

Policy #: 672.2

SCHOOL DISTRICT OF WEBSTER

Date Adopted: February 19, 2018

Date Revised:

Policy Title: Standards of Conduct in Purchasing and Contracting

The School Board is committed to purchasing and contracting processes that promote the responsible stewardship and expenditure of District funds (inclusive of local, state, federal, and all other sources), including the avoidance of conflicts of interest. Accordingly, in addition to all other applicable restrictions independently established by law or separately established by the District, the Board:

1. Directs the administration, through its procedures and evaluative processes, to consistently enforce the standards of conduct imposed by the Board and by related state and federal laws, including, as examples, the state's Code of Ethics for Local Government Officials ("Code"), the state's prohibitions against misconduct in office, the state's prohibitions against private interests in public contracts, and the federal government's minimum standards of conduct connected to any District officer's, employee's, or agent's participation in purchasing and contracting activities that involve the use of federal funds.
2. Extends the application of the state's Code such that the provisions of the Code (as well as its applicable exceptions and exclusions) shall be enforced as District standards of conduct with respect to all District employees who are involved in District purchasing and contracting activities in other than a purely ministerial capacity. Further, in applying and enforcing the various provisions of the Code as local employment standards in connection with such activities, the following broader definitions shall be used in place of the narrower definitions found in the state statutes:
 - a. "Immediate family" means all of the following: spouse, and parents thereof; children, and spouses thereof; parents, and spouses thereof; and siblings, and spouses thereof; financial dependents as identified in the state Code; or another adult sharing the same household as the employee of the District.
 - b. An organization with which the employee is "associated" means any organization with which the employee or his or her spouse is associated as an owner, partner, or director, as further defined by the Code; any organization for which the employee or his or her spouse serves as an authorized representative or agent; or any organization which employs or is about to employ either the District employee or any member of the employee's immediate family.
3. Requires any employee of the District to disclose to the District Administrator or Business Manager, clearly and as early in the contracting process as practical, the employee's desire to pursue in his or her private capacity (e.g., via bidding, negotiation, etc.) any contract with the District (a) in which the employee has a direct or indirect private pecuniary interest, and (b) that, but for the amount of the contract being below the dollar/cost threshold of the applicable criminal statute that prohibits private interests in public contracts, the employee would otherwise be criminally prohibited from pursuing even in his or her private capacity.
4. Prohibits any authorized agent of the District from participating in the submission of a bid or proposal for any District procurement or contracting decision that is to be made through the solicitation, receipt, and evaluation of competitive bids or competitive requests for proposals when the same agent's designated role on behalf of the District included advising the District regarding the same project's specifications, requirements, statements of work, or invitations for bids or requests for proposals.

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As to any District-established standard of conduct applicable to District purchasing and contracting activities where the standard exceeds the minimum restrictions and prohibitions imposed by state or federal law, the Board may, at its discretion, make an exception to the local standard through policy or via other official action. Any employee or authorized agent who wishes to request such an exception shall contact the District Administrator or Business Manager and disclose the specific circumstances relevant to the request.

Even where no law or District policy, regulation, or procedure requires an officer, agent, or employee of the District to take a specific action (or to refrain from specific conduct), the Board expects all officers, agents, and employees to use sound judgment in identifying possible conflicts of interest or other situations giving rise to a reasonable perception of impropriety that may detract from public confidence in the District's purchasing and contracting activities. Upon identifying such situations, the officer, agent, or employee should consult with the Board or administration as necessary and determine a reasonable course of action. Examples of potential resolutions to such situations include making express disclosures (e.g., of particular familial or social relationships) and/or abstaining from participation in particular District processes and transactions.

Consequences for Violations

Any officer, employee, or agent of the District who violates the standards of conduct applicable to participation in District purchasing and contracting activities, as established by the Board or by applicable law, is subject to referral to law enforcement when the conduct is independently subject to possible legal prosecution. In addition:

- A Board member who violates any standards of conduct established by state or federal law is further subject to censure or other disciplinary sanction that is within the authority of the Board itself, and may also be subject to an action for removal from public office by the courts.
- Employees are further subject to possible disciplinary action, up to and including termination from employment.
- A non-employee agent of the District is further subject to termination of his or her authority to act as an authorized agent of the District.

A current or prospective vendor or contractor of the District who offers or provides gifts, favors, or gratuities to any officer, agent, or employee of the District that would constitute a violation of this policy or any applicable law is subject to possible disqualification as a future vendor or contractor of the District.

In setting forth such possible consequences, the Board neither absolves any officer, employee, or agent of the District from any other individual liability that may accrue to such representative of the District nor disclaims or waives any of the Board's or District's rights to void or terminate agreements or to pursue any other lawful claims or remedies.

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Legal References:

Wisconsin Statutes

[Section 19.42](#) [statutory definitions related to the code of ethics for local government officials]

[Section 19.59](#) [ethical standards for local government officials]

[Section 946.12](#) [misconduct in public office]

[Section 946.13](#) [private interests in public contracts prohibited]

Federal Law

[2 C.F.R. §200.318](#) [uniform guidance related to acceptance and use of federal funds by non-federal entities; written standards of conduct required]

[2 C.F.R. §200.319](#) [uniform guidance related to ensuring objective contractor performance and eliminating unfair competitive advantage]