

BOARD CONFLICT OF INTEREST

The Ashley School District School Board supports lawful, transparent decision-making by requiring timely disclosure and appropriate abstention when a school board member has a conflict of interest. Each board member shall abide by all applicable conflict of interest laws contained in North Dakota statute. Board members are expected to vote on all matters before the Board unless a legal disqualification applies under N.D.C.C. § 15.1-07-17 or N.D.C.C. § 44-04-22, and after disclosure, they do not receive the required consent to participate. This policy applies to all Board actions, including meetings, committees, adjudicative hearings, work sessions, negotiations strategy, and approvals of contracts and purchases.

Definitions

- *Contract* means any agreement or transaction requiring expenditure of school funds (e.g., purchasing, construction, service contracts, employment contracts), whether approved directly by the Board or by its designee.
- *Conflict of interest* (school contracts) means the personal, professional, or pecuniary interest of a board member or of the member's spouse or relative or the member's business/professional associate in a contract requiring school funds (N.D.C.C. § 15.1-07-17). Consent of all other board members is required before the conflicted member may participate. Violation is a Class A misdemeanor.
- *Direct and substantial personal or pecuniary interest* (quasi-legislative/quasi-judicial matters) means an interest significant enough to reasonably question impartiality or to tempt the member to depart from their public duty of acting in the best interests of the district in non-contract matters before the Board (e.g., student expulsion, employee discipline, discharge for cause or nonrenewal hearings). Consent of a majority of the rest of the Board is required before participation (N.D.C.C. § 44-04-22).
- *Legally disqualified or legal disqualification* means the member disclosed a conflict of interest under N.D.C.C. § 15.1-07-17 or N.D.C.C. § 44-04-22 and did not receive the required consent to participate. Only then may the member refrain from discussion and vote.

Standards and Procedures

Each member shall vote on all items unless the member is legally disqualified and, after disclosure, does not receive the requisite consent to participate. Abstention or recusal is not permitted for convenience, discomfort, or appearance-only reasons. When legally disqualified, the member must follow the procedures outlined below.

For contracts requiring the expenditure of school funds, a member with a conflict must disclose the conflict before discussion or vote. That member may not

participate in discussion or vote unless all other board members present give consent on the record. If consent is not unanimous, the member must fully recuse themselves (no discussion, questions, motions, or vote).

For non-contract matters (quasi-legislative/quasi-judicial), a member with a direct and substantial personal or pecuniary interest must disclose the interest and may not participate without the consent of a majority of the remaining members present. If majority consent is not granted, the member must fully recuse themselves.

Meeting Procedures

During meeting agenda preparation, items that may involve a member conflict of interest should be flagged. If such items are included in the meeting agenda, another item addressing the conflict should be added to the agenda immediately preceding the item that creates the conflict. This ensures that the conflict issue is addressed prior to any discussion or vote on the underlying item.

At the meeting, when the Board reaches the conflict item on the agenda, the Board President or presiding officer first calls for any disclosures related to the underlying agenda item. After disclosure, the Board President or presiding officer identifies on the record whether the matter is a contract that requires the expenditure of school funds under N.D.C.C. § 15.1-07-17 or a non-contract quasi-legislative or quasi-judicial matter under N.D.C.C. § 44-04-22, and the Board President or presiding officer states the applicable consent threshold (i.e., unanimous or majority). The chair then conducts the consent vote of the remaining members, excluding the disclosing member. If the Board grants the required consent, the disclosing member participates fully in the item and votes, consistent with the member's duty to vote unless legally disqualified.

If the Board does not grant the required consent, the member is legally disqualified for that item and does not participate in discussion or vote. The Board President or presiding officer proceeds with the underlying agenda item without the participation of the legally disqualified member, and the member refrains from speaking, questioning, or otherwise influencing the matter.

The minutes should reflect the disclosure, the statute cited, the consent vote and tally, whether the member participated or was legally disqualified, the result of every vote on the item, and the vote of each member on any recorded roll-call vote.

Investigations

If a board policy requires the Board President to conduct an investigation and the Board President has a conflict of interest, the Vice President shall conduct the investigation. If both the Board President and the Vice President have a conflict of interest, the most senior board member who does not have a conflict of interest shall conduct the investigation. For purposes of this paragraph, a conflict of interest means a direct and substantial personal or pecuniary interest.

In addition, when independence, expertise, workload, or other considerations make it advisable, the Board may authorize the retention of a qualified, neutral, third-party investigator to conduct some or all of the investigation. The Board shall approve the scope of work, designate a non-conflicted officer or designee to serve as the point of contact.

Complementing NDSBA Templates (may contain items not adopted by the Board)

- BA, Board Ethics
- BA-BR1, School Board Ethics Regulation
- HCBA, Vendor Conflict of Interest Disclosure

End of Ashley School District #9 Policy BAB Adopted: January 14, 2026