

716 CONFLICT OF INTEREST-PURCHASING

I. PURPOSE

The purpose of this policy is to establish standards for persons involved with purchasing of goods and services for the School District.

II. GENERAL STATEMENT OF POLICY

It is the policy of this School District that no conflict of interest exist with persons involved with the purchasing of goods and services for the School District.

III. REQUIREMENT

The persons involved in decision making, particularly in connection with purchasing from and contracting with vendors may have personal outside interests, which can be affected by the decision of the School District. This duality of interest is inherent in any situation in which individuals in decision making or administrative positions are chosen for their expertise, or their specialized knowledge. Such a duality of interest can be beneficial to and consistent with the primary goals of the School District. Duality of interest can also raise the potential for conflict of interest when the personal interests of the personnel come in conflict with the interests of the School District.

The laws of the State of Minnesota provide criminal penalties in certain conflict of interest situations. For example Section 609.42 Minnesota Statutes provides that any public officer or employee who requests, receives or agrees to receive, directly or indirectly, any benefit, reward, or consideration to which he is not legally entitled with the understanding that the public officer or employee will be influenced in this decision by his personal welfare rather than the welfare of the district, is guilty of bribery. This crime is a felony.

Section 471.87 Minnesota Statutes provided that a public officer who is authorized to take part in any manner in making any sale, lease, or contract in his official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially there from, and that every public officer who violates this provision is guilty of a gross misdemeanor.

The first above-mentioned statute requires proof of intent while the second above-mentioned statute requires only proof of the fact of the conflict.

Business and professional ethics demand that the personnel have complete fidelity to the School District.

To avoid the problems created by conflict of interest, the School Board adopts the following standards for the School District:

- A. It is prohibited for any officer or employee of the School District to represent the School District in dealing with any vendor of goods or services in which the officer or employee holds any position or has a material financial interest.
- B. For any such officer or employee to compete, directly or indirectly, with the School District in the purchase or sale of property or property rights interests or services.
- C. For any officer or managerial employee to render services to any outside concern that does business with the School District.
- D. For any such employee or officer to accept gifts, excessive entertainment, or other favors from any outside concern that does, or is seeking to do, business with the School District under circumstances from which it might be reasonably inferred that such action was intended to influence or possibly that it would influence the individual in the performance of his duties. This does not include acceptance of items of nominal or minor value such as pencils or pens or pocket calculators or other gimmicks containing advertising material and generally distributed as promotional material by the vendor in question. If any reasonable question arises as to whether the item is of nominal value or not, it should probably be resolved in favor of not accepting the item. This guideline would also not require an officer or employee of the School District to refuse to accept a gratuitous lunch from the vendor during which considerations concerning vendor's product or services are presented or discussed. It would preclude accepting items of substantial value and it would preclude accepting excessive entertainment beyond the traditional "business lunch".
- E. Employees shall not purchase items from the school in order to benefit from:
 - a. a price obtained as a result of a volume discount for which the school has been extended; or
 - b. to avoid paying sales tax on the item.

All activities of vendors of goods and services, which exhibit possible conflicts of interest, should be reported by the individual officer or employee to the Superintendent or to the School Board.

Legal Reference: Minn. Stat. § 471.87
Minn. Stat. § 609.42

Cross Reference: MSBA Service Manual, Chapter 3 Public Officers, Interest in Contract Policy 421 (Gifts to Employees)