

Resource Sheet: Conflict of Interest Policy

Background

A good conflict of interest policy is essential to charter board governance. It helps build trust in the charter school and the entire movement by demonstrating to the public that the governing board is operating in a fair and unbiased manner.

When devising a conflict of interest policy, a governing board may want to consider circumstances that might arise that would create a risk — or the appearance of a risk — of the board's judgment being unduly influenced by a secondary interest. The policy should restrict board members from voting on matters affecting their financial interest and limit the circumstances under which they can receive anything of value because of their official position.

Pursuant to Section 2.2 of the State Public Charter School Contract ("Charter Contract"), a charter governing board "shall comply with the Code of Ethics (Hawaii Revised Statutes ("HRS") Chapter 84) and shall adopt and adhere to a conflict of interest policy which is consistent with the Code of Ethics, and which includes provisions related to nepotism."

In addition to the information provided here, governing board members should familiarize themselves with the State Code of Ethics. They may also want to review the Hawaii State Ethics Commission's Ethics Guide. They can also contact the State Ethics Commission at 808-587-0460 or ethics@hawaiiethics.org with any questions they may have pertaining to the Ethics Code.

The Code of Ethics requires that State of Hawaii legislators and employees disqualify themselves from taking "any official action directly affecting 1) A business or other undertaking in which the employee has a substantial financial interest; or, (2) A private undertaking in which the employee is engaged as legal counsel, advisor, consultant, representative, or other agency capacity." HRS §84-14 (a).

Pursuant to HRS §84-3, an "official act" or "official action" means "a decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority."

Also pursuant to HRS §84-3, "financial interest" means an interest held by an individual, the individual's spouse, or dependent children which is:

- 1) An ownership interest in a business.
- 2) A creditor interest in an insolvent business.
- 3) An employment, or prospective employment for which negotiations have begun.

- 4) An ownership interest in real or personal property.
- 5) A loan or other debtor interest.
- 6) A directorship or officership in a business.

Conflict of Interest Policy – Questions to Consider

The following questions are offered as issues to consider when reviewing, developing, and implementing a conflict of interest policy. The checklist is not mean to be prescriptive or regulatory in nature. Please note, however, that the Charter Contract requires that the policy both is consistent with the State Ethics Code (HRS Chapter 84) includes provisions related to nepotism.

Definitions. *Does the policy define key terms, such as “conflict of interest” and “nepotism?”*

Exceptions. *Does the policy clearly identify any exceptions?*

Perception. *Does the policy address not only actual conflicts, but perceived conflicts as well?*

Procedures. *What procedures will be followed when a real or perceived conflict of interest arises?*

Potential Conflicts. *Does the policy include procedures for when a potential conflict of interest arises? How can a governing board member determine whether there is an actual conflict?*

Disclosure. *What information regarding the real, perceived, or potential conflict needs to be disclosed, and how will such disclosure occur?*

Consistency with the Code of Ethics. *Is the policy consistent with the State Code of Ethics (HRS Chapter 84)?*

Nepotism. *Does the policy include provisions related to nepotism?*