a member of his/her family, is an officer, director, employee, partner, or stockholder with an interest of 5% or more; or
 - 4. Direct or indirect benefit received by an employee as a result of a contract with the District.
- i) Person: Any individual, corporation, partnership, business, employee or vendor.
- j) Vendor: Any corporation, partnership, business, company, organization, or individual conducting or seeking to conduct business with the District, providing grant or research funds to the District, making donations to the District, or from whom the District is actively soliciting donations.

Application

This policy applies to every Board member and employee of the District, and it shall take effect immediately.

Consideration of Other Laws and Regulations

The Board affirms its commitment to adhere to all applicable provisions of law regarding conflicts of interest. This policy does not supersede the requirements of any applicable law, regulation, or order.

(Continued)

B/

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL (Cont'd.)**Requirements**

- a) The Board and all employees shall exercise good and sound judgment on behalf of the District, and shall pursue a course of conduct which will maintain public trust and confidence in the District. In no event shall a Board member or an employee:
1. Treat any person more favorably than it is the custom and practice to treat the general public.
 2. Use his/her official position to secure unwarranted privileges or exemptions for self or others.
 3. Allow any person to improperly influence his/her performance.
 4. Have a romantic, sexual or other unprofessional relationship with any student of the District even if the relationship is consensual.
 5. Have a romantic, sexual, or other unprofessional relationship with a subordinate employee even if the relationship is consensual.
- b) A Board Member or Employee shall not, in his/her official position or office, take or fail to take any action in a manner which may result in a personal financial benefit (other than services or benefits generally available to residents of the City) for any of the following persons:
1. The officer or employee;
 2. His/her outsider employer or business;
 3. A customer, client or business associate; or
 4. A contributor or an affiliate of a contributor that has made political contributions of more than one thousand dollars in the aggregate during the past 24 months in connection with the nomination or election of the officer or employee as a candidate for public office, provided that clause (4) may be waived by written decision of the Commission on Ethics upon specific findings showing that such waiver is in the public interest.
- c) Conflict of Interest:
- Except as permitted by law, no person may have an interest in any contract with the District when he or she, individually, or as a member of the Board, has the power or duty to: negotiate, prepare, authorize, or approve the contract or authorize or approve payment under the contract; audit bills or claims under the contract; or appoint an officer or employee who has any of these powers or duties.

(Continued)

B/

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL (Cont'd.)

Likewise, unless permitted by law, no chief fiscal officer, treasurer, or his or her deputy or employee, may have an interest in a bank or trust company designated as a depository, paying agent, registration agent, or for investment of funds of the District.

No employee, officer, or agent will participate in selecting, awarding, or administering a contract supported by a federal award if he or she has a real or apparent conflict of interest. These conflicts could arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of these parties has a financial or other interest in or a tangible personal interest benefit from a firm considered for a contract. Employees, officers, and agents will not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. The District may, however, set standards for situations where the financial interest is not substantial or the gift is an unsolicited item of nominal value.

"Interest", used in this policy, means a direct or indirect pecuniary or material benefit accruing to a District officer or employee as the result of a contract with the District. A District officer or employee will be considered to have an interest in the contract of: his or her spouse, minor children and dependents, except a contract of employment with the District; a firm, partnership or association of which he or she is a member or employee; a corporation of which he or she is an officer, director or employee; and a corporation any stock of which is owned or controlled directly or indirectly by him or her.

d) Disclosure of Interest in Contracts and Resolutions:

Any District officer or employee who has, will have, or later acquires an interest in or whose spouse has, will have or later acquires an interest in any actual or proposed contract, purchase agreement, lease agreement, or other agreement, including oral agreements, with the District must publicly disclose the nature and extent of that interest in writing. The disclosure must be made when the officer or employee first acquires knowledge of the actual or prospective interest, and must be filed with the person's immediate supervisor and the Board. Any written disclosure will be made part of and included in the official minutes of the relevant Board meeting. The District must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

e) Employment of Family Members:

1. No employee shall hire, supervise, evaluate, promote, review, or discipline any other employee who is a member of the same family. In the event that marriage, promotion, or

(Continued)

B/

**SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT
PERSONNEL (Cont'd.)**

reorganization results in a situation not in compliance with this policy, reassignment or transfer will be effected, in accordance with the applicable provisions of any collective bargaining agreement, to correct the situation.

