

CONFLICT OF INTERESTS AND
DISCLOSURE OF ECONOMIC INTERESTS

A. Purpose

The Albemarle County Public Schools (“ACPS”) seeks, through the adoption of this policy, to assure that the judgment of its employees will be guided by a Policy that defines and prohibits inappropriate conflicts and requires disclosure of economic interests as defined by the General Assembly in the State and Local Government Conflict of Interests Act (the Act).

A. Areas of Regulation

The Act establishes six (6) principal areas of regulation applicable to Albemarle County School Board members and officers and employees of the ACPSBLANK School Division. They are:

- special anti-nepotism rules relating to School Board members and superintendents of schools
- general rules governing public conduct by School Board members regarding acceptance of gifts and favors
- prohibited conduct regarding contracts
- required conduct regarding transactions
- disclosures required from School Board members
- training requirements for elected School Board members¹

B. Definitions

“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

- one business entity has a controlling ownership interest in another business entity;
- a controlling owner in one entity is also a controlling owner in another entity; or
- 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 any individual or entity carrying on a business or profession, whether for profit or otherwise.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency which 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 it.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in Va. Code § 30-355.

"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 subsection A of Virginia 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 any offer of a ticket, coupon or other admission or pass unless the ticket, coupon, admission or pass is used; honorary degrees; 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; a campaign contribution properly received and reported pursuant to Va. Code § 24.2-945 et seq.; any gift related to the private profession, occupation or volunteer service of the School Board member or employee or of a member of the School Board member's or employee's immediate family; food or beverages consumed while attending an event at which the School Board member or employee is performing official duties related to his public service; food and beverages received at or registration or attendance fees waived for any event at which the School Board member or employee is a featured speaker, presenter, or lecturer; 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; a devise or inheritance; travel disclosed pursuant to the Campaign Finance Disclosure Act (Va. Code § 24.2-945 et seq.); 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; 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; gifts with a value of less than \$20; 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; tickets or the registration or admission fees to an event that are

provided by the School Board to School Board members or employees for the purposes of performing official duties related to their public service; or gifts from relatives or personal friends.

For the purpose 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 donee's spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, step-sister, 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 School Board member or employee knows or has reason to know is (a) a lobbyist registered pursuant to Va. Code § 2.2-418 et seq.; (b) a lobbyist's principal as defined in Va. Code § 2.2-419; or (c) 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 School Board member or employee and who is a dependent of the School Board member or employee.

"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 or not.

"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than fifty (50%) percent of the voting power of another corporation.

"Personal interest" means a financial benefit or liability accruing to a School Board member or employee or to a member of the immediate family of the School Board member or employee. Such interest shall exist by reason of

- ownership in a business if the ownership interest exceeds three (3%) percent of the total equity of the business;
- annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;
- 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;

- 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;
- personal liability incurred or assumed on behalf of a business if the liability exceeds three (3%) percent of the asset value of the business; or
- an option for ownership of a business or real or personal property if the ownership interest will consist of the first or fourth bullets above.

"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 which 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 the officer's or employee's 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, or represented or served individual or business

- is the subject of the transaction or
- may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction.

Notwithstanding the foregoing, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an officer, employee, or elected member of a local governing body is appointed by the local governing body to serve on a governmental agency or an officer, employee or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency, and the personal interest in the transaction of the governmental agency is a result of the salary, other compensation, fringe benefits, or benefits provided by the local governing body or the separate governmental agency to the officer, employee, elected member or member of the officer's or employee's his immediate family.

"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.

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

1. The School Board may not employ or pay, and the 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 Superintendent or of a School Board member except as authorized below. This prohibition does not apply to the employment, promotion, or transfer within the school division ACPS, of any person within a relationship described above when such person

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- 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 the Superintendent or any member of the School Board; or
- 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
- 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 Superintendent.

A person employed as a substitute teacher may not be employed to any greater extent than ~~has~~ such person was employed by the School Board in the last full school year prior to the taking of office of such School Board member or Superintendent or to the inception of such relationship.

