



#1. Conflict of Interest-Charter School Board Members and Employees (MSBA #210.1)

Adopted by the St. Cloud Math and Science Academy Board of Directors: June 1, 2014

I. PURPOSE

The purpose of this policy is to observe MN Stat. 124D.10 Subd.4a; 34 CFR Part 80.26(b) and 36(b)(3); 34 CFR Part 75.525; and CFR Part 75.525 (a) & (b) regarding conflict of interest and to engage in school district business activities in a fashion designed to avoid any conflict of interest or the appearance of impropriety.

II. GENERAL STATEMENT OF POLICY

It is the policy of the charter school board to conform to statutory conflict of interest laws and act in a manner that will avoid any conflict of interest or the appearance thereof. This policy addresses compliance requirements with MN Stat. 124D.10 Subd.4a; 34 CFR Part 80.26(b) and 36(b)(3); and 34 CFR Part 75.525 (a) & (b). In addition, all purchases must follow the procedures outlined in Policy #35 Purchasing, Procurement and Contracting Policies that establishes procedures to carry out purchasing, procurement and contracting functions of the charter school and provide efficient management of public monies and compliance with all applicable state and federal laws including requirements when using federal funds to make purchases under Minnesota's federal Charter Schools Program (CSP).

MN Stat. 124D.10 Subd.4a Conflict of Interest.

(a) A member of a charter school board of directors is prohibited from serving as a member of the board of directors or as an employee or agent of or a contractor with a for-profit entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities. A violation of this prohibition renders a contract voidable at the option of the commissioner. A member of a charter school board of directors who violates this prohibition shall be individually liable to the charter school for any damage caused by the violation.

(b) An individual may serve as a member of the board of directors if no conflict of interest under paragraph (a) exists.

(c) A member of a charter school board of directors that serves as a member of the board of directors or as an employee or agent of or a contractor with a nonprofit entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities, must disclose all potential conflicts to the commissioner.

(d) The conflict of interest provisions under this subdivision do not apply to compensation paid to a teacher employed by the charter school who also serves as a member of the board of directors.

(e) The conflict of interest provisions under this subdivision do not apply to a teacher who provides services to a charter school through a cooperative formed under chapter 308A when the teacher also serves on the charter school board of directors.

34 CFR Part 75.525 (a) & (b) Participation in a Project

(a) A grantee may not permit a person to participate in an administrative decision regarding a project if:

(1) The decision is likely to benefit that person or a member of his or her immediate family; and

(2) The person:

(i) Is a public official; or

(ii) Has a family or business relationship with the grantee.

(b) A grantee may not permit any person participating in the project to use his or her position for a purpose that is-or gives the appearance of being- motivated by a desire for a private financial gain for that person or for others.

34 CFR Part 80.26 (b) Non-Federal audit.

(a) Basic Rule. Grantees and subgrantees are responsible for obtaining audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, " Audits of States, Local Governments, and Non-Profit Organizations." The audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits.

(b) Subgrantees. State or local governments, as those terms are defined for purposes of the Single Audit Act Amendments of 1996, that provide Federal awards to a subgrantee, which expends \$300,000 or more (or other amount as specified by OMB) in Federal awards in a fiscal year, shall:

- (1) Determine whether State or local subgrantees have met the audit requirements of the Act and whether subgrantees covered by OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit organizations," have met the audit requirements of the Act. Commercial contractors (private for-profit and private and governmental organizations) providing goods and services to State and local governments are not required to have a single audit performed. State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditures of Federal funds;
- (2) Determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Act, OMB Circular A-133, or through other means (e.g., program reviews) if the subgrantee has not had such an audit;
- (3) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instance of noncompliance with Federal laws and regulations;
- (4) Consider whether subgrantee audits necessitate adjustment of the grantee's own records; and
- (5) Require each subgrantee to permit independent auditors to have access to the records and financial statements.

34 CFR Part 80.36(b)(3) Procurement.

- (3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
 - (i) The employee, officer or agent,
 - (ii) Any member of his immediate family,
 - (iii) His or her partner, or
 - (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

CONFLICTING BUSINESS RELATIONSHIPS

- A. A member of a charter school board of directors is prohibited from serving as a member of the board of directors or as an employee or agent of, or contractor with, a for-profit entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities. A violation of this prohibition renders a contract voidable at the option of the Commissioner of Education (Commissioner). A member of a charter school board of directors who violates this prohibition shall be individually liable to the charter school for any damage caused by the violation. An individual may serve as a member of the board of directors if no conflict of interest as specified in MN Stat. 124D.10 Subd.4a; 34 CFR Part 80.26(b) and 36(b)(3); and 34 CFR Part 75.525 (a) & (b) as printed above exists.
- B. A member of a charter school board of directors that serves as a member of the board of directors or as an employee or agent of, or contractor with, a nonprofit entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities, must disclose all potential conflicts to the Commissioner.
- C. The charter school board member conflict of interest provisions do not apply to compensation paid to a teacher employed by the charter school who also serves as a member of the board of directors.
- D. The charter school board member conflict of interest provisions do not apply to a teacher who provides services to a charter school through a cooperative formed under Minn. Stat. Ch. 308A when the teacher also serves on the charter school board of directors.

LIMITATIONS ON RELATED EMPLOYEES

- A. The school board can hire or dismiss teachers only at duly called meetings. Where a husband and wife, brother and sister, or two brothers or sisters, constitute a quorum, no contract employing a teacher may be made or authorized except upon the unanimous vote of the full school board.
- B. The school board may not employ any teacher related by blood or marriage to a school board member, within the fourth degree, as computed by the civil law except by a unanimous vote of the full school board.

DETERMINATION AS TO WHETHER A CONFLICT OF INTEREST EXISTS

The determination as to whether a conflict of interest exists is to be made by the school board. Any school board member who has an actual or potential conflict shall notify the school board of such conflict immediately. The school board member shall thereafter cooperate with the school board as necessary for the school board to make its determination.