2. No employee shall participate in the review of an application for employment, interview, or employment determination regarding an application of an individual that is a member of the employee's same family.

f) Personal Employment:

1. No employee shall engage in, solicit, negotiate for or promise to accept private employment when that employment or service creates a conflict with or impairs the proper discharge of his/her official duties with the District.
2. No employee shall engage in other employment at a time when he/she is scheduled to be working for the District.
3. A Board member or employee will not use his or her position with the District to influence purchases made by students or their parents/guardians resulting in the financial gain of the employee or the employee's family.
4. An employee will not trademark, patent, copyright or claim ownership interest in any inventions, publications, ideas, processes, compositions, programs, images, or other intellectual property created by the employee in their capacity as an employee in the District, unless authorized by the Board of Education.
5. A Board member or employee will not use District property, including the District's intellectual property, or confidential information obtained in their capacity as employees of the District to financially benefit themselves, family members, or any other person or business unless authorized by the Board.

g) Gifts:

1. In no event shall a board member or employee solicit, either directly or indirectly, any gift or accept or receive any gift having a value of \$75 or more under the circumstances in which it could reasonably be inferred that the gift was intended to influence him/her in the performance of his/her official duties or was intended as a reward for any official action on his/her part. If a board member or employee received a gift having a value of \$75 or more, it must be returned. This provision does not apply to contributions solicited or received in accordance with the Election Law of the State of New York.

(Continued)

B/

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL (Cont'd.)

2. The value of the gift shall be defined at its fair market value. The following exceptions shall not be considered gifts:
 - (a) Complimentary attendance at a charitable or political event if the admission fee is less than \$75;
 - (b) Complimentary attendance at a widely attended, educationally related event when attendance is provided directly to the employee by the sponsor and the event is related to the official duties of the employee;
 - (c) Honorary degree or ceremonial item;
 - (d) Contributions reportable under the Election Law; and
 - (e) Travel reimbursement or payment for travel related expenses for an employee acting as a speaker or panelist at an informational event.
- h) Confidentiality Requirements of Public Information and Records:
 1. No board member or employee shall disclose confidential information acquired by them in the course of their official duties to further their personal interests or the interests of anyone in his/her family.
 2. No Employee or Board Member shall disclose the following matters discussed in executive session:
 - (a) Matters which will imperil public safety if disclosed;
 - (b) Any matter which may disclose the identity of a law enforcement agent or informer;
 - (c) Information relating to current or future investigation or prosecution of a criminal offense;
 - (d) Discussions regarding proposed, pending or current litigation;
 - (e) Collective negotiations under the Taylor Law;
 - (f) The medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
 - (g) The preparation, grading or administration of examinations;

(Continued)

B/

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL (Cont'd.)

- (h) The proposed acquisition, sale, or lease of real property or securities, but only when publicity would substantially affect the value thereof;
- (i) Student records pursuant to the Family Educational Rights and Privacy Act (FERPA);
- (j) Matters subject to the attorney-client privilege.

Distribution

- a) The Superintendent of the Buffalo City School District shall distribute to every Board member and employee of the District a copy of this Policy within 30 business days after the effective date of this resolution.
- b) Each Board member or employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his/her office or employment.
- c) The Policy shall be posted on the District's website so as to be available to all employees and the public at www.buffaloschools.org.
- d) This code of ethics shall be filed in the State Comptroller's Office annually in accordance with Section 806(3) of the General Municipal Law.

Disclosure

- a) Every Board member and employee must publicly disclose the nature and extent of any non-exempted interest they or their spouse have, will have or later acquire in any actual or proposed contract, purchase agreement, lease agreement, or other agreement involving the school district (including oral agreements), even if it is not a prohibited interest under applicable law.
 - 1. In regard to a matter proposed or pending before the District, in no event shall a board member or employee discuss, decide, or take part in a matter in which he/she has a prohibited interest pursuant to this policy.
 - 2. The board member or employee shall identify immediately, in writing, the nature of his/her interest and the potential conflict to his/her immediate supervisor and/or a member of the Commission on Ethics.
 - 3. If the member of the Commission on Ethics believes that the issue merits review by the entire Commission, the issue shall be submitted to the entire Commission for review and opinion. The Commission shall render an opinion as to whether the board member or employee shall participate in the matter and the board member or employee shall abide by the opinion.

(Continued)

B/

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL (Cont'd.)

