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EXPLANATION: BOARD MEMBER CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE

2014C Update

MSBA encourages your district to adopt this version since it is the most current statement of the law and includes a number of improvements and clarifications as noted below.

1. Senate Bill 719 (2014) modified statutes pertaining to Board member conflict of interest. Previously, Board members in first-class counties could not sell personal property to the district they governed. To do so was a crime. Now Board members in first-class counties can do business with the district they govern subject to the same notice and bidding requirements that apply to Board members of districts in other classes of counties. Because the additional restriction to first-class counties has been removed, MSBA will no longer have two versions of this policy.
2. Senate Bill 719 expanded the notice and bidding requirements for all districts (not just those in first-class counties) to apply to not only businesses owned by the Board member, but also businesses owned by the Board member's spouse and dependent children and businesses with which the Board member is associated—which could include businesses in which the Board member is an officer or director or trusts in which the board member is a trustee or beneficiary.
3. MSBA has added several items to the "Self-Dealing" section. Except for the statement about not accepting gifts, these provisions were already part of the conflict of interest laws and were taught to new Board members at training, but had not been included in this policy.
4. The provision regarding gifts from vendors is already part of MSBA's recommended policy for staff conflict of interest, policy GBCA. MSBA is recommending that Board members impose the same restrictions on themselves. Board members are not categorically prohibited from receiving gifts from vendors, but receipt of such gifts can give an appearance that the Board is being influenced, especially if the Board chooses to do business with the vendor.
5. Finally, MSBA has determined that it is in the best interest of school districts to have all candidates and members file a financial interest statement with the MEC. Technically if districts biennially adopt a conflict of interest policy that conforms to statutory requirements in § 105.485, RSMo., (MSBA policy BBFA) and send that policy to the MEC, Board members who do not have anything to declare on the financial

interest statement do not need to fill one out. However, MSBA has encountered a number of circumstances where Board members indeed did have something to disclose, but had simply not read the form closely enough. Further, the MEC routinely asks Board secretaries to notify them of which persons in the district are required to report, which is difficult, if not impossible, for the Board secretaries to determine since they do not know the business relationships Board members and their families have.

Because of these issues, MSBA is now recommending that districts require all candidates to fill out and submit a financial interest statement to both the MEC and the district, even if the candidate has nothing to report. This is simply best practice and the only way to prevent inadvertent underreporting. In addition, it is what the MEC recommends and expects. MSBA also recommends that districts require all sitting Board members, superintendents, chief financial officers and district general counsel—if the district employs these persons—to annually fill out a financial interest statement as well.

2016B Update

Pursuant to new federal regulations governing the use of federal funds, currently referred to as the Uniform Grant Guidance (UGG), districts are required to adopt written procurement procedures by July 1, 2016, that conform to federal rules. MSBA has created new policy DJFA to meet this requirement, and a full explanation is included with that policy. MSBA has added language to this policy indicating that the provisions of policy DJFA and related procedures must be followed when federal funds are used.

<i>MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.</i>				
X	Board Secretary	X	Business Office	Coaches/Sponsors
	Facility Maintenance		Food Service	Gifted
	Human Resources		Principals	Library/Media Center
	Health Services		Counselor	Special Education
	Transportation		Public Info/Communications	Technology

BOARD MEMBER CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE

(Districts Including Any Portion of a First-Class County)

All directors of the Camdenton R-III School District Board of Education shall adhere to the laws regarding conflict of interest and take steps to avoid situations where their decisions or actions in their capacity as Board members conflict with the mission of the district.

As used in this policy, "businesses owned by Board members" includes sole proprietorships, partnerships, joint ventures or corporations where the Board member is the sole proprietor, a partner having more than a ten percent partnership interest, or a coparticipant or owner of more than ten percent of the outstanding shares of any class of stock.

Purchases Involving Federal Funds

In addition to the requirements of this policy, Board members must follow the provisions of policy DJFA and related procedures and are also subject to the conflict of interest provisions of federal law.