2. Notwithstanding the rules stated in Subsection D.1. above, the School Board may employ or pay, and the Superintendent may recommend for employment, any family member of a School Board member provided that

- the School Board member certifies that such member~~he~~ had no involvement with the hiring decision; and
- the Superintendent certifies to the remaining members of the School Board, in writing, that the recommendation is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the School Board had any involvement with the hiring decision.

3. Notwithstanding the rules stated above, the School Board may employ or pay any family member of the Superintendent provided that

- the Superintendent certifies that the Superintendent~~he~~ had no involvement with the hiring decision; and
- the Assistant Superintendent certifies to the members of the School Board in writing that the recommendation is based upon merit and fitness and the competitive rating of the qualifications of the individual and that the superintendent had no involvement with the hiring decision.

4. No family member (as listed in section D.1., 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 is discouraged.

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

1. Prohibited Conduct

No member or employee of the School Board, shall:

- solicit or accept money, or anything else of value, for services performed within the scope of the School Board Member's or employee's official duties other than the School Board Member's or employee's regular compensation, expenses, or other remuneration;
- offer or accept money, or anything else of value, for or in consideration of obtaining employment, appointment, or promotion of any person in the school division ACPS;
- offer or accept any money or anything else of value for or in consideration of the use of the public position to obtain a contract for any person or business with the school division ACPS
- use for the School Board Member's or employee's own economic benefit, or anyone else's, confidential information gained by reason of the School Board Member's or employee's office, and which is not available to the public;
- accept any money, loan, gift, favor, service or business or professional opportunity that reasonably tends to influence the School Board Member or employee in the performance of the School Board Member's or employee's official duties;
- accept any business or professional opportunity where the School Board Member or employee knows that there is a reasonable likelihood that the opportunity is being afforded the School Board Member or employee to influence the School Board Member's or employee's conduct in the performance of official duties;
- 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 impartiality in the matter affecting the donor;
- accept gifts from sources on a basis so frequent as to raise an appearance of the use of the School Board Member's or employee's public office or employment for private gain;
or
- use the School Board Member's or employee's 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 prohibition 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.

2. Prohibited Gifts

For purposes of this subsection:

"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.

School Board Members and employees required to file a Statement of Economic Interests as prescribed in Va. Code § 2.2-3117 and members of their immediate families shall not 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 the School Board Member or employee or a member of the School Board Member's or employee's immediate family from any person that the School Board Member or employee or a member of the School Board Member's or employee's immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Va. Code § 2.2-418 et seq.; (ii) a lobbyist's principal as defined in Va. Code § 2.2-419; 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.

Notwithstanding the above, School Board Members and employees required to file a Statement of Economic Interests and members of their immediate families 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 Statement of Economic Interests;
- a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed;
- certain gifts with a value in excess of \$100 from a lobbyist; lobbyist's principal; or a person, organization, or business who is or who is or is seeking to become a party to a contract with the School Board if such gift was provided to such School Board Member or employee or a member of the immediate family of the School Board Member or employee on the basis of a personal friendship. A lobbyist; lobbyist's principal; or a person, organization, or business who is or is who is or is seeking to become a party to a contract with the School Board may be a personal friend of such School Board Member or employee or the immediate family of the School Board Member or employee. In determining whether a lobbyist; lobbyist's principal; or a person, organization, or business who is or who is or is seeking to become a party to a contract with the School Board 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 Va. Code §§ 2.2-3117 or 30-111; and
- 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 lobbyist; lobbyist's principal; or a person, organization or business who is or is seeking to become a party to a contract with the School Board 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 Va. Code § 30-356.1. Such gifts shall be reported on the Statement of Economic Interests.

The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five (5) 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.

No person shall be in violation of this policy if (i) 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 (ii) 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 \$100 or less.

3. Awards to Employees for Exceptional Service

Nothing herein shall be construed to prohibit or apply to the acceptance by a teacher or other employee of the Albemarle County Public Schools ACPS of an award or payment in honor of meritorious or exceptional services performed by the teacher or employee and made by an organization exempt from federal income taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code.