4. Failure to disclose or abide by the opinion of the Commission on Ethics may result in the penalties described in subheading Penalties below.
- b) Commission on Ethics: The composition, power and duties, and responsibilities of the Commission on Ethics are prescribed pursuant to Board Regulation 6110R.
- c) Annual Financial Disclosure: All employees holding the following job titles within the District shall provide an Annual Statement of Financial Disclosure to the District's Commission on Ethics no later than October 15 of each year: Members of the Board of Education, Superintendent of Schools, Community Superintendent's, All members of the Superintendent's Cabinet, Principals, Directors, Architects, Engineers, and employees of the Purchasing Department involved in vendor selection or bid review.
- d) Recusal: An officer or employee shall promptly recuse himself/herself from acting, formally or informally, on a matter before the Board, when acting on the matter or failing to act on the matter may financially benefit any of the persons listed above under Requirements hereof, except in a case where the prohibition has been waived by the Commission on Ethics. In addition, he/she shall promptly make disclosure of the reason for such recusal known in accordance with subsection 1) below.
 1. Whenever an officer or employee (a) is required to recuse himself/herself pursuant to the language above, or (b) is requested or proposes to take any action or fail to take any action (other than ministerial action) in a manner which may result in a personal financial benefit (other than services or benefits generally available to residents of the City) for a family member, a member of his or her household, or for an employer or business associate of a family member or member of his or her household, then, in either event, he/she shall promptly inform his/her superior (except in the case of a member of the Board, who shall inform the President of the Board) and shall promptly file with the Superintendent a signed statement disclosing in reasonable detail the reason for recusal under clause (a) or the relationship and potential personal financial benefit referred to in clause (b) of this sentence. The Superintendent shall promptly transmit copies of the statement to the Board of Education and the Commission on Ethics for review in accordance with the process outlined in this policy and in accordance with Board Regulation 6110R.
- e) Vendor Disclosure:
 1. All vendors intending to conduct business with the District must complete a conflict of interest disclosure form (Exhibit A). A vendor must formally disclose all potential conflicts of interest. Failure to disclose a conflict of interest may result in action being taken pursuant to subheading Penalties below.

(Continued)

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL (Cont'd.)

2. If a vendor submits a conflict of interest disclosure form where there is reasonable potential of a conflict, the matter must be referred to the Commission on Ethics to render an opinion.

Penalties

- a) In addition to any penalty contained in the provision of law, any person who violates any of the provisions of this policy may be subject to disciplinary action in the manner provided by District policies and regulations, any applicable collective bargaining agreements, and law. Disciplinary action may include, but is not limited to, reprimand, fine, suspension or termination of employment.
- b) Any contract entered into by the District, its Board or Superintendent, in which there is an interest prohibited by this Policy of applicable law may be null and void and thereby unenforceable.
- c) The Law Department may seek an injunction to enforce the provisions of this policy or applicable laws and regulations.

General Exceptions to Conflict of Interest

Board members and employees will not be deemed to have a conflict of interest in any of the exceptions listed in §802 of the General Municipal Law, including:

- a) Contracts with membership corporations or other voluntary not-for-profit corporations or associations. (i.e., Collective Bargaining Agreements or a contract with a not-for profit health services organization.
- b) No Board member is prohibited from voting on a collective bargaining agreement with would apply to his/her spouse or child.
- c) Appointment of a teacher who is a relative or spouse of a Board member is permitted upon a two-thirds supermajority vote, without limiting the Board members right to vote.
- d) The appointment of a Board member as school physician is permitted by two-thirds supermajority vote.
- e) Contracts entered into by the District with a person who is subsequently elected or appointed to the Board, a school district office or employment remain valid, except that the contract may not thereafter be renewed.
- f) A contract with a vendor of which the interest of the Board member or officer is, by reason of stockholding, less than 5% of outstanding shares.

(Continued)

B/

SUBJECT: CODE OF ETHICS FOR BOARD MEMBERS AND ALL DISTRICT PERSONNEL (Cont'd.)

- g) Contract between the District and Board member or officer that do not exceed \$750 in any fiscal year.
- h) Where application of the conflict of interest rules would necessitate the engagement of bank or trust company outside of the municipality or school district, the Board may designate a bank or trust company in which the Board president, treasurer or deputy treasurer has an interest in such entity. The designation shall be as a depository, paying agent or registration agent for the investment of funds.
- i) A contract with a vendor in which a municipal officer or employee has an interest prohibited solely by reason of employment as an officer or employee of such vendor, if their compensation will not be directly affected as a result of the contract with the municipality of school district and duties do not directly involve the procurement, preparation, or performance of any part of the contract.
- j) The designation of a newspaper, including an official newspaper, for the publication of notices, resolutions, or other proceeding where publication is otherwise required or authorized by law.
- k) The purchase or property or any interest therein where approved upon a petition to State Supreme Court by the Board.
- l) Acquisition of real property or an interest in real property through eminent domain proceedings.
- m) Sale of bonds and notes pursuant to 60.10 of the Local Finance Law.

NOTE: Refer also to Policy #1311 -- School Board Member Code of Conduct