

Testimony before the
Special Committee on Ethics, Elections, and Local Government

on

School Board Conflict of Interest Issues

by

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Mr. Chairman and Members of the Committee:

I would like to thank the Chairman and committee members for the opportunity to present observations regarding school board conflict of interest issues to them today. When the Chairman invited me to speak on this issue, he had several questions he was seeking input on. My responses to the Chairman's inquiries follow.

How long have you worked with school board? How many boards?

I have 34 years of experience in education as a teacher and administrator, with 13 years of teaching experience in Geary County USD 475 and in Center School District #58 in Missouri, 11 years of building administrator experience in Center School District #58 in Missouri and Manhattan-Ogden USD 383, and 10 years of superintendent experience in St. John-Hudson USD 350 and Mill Creek Valley USD 329.

During my 21 years as a building administrator and superintendent I had the opportunity to work with school district boards in four different school districts and have attended conservatively over 320 school board meetings.

How were situations dealt with when a potential conflict arose?

In my experience, a school board member having a conflict removed themselves from the meeting during the vote involving a potential conflict. These conflicts were almost exclusively related to the hiring of an individual with family ties to the board member. If the board member had remained in the meeting and abstained, his or her vote would be counted as a "no" vote according to Kansas Statute. In some cases, such as when board members have a substantial interest in a contract under current conflict of interest law, their resultant no vote from abstaining would equate to them taking action for the purposes of the law and would be

illegal. In other cases, district nepotism policies may prohibit a board member from taking a particular action, but the law would not prohibit it otherwise..

What policies are in place to prevent a conflict? Do you know of training on policies?

The Law - State laws already exist that define conflict of interest, as well as the procedures to use for interpretation of conflict and enforcement for failure to follow this law.

Training – The Kansas Association of School Boards (“KASB”) annually offers trainings which instruct new board members in many of the skills and essential content areas to be an effective board member. This is optional training, and not all board members take part in this training. School board members also complete an annual statement of substantial interest disclosure form and file it with their county election officer. This provides a good opportunity for superintendents to review with board members the law regarding conflicts of interest.

Nepotism Policies - School districts and boards having strong feelings concerning the hiring of staff related to school board members could address these concerns by adopting a nepotism policy that prevents such hiring. A strict nepotism policy could prevent the hiring of staff related to board members and would not limit candidacy of board members as the bill under consideration would restrict. Nepotism policies in small school districts are usually more limited and may only prohibit supervisory conflicts with close family members without limiting employment opportunities. Smaller communities have so many relational connections that it would significantly limit candidate pools to have a strict nepotism policy.

What, in your mind, would constitute a conflict of interest?

There would be an actual conflict of interest if the board member had a substantial interest in a contract as defined by law. Perhaps more significant in a school district would be a perceived conflict of interest. An example of this would be the vote to award a contract to the lowest bidder when the lowest bidder is a board member’s business. Though legally this would not be a conflict of interest, my experience has been that board members remove themselves from the meeting for such votes due to the perception of the community regarding the issue.

Have you ever experienced situations when you thought a member should have abstained, but didn’t?

No. I have usually tried to identify these situations in advance and meet with the board member to remind them of state law regarding a conflict.

In current situations, is there a chance of too many members abstaining on same issue?

My first response to this regards too many members “removing” themselves on the same issue. I believe it would be very unlikely that this would occur on any given issue. However unlikely, it could occur if illness, weather concerns, or other issues were to reduce the board members attending a meeting to the quorum of four members. If one member needed to remove themselves due to conflict in these circumstances, it would prevent action on the issue. Though it would be inconvenient, the solution might be the tabling of the motion to a future meeting or to call a special meeting when more than a quorum of board members can attend.

The question as asked referred to too many members abstaining on an issue. As mentioned in an earlier question, abstaining on an issue would be the same as a “no” vote, and too many members abstaining would mean that the motion would fail due to lack of support. This situation can occur on controversial issues if members do not wish to be perceived as supporting or not supporting an issue.

Do you think there needs to be statewide clarification of policy? If so, what would need to be clarified / defined?

I think that the law and policy that exists is clear and does not need additional defining or clarification. An individual district having difficulties with this issue should seek professional development or training from an agency such as KASB.

Anything else you would like the Legislature to know

The service that school board members provide is vital and critical work to local schools and communities. These members are voluntarily devoting their time and energy for the operation and improvement of schools. They face difficult decisions regarding changing curriculum mandates, annual increases in “fixed” costs of operation, and staffing hard to fill positions. The greatest challenge in recent years has been how to maintain existing facilities and programs for kids with reductions in financial resources.

School board members serve because they care about our kids, our schools, and our state. The bill that is being proposed would produce significant barriers for recruiting candidates for school boards, especially in relationally close knit smaller communities.

I believe that existing law, policies, and practice are in place to address the conflict of interest issue and that the proposed bill is not needed.

I would be glad to answer questions.