Definitions

Business with Which a Board Member Is Associated – For the purposes of this policy:

1. A sole proprietorship owned by the Board member, his or her spouse or any dependent children in the Board member's custody;
2. A partnership or joint venture in which the Board member or his or her spouse is a partner, other than as a limited partner of a limited partnership, and any corporation or limited partnership in which the Board member is an officer or director or of which the Board member or his or her spouse or dependent children in the Board member's custody, whether singularly or collectively, own more than ten percent of the outstanding shares of any class of stock or partnership units; or
3. Any trust in which the Board member is the trustee or settlor or in which the Board member or his or her spouse or dependent children in his or her custody, whether singularly or collectively, are beneficiaries or holders of a reversionary interest of ten percent or more of the corpus of the trust.

Fourth Degree of Consanguinity or Affinity – Includes parents, grandparents, great-grandparents, great-great-grandparents, spouse, children, siblings, grandchildren, great-grandchildren, great-great-grandchildren, nieces, nephews, grand-nieces, grand-nephews, aunts, uncles, great-aunts, great-uncles, and first cousins by virtue of a blood relationship or marriage.

Special Monetary Benefit – Being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected.

Substantial Interest – A substantial interest exists when the Board member or his or her spouse or dependent children in his or her custody, either singularly or collectively, directly or indirectly:

1. Own(s) ten percent or more of any business entity; or
2. Own(s) an interest having a value of \$10,000 or more in any business entity; or
3. Receive(s) a salary, gratuity or other compensation or remuneration of \$5,000 or more from any individual, partnership, organization or association within any calendar year.

Sale, Rental, or Lease or Provision of Personal Property (Property Other Than Real Estate)

Board members or businesses they own shall not sell, rent, lease or provide personal property to the district. No elected or appointed official of the district shall sell, rent or lease any personal property to the school district for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per year to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received.

Sale, Rental or Lease of Real Property (Real Estate)

Board members and businesses they own may sell, rent or lease real estate to the district. Public notice of the transaction must be given prior to execution if the payment to the Board member or business exceeds \$500 per transaction or \$5,000 per year. No elected or appointed official of the district shall perform a service or sell, rent or lease any real property to the school district for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per year to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice.

Employment

The district shall not employ Board members for compensation even on a substitute or part-time basis. While a Board member remains on the School Board, the district will not accept an applications of employment from a Board members, consider a Board members for employment or

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decide to employ a Board members **while they remain on the School Board**. Board members may provide services on a volunteer basis.

Independent Contractor **Services**

~~Board members may provide services to the district as independent contractors through businesses they own. If payment for the service exceeds \$500 per transaction or \$5,000 per year, the district must give public notice and competitively bid the service, and the bid or offer of the Board member's business must be the lowest received. Businesses owned by Board members may provide services on a volunteer basis.~~ **No elected or appointed official of the district shall perform service as an independent contractor for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per year to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer accepted is the lowest received.**

Businesses That Employ Board Members

A Board members may participate in discussions and vote on motions for the district to do business with entities that employ the Board member as long as the business is not owned by the Board member and the Board member will not receive any financial benefit from the transaction. The Board member may need to submit a statement of interest as described below.

Statement of Interest

~~If a~~ **Before voting**, Board members ~~has~~ **who have** a substantial personal or private interest in a decision before the Board, ~~before voting the Board member shall provide a written report of the nature of the interest to the Board secretary. The written statement will be recorded in the minutes.~~ **A** Board members ~~will have complied with this requirement if the Board member has~~ **who have** disclosed the interest in a ~~personal financial disclosure~~ **interest** statement that was filed or amended prior to the vote **will be in compliance with this requirement**.

~~A "substantial interest" exists when the Board member, his or her spouse or dependent children, either singularly or collectively, directly or indirectly:~~

- ~~1. — Own(s) ten percent or more of any business entity; or~~
- ~~2. — Own(s) an interest having a value of \$10,000 or more in any business entity; or~~
- ~~3. — Receive(s) a salary, gratuity or other compensation or remuneration of \$5,000 or more from any individual, partnership, organization or association within any calendar year.~~

Self-Dealing

1. Board members may not act or refrain from acting by reason of any payment, offer to pay, promise to pay or receipt of anything of actual pecuniary value, whether received or not, to themselves or any third person. This includes a gift or campaign contribution made or received in relationship to or as a condition of the performance of an official act.
2. ~~A~~ Board members shall not favorably act on any matter that is specifically designed to provide a special monetary benefit to the Board member ~~them~~, his or her ~~their~~ spouses or dependent children in their custody.

A "special monetary benefit" means being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected.

3. Board members will not use their decision-making authority for the purpose of obtaining a financial gain that materially enriches them, their spouses or dependent children in their custody by acting or refraining from acting for the purpose of coercing or extorting anything of actual pecuniary value.
4. Board members shall not offer, promote or advocate for a political appointment in exchange for anything of value to any political subdivision.
5. Board members will not accept gifts with a value in excess of \$100 from a vendor who does or is attempting to do business with the district.
6. A Board member will not attempt to directly or indirectly influence or vote on a decision when the Board member knows the result of the decision may be the acceptance by the district of a service or the sale, rental or lease of property to the district and the Board member, his or her spouse, dependent children in his or her custody or any business with which he or she the Board member is associated will benefit financially. If such a transaction is presented to the Board, the Board member will abstain and leave the room during any deliberation.

~~"Business with which a person is associated" means:~~

1. ~~A sole proprietorship owned by the Board member, his or her spouse or any dependent children in the person's custody.~~

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2. A partnership or joint venture in which the Board member or spouse is a partner, other than as a limited partner of a limited partnership, and any corporation or limited partnership in which the Board member is an officer or director or of which the Board member, spouse or dependent children in the Board member's custody, whether singularly or collectively, own more than ten percent of the outstanding shares of any class of stock or partnership units.
3. Any trust in which the Board member is the settlor or trustee, or in which the Board member, spouse or dependent children, singularly or collectively, are beneficiaries or holders of a reversionary interest of ten percent or more of the corpus of the trust.

Use of Confidential Information

A Board member shall not use or disclose confidential information obtained in the course of his or her or by reason of their official capacity capacities in any manner with the intent to result in financial gain for himself or herself, any other person themselves, their spouses, dependent children in their custody, or any business with which the Board member is associated or any other person.

Even when there is no financial gain involved, failure to keep information confidential violates Board ethics and Board policy and could also violate state and federal law.

Nepotism

A Board member shall not vote to employ or appoint any person who is related to them within the fourth degree to such Board member by consanguinity or affinity. In the event that an individual is recommended for employment or appointment and the individual is related within the fourth degree to a Board member, the related Board member shall abstain from voting and shall leave the room during consideration of the question and the vote, unless the motion is part of a consent agenda and there is no discussion, in which case, the member need not leave the room but will refrain from voting.

"Fourth degree of consanguinity or affinity" means parents, grandparents, great-grandparents, great-great-grandparents, spouse, children, siblings, grandchildren, great-grandchildren, great-great-grandchildren, nieces or nephews, grand-nieces or grand-nephews, aunts or uncles, great-aunts or great-uncles, and first cousins by virtue of a blood relationship or marriage. For the purposes of this section, to "employ" includes hiring persons to be employees of the district and approving independent contractors who provide services to the district.

Personal Financial Disclosure Interest Statements

The Camdenton R-III School District Board of Education hereby adopts a policy establishing and making public its own method of disclosing financial interests of Board members, candidates and

specified administrators, in accordance with law. Financial interest statements (also known as Personal financial disclosure statements) as described below shall be filed with the Missouri Ethics Commission (MEC) and the Camdenton R-III School District Board of Education, on or before May 1 for the preceding calendar year, unless the person filing is a Board candidate. Candidates must file their reports within 14 days after the last day to file for office. The reports will be made available for public inspection and copying during normal business hours.

This portion of the policy dealing with the financial interest statement will be adopted in an open meeting every other year by September 15. A certified copy of this policy/resolution shall be sent to the Missouri Ethics Commission/MEC within ten days of adoption.

Board Member Disclosure

All School Board members and candidates for School Board will disclose in writing the following transactions if they occurred during the calendar year: file the short-form version of the MEC's financial interest statement each year. This form is also known as the "Financial Disclosure Statement for Political Subdivisions." School Board members and candidates will report the following transactions if they occurred during the previous calendar year. If no such transactions occurred, the Board member or candidate will still file, but will mark the items as not applicable.

1. Each transaction in excess of \$500 per year between the district and the individual; or any person related within the first degree by consanguinity or affinity to the individual. The statement does not need to include compensation received as an employee or payment of any tax, fee or penalty due the district and other transfers for no consideration to the district. The statement shall include the dates and identities of the parties in the transaction.

"First degree of consanguinity or affinity" includes parents, spouse or children by virtue of a blood relationship or marriage.

2. Each transaction in excess of \$500 between the district and any business entity in which the individual has a substantial interest. The statement does not need to include any payment of tax, fee or penalty due the district or payment for providing utility service to the district and other transfers for no consideration to the district. The statement shall include the dates and identities of the parties in the transactions.

~~"Substantial interest" is ownership by the individual, his or her spouse or dependent children, either singularly or collectively, directly or indirectly, of ten percent or more of any business entity, or of an interest having a value of \$10,000 or more, or the receipt of a salary, gratuity or other compensation of \$5,000 or more from any individual, partnership, organization or association within any calendar year.~~

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Superintendent, Chief Purchasing Officer and General Counsel Disclosure

The superintendent, chief purchasing officer and general counsel, if employed full-time, will file the short-form version of the MEC's financial interest statement each year. This form is also known as the "Financial Disclosure Statement for Political Subdivisions." These employees will report the following transactions if they occurred during the previous calendar year. If no such transactions occurred, these employees will still file, but will mark the items as not applicable.

These employees will disclose in writing the information required in 1) and 2) above. In addition, these employees will disclose the following information for themselves, their spouses and dependent children in their custody:

1. The name and address of each employer from whom income of \$1,000 or more was received during the year covered by the statement.
2. The name and address of each sole proprietorship the individual owned.
3. The name, address and general nature of business conducted by each general partnership or joint venture in which he or she was a partner or participant.
4. The name and address of each partner or coparticipant in the partnership or joint venture unless the information is already filed with the secretary of state.
5. The name, address and general nature of business of any closely held corporation or limited partnership in which the individual owned ten percent or more of any class of the outstanding stock or limited partners' units.
6. The name of any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the individual owned two percent or more of any class of outstanding stock, limited partnership units or other equity interests.
7. The names and addresses of each corporation for which the individual served in the capacity of director, officer or receiver.

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Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.

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Readopted: 08/11/2003; 08/08/2005; 08/13/2007; 08/26/2009; 08/08/2011; 08/12/2013;
08/10/2015

Adopted: 08/08/1994

Revised: 08/10/1998; 12/12/2005;

~~Readopted: 08/11/2003; 08/08/2005; 08/13/2007; 08/26/2009; 08/08/2011; 08/12/2013;
08/10/2015~~

Cross Refs: DA, Fiscal Responsibility
DD, Grants
DJF, Purchasing
DJFA, Federal Programs and Projects
FEF, Construction Contracts Bidding and Awards
GBCA, Staff Conflict of Interest
GBL, Personnel Records
GCD, Professional Staff Recruiting and Hiring
GDC, Support Staff Recruiting and Hiring
JO, Student Records

Legal Refs: Mo. Const. art. VII, § 6
§§ 105.450 - .458, .461, .462, .466, .467, .472, .476 - .492, 162.261, .391,
168.126, 171.181, RSMo.
2 C.F.R. § 200.22, .23, .38, .92, .112, .113, .317, .318, .338
State v. Rhoads, 399 S.W.3d 905 (Mo.App.W.D. 2013)

Camdenton R-III School District, Camdenton, Missouri