E. Prohibited Conduct Regarding Contracts

1. No School Board member or employee shall have a personal interest in (i) any contract with the School Board or (ii) any contract with any government agency which is subject to the ultimate control of the School Board;
2. Exceptions - The above prohibition is not applicable to:
 - 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
 - an employee's own contract of employment
 - contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public
 - 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
 - the sale, lease or exchange of real property between a School Board member or employee and the School Board, provided the School Board Member or employee does not participate in any way as a 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 School Board or superintendent
 - the publication of official notices
 - contracts between the School Board and an officer or employee of the School Board when the total of such contracts between the School Board and the officer or employee of the

School Board or a business controlled by the officer or employee does not exceed \$5,000 per year or such amount exceeds \$5,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in Va. Code § 2.2-3115²

- 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 the officer's or employee's governmental agency or the officer or employee he enters a disqualifies cation himself as a matter of public record and does not participate on behalf of such his governmental agency in negotiating the contract or in approving the contract
- contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest provided the officer or employee disqualifies himself enters a disqualification as a matter of public record and does not participate on behalf of such his governmental agency in negotiating or approving the contract
- contracts for the purchase of goods or services when the contract does not exceed \$500
- 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
- an officer or employee whose sole personal interest in a contract with his the officer's or employee's own governmental agency is by reason of his marriage to his a spouse who is employed by the same agency, if the spouse was employed by such agency for five (5) or more years prior to marrying such officer or employee
- employment contracts and other contracts entered into prior to August 1, 1987, provided such contracts 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 same governmental agency 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 the his household and the annual salary of the subordinate is \$35,000 or more

F. Prohibited Conduct Regarding Transactions

1. Each School Board Member and School Board employee who has a personal interest in a transaction
 - a. shall disqualify himself be disqualified from participating in the transaction if
 - (i) the transaction has application solely to property or a business or governmental agency in which The School Board Member or employee he has a personal interest or a business that has a parent-subsidary or affiliated business entity relationship with

the business in which ~~he~~ the School Board Member or employee has a personal interest, or
(ii) The School Board Member or employee is unable to participate pursuant to subdivision G.1.b, G.1.c., or G.1.d. of this policy.

Any disqualification under this subsection shall be recorded in the School Board's public records. The School Board M~~m~~ember or employee shall disclose ~~their~~his personal interests as required by Va. Code § 2.2-3115.F and shall not vote or in any manner act on behalf of the School Board in the transaction. The School Board M~~m~~ember or employee shall not
(i) attend any portion of a closed meeting authorized by the Virginia Freedom of Information Act when the matter in which the School Board Member or employee~~he~~ has a personal interest is _____ discussed; or
(ii) discuss the matter in which the School Board Member or employee~~he~~ has a personal interest with other _____ governmental officers or employees at any time.

- b. may participate in the transaction if the School Board Member or employee~~he~~ is a member of a business, profession, occupation, or group of three (3) or more persons, the members of which are affected by the transaction, and the School Board Member or employee~~he~~ complies with the declaration requirements of Va. Code § 2.2-3115.H;
c. may participate in the transaction when a party to the transaction is a client of the School Board Member's or employee's~~his~~ firm if the School Board Member or employee~~he~~ does not personally represent or provide services to such client and the School Board Member or employee~~he~~ complies with the declaration requirements of Va. Code § 2.2-3115.I; or
d. may participate in the transaction if it affects the public generally, even though the School Board Member's or employee's~~his~~ personal interest, as a member of the public, may also be affected by that transaction.

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

3. If disqualifications under subsection 1.a. of this section leave 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.

4. The provisions of this section shall not prevent a School Board M~~m~~ember or employee from participating in a transaction merely because such a School Board M~~m~~ember or employee is a defendant in a civil legal proceeding concerning such transaction.

G. Disclosure Requirements

1. School Board members³ file, as a condition of assuming office, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to Va. Code § 2.2-3117 and thereafter file such statement annually on or before February 1. The disclosure forms are filed and maintained as public records for five years in the office of the Clerk of the School Board.

