



Disclosure and Authorization of Contractual Conflicts

Southeast Technical College Policy STC 130

1. Purpose

Southeast Technical College (STC) expects all employees and Sioux Falls School Board members to exhibit integrity and transparency by ensuring all contractual relationships are free from actual or perceived conflicts of interests. This policy establishes clear guidelines for the disclosure and authorization of any potential interests or direct benefits that may arise between officials and entities engaged in contracts with STC.

2. General Statement of Policy

Direct Benefit or Interest in a Contract

No required employee may have an interest in a contract nor receive a direct benefit from a contract, in an amount greater than five thousand dollars (\$5,000) with the same party within a 12-month period to which STC is a party, unless the interest is disclosed and Sioux Falls School Board (School Board) authorizes the contract when necessary, as provided by