

Developing a Conflict of Interest Policy

In the simplest of terms, a conflict of interest is a situation or circumstance wherein the private interests of a person in a position of trust are at odds with his/her official responsibilities and obligations to the organization or institution in which he/she is involved. Such conflicts may be real, potential or perceived and may be of a monetary or a non-monetary nature.

The Public Schools Act (Sections 36-39, 7) outlines the legal obligations of elected school trustees with regard to monetary conflicts of interest. However, these limited provisions do not address the more frequent and numerous conflict of interest situations which arise as a function of board members' personal and professional relationships and organizational and political allegiances. In these circumstances which fall outside existing legislation governing Manitoba school boards, conflicts of interest must be examined from a different perspective. Mel Gil (2007) identifies four simple tests which can assist boards in so doing.

1. The Peer standards test.

- Is the behaviour or relationship commonly acceptable in this sector?
- Would the community accept and approve of the individual's or the organization's actions?

2. The Public disclosure test.

- How might key stakeholders, the public or the media react if this action were publicly disclosed?
- What impact would this action have on the credibility of the organization and its leadership?

3. The Reasonableness test.

- What would a reasonably prudent person or board do under the circumstances?
- Does the action reflect the same degree of care, diligence and skill that might be reasonably expected in comparable situations?

4. The Best interests test.

- Does the behaviour or action serve in the best interests of the organization and its primary constituencies?

Whatever their origins, conflicts of interest are always personal and can often generate intense emotions. In the absence of clear policies and effective processes to manage them, unresolved conflicts of interest can seriously compromise working relationships among trustees and administrators, impugn the credibility of the school division and impair its ability to fulfill its obligations to the students and the communities which it serves.

Two sample conflict of interest policies are provided for Boards' consideration. The first of these is based upon the work of Mel Gill in his book entitled, *Governing for Results*, 2005. The second is one of many available through internet searches.

Conflict of Interest Policy

(Sample Template)

Trustees shall act at all times in the best interests of the school division, fulfilling their responsibilities and obligations as elected public officials in a fashion that inspires confidence and trust in the integrity, objectivity and impartiality of the school board.

Definition

A conflict of interest exists when an individual trustee's personal interests, or those of family members, business partners, or close personal associates, financial or otherwise, interfere with or compromise the trustee's ability to act in the best interests of the school division and the constituents whom it serves. Such conflict of interest may be real, potential or perceived.

In addition to the provisions of the Public Schools Act concerning monetary conflicts of interest, trustees are also considered to be in a conflict of interest in these circumstances:

- when they, members of their family, business partners or close personal associates may benefit financially or professionally, either directly or indirectly, from the trustees' position on the board;
- when circumstances arise that compromise, or appear to compromise, independence and impartiality to make fair and unbiased decisions (i.e. employment or professional status, political affiliations, community connections)
- when they appropriate divisional financial or other resources for personal use (i.e. information, equipment, supplies)
- when they are involved in staffing and student issues involving family members, business associates or personal friends (i.e. contracting for services, hirings, promotions, evaluations, disciplinary actions)

Disclosure

A trustee must openly disclose a real, potential or perceived conflict of interest as soon as the issue arises and before the Board or its committees deal with the matter.

Where uncertain about whether or not the issue constitutes a conflict of interest, the trustee may consult with the board chair or the secretary-treasurer for advice and guidance.

Where any trustee is aware of a real, potential or perceived conflict of interest not declared by any other trustee, he/she has a responsibility to raise the issue for clarification with the individual, and if unresolved, then with the board.

Full disclosure does not remove or eliminate a conflict of interest.

Decision-making Process

Where there is question or uncertainty about a conflict of interest circumstance, the Board by vote shall make a final determination. The trustee potentially in conflict shall be absent from the discussion and the vote.

Where a conflict of interest is declared/confirmed, the trustee so affected will be absent from any discussion of the issue and vote upon it. Further, the trustee shall not attempt to personally influence the Board's decision in regard to the issue.

Conflict of interest disclosures and decisions shall be duly recorded in the official minutes of the meeting at which such disclosure/decision occurred.