2. School Board Members and employees required to file the Statement of Economic Interests who fail to file such form within the time period prescribed shall be assessed a civil penalty of \$250. The Clerk of the School Board shall notify the attorney for the Commonwealth for the locality of any School Board Member's or employee's failure to file the required form and the attorney for the Commonwealth shall assess and collect the civil penalty. The clerk shall notify the attorney for the Commonwealth within thirty (30) days of the deadline for filing.

3. Any School Board member or employee who is disqualified from participating in a transaction under Section G.1.a. of this policy, or otherwise elects to be disqualified himself, shall forthwith make disclosure of the existence of such 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 such disclosure shall be reflected in the School Board's public records in the ACPS Division Superintendent's office for a period of five (5) years.

4. Any School Board Member or employee who is required to disclose an his interest under Section G.1.b. of this Policy shall declare such his interest by stating:
 - the transaction involved;
 - the nature of the School Board Member's or employee's personal interest affected by the transaction;
 - that such School Board Member or employee is a member of a business, profession, occupation or group the members of which are affected by the transaction; and
 - that such School Board Member or employee 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 declare orally to be recorded in written minutes of the School Board or file a signed written declaration with the Clerk of the School Board, 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 School Board meeting at which the transaction is discussed and such disclosure shall be recorded in the minutes of the meeting.

5. A School Board Member or employee who is required to declare such his interest pursuant to subdivision G.1.c. of this Policy shall declare such his interest by stating

- (i) the transaction involved;
- (ii) that a party to the transaction is a client of his firm;
- (iii) that the School Board Member or employee does not personally represent or provide services to the client; and
- (iv) that such School Board Member or employee 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 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.

H. Release of Disclosure Forms

The Clerk of the School Board who releases any disclosure form shall redact from the form any residential address, personal telephone number, email address, or signature contained on such form.

I. Deadlines and Coverage Periods for Disclosure Forms

A School Board Member or employee required to file an annual disclosure on or before February 1 shall disclose such his personal interests and other information as are required on the form prescribed by the Council for the preceding calendar year complete through December 31.

A School Board Member or employee required to file a disclosure as a condition to assuming office or employment shall file such disclosure on or before the day such office or position of employment is assumed and disclose such 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 or position of employment is assumed; however, any School Board Member or employee who assumes office or a position of employment 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.

When the deadline for filing any disclosure 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.

J. Training Requirements for Elected School Board Members⁴

Each elected School Board Member completes the training session provided by the Council within two (2) months after assuming office and thereafter at least once during each consecutive period of two (2) calendar years while holding office.

The Clerk of the School Board maintains records indicating School Board Members subject to the training requirement and the dates of their completion of training sessions. Such records are maintained as public records for five (5) years in the Clerk's office of the Clerk of the School Board.

L. Advisory Opinions

School Board Members or employees subject to the Act may seek written opinions regarding the Act from the local Commonwealth's Attorney; the Albemarle County Attorney; ~~local~~ [SELECT ONE: county, city or town] attorney; or the Council. Good faith reliance on any such written opinion of the Commonwealth Attorney or a formal opinion or written informal advice of the Council made in response to a written request for such opinion or advice regardless of whether such opinion or advice is later withdrawn, provided that the alleged violation occurred prior to the withdrawal of the opinion or advice bars prosecution for a knowing violation of the Act provided the opinion was made after a full disclosure of the facts. If the School Board Member or employee relies on the opinion of the attorney for the Commonwealth in a prosecution for a knowing violation of the Act, the written opinion of the attorney for the Commonwealth shall be a public record and shall be released upon request. An opinion of the Albemarle County Attorney [SELECT ONE: county, city or town] attorney may be introduced at trial as evidence that the School Board Member or employee did not knowingly violate the Act.

SCHOOL EMPLOYEE CONFLICT OF INTERESTS

A. Purpose

The State and Local Government Conflict of Interests Act (the Act), applies to public school employees and officials. The Act creates uniform standards of conduct for all public employees and officials. The Act also defines and prohibits inappropriate conflicts of interests and requires disclosure of economic interests in some circumstances. The purpose of this policy is to provide an introduction to the Act for employees. Additional information regarding the Act may be obtained from Policy BBFA, School Board Member Conflict of Interest and from the Virginia Conflict of Interest and Ethics Advisory Council (the Ethics Council) which assists with compliance with the Act.

B. Compliance

Employees of the School Board are required to read and be familiar with the Act. The Superintendent shall provide employees with information regarding how to access the Act and how to contact the Ethics Council.

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FOOTNOTES ARE FOR REFERENCE ONLY AND SHOULD BE REMOVED FROM FINAL POLICY.

⁴ Appointed school boards should not adopt this section.

The Act's provisions are complex and their application is fact specific. A violation of the Act could result in civil or criminal penalties. Therefore, if an employee has any questions whether an interest the employee has in a contract or transaction involving the School Division is prohibited under the Act, the employee should contact the Superintendent's Office or the Ethics Council for assistance.

A violation of the Act is a violation of this policy subject to discipline, including termination.

C. Areas of Regulation

The Act prohibits school employees from having a "personal interest," as that term is defined by the Act, in certain contracts and transactions that involved the Division and from engaging in other specified conduct related to the schools. The prohibited personal interest also may be that of the school employee's immediate family (a spouse or any other person who resides in the same household as the employee and who is a dependent of the employee).

Under the Act, an employee may be considered to have a prohibited conflict arising from:

- a personal interest in a contract;
- a personal interest in a transaction;
- business opportunities tied to official acts;
- misuse of confidential information; or
- receipt or solicitation of certain gifts.

Examples of prohibited conduct include:

- soliciting or accepting money or other thing of value for services performed within the scope of the employee's official duties; the employee's compensation, expenses, or other remuneration paid by the division are excepted;
 - using confidential information that the employee has acquired by reason of the employee's public position and which is not available to the public for the employee's own economic benefit or for another person's economic benefit;
- accepting any money, loan, gift, favor, service or business or professional opportunity that reasonably tends to influence the employee in the performance of the employee's official duties;
- accepting any business or professional opportunity when the employee knows that there is a reasonable likelihood that the opportunity is being afforded to influence the employee in the performance of the employee's official duties;
 - entering into contracts with the School Division under certain circumstances;
- accepting a gift from a person who has interests that may be substantially affected by the performance of the employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the employee's impartiality in the matter affecting the donor; and

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~~accepting gifts from sources on a basis so frequent as to raise an appearance of the use of the employee's position for private gain.~~

~~D. Awards to Employees for Exceptional Service~~

~~The Act does not prohibit or apply to the acceptance by a teacher or other employee of the Albemarle County School Board of an award or payment in honor of meritorious or exceptional services performed by the teacher or employee and made by an organization exempt from federal income taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code.~~

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~~E. Advisory Opinions~~

~~Employees may seek written opinions regarding application of the Act from the local Commonwealth's Attorney, the County Attorney, or the Ethics Council.~~

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~~Good faith reliance on a written opinion of the Commonwealth's Attorney or a formal opinion or written informal advice of the Ethics Council made in response to a written request for such opinion or advice regardless of whether such opinion or advice is later withdrawn, provided that the alleged violation occurred prior to the withdrawal of the opinion or advice, bars prosecution for a knowing violation of the Act provided the opinion or advice was made after a full disclosure of the facts. If the employee relies on a written opinion given by the Commonwealth's Attorney in a prosecution for a knowing violation of the Act, the record of the request and the written informal advice given shall be a public record and released upon request.~~

~~A written opinion of the local County Attorney may be introduced at trial as evidence that the employee did not knowingly violate the Act.~~

Adopted: December 14, 2017

Legal Refs.: Code of Virginia, 1950, as amended, §§ 2.2-3101, 2.2-3102, 2.2-3103, 2.2-3103.2, 2.2-3104.1, 2.2-3109, 2.2-3110, 2.2-3112, 2.2-3121, 2.2-3124 and 30-356.

Cross Ref.:	BBFA	School Board Member Conflict of Interest
	DJG	Vendor Relations
	GCCB	Nepotism Employment Relationships
	GCQA	Non-School Employment by Division Employees
	KF	Distribution of Materials by School-Sponsored or Governmental Organizations
	KJ	Advertising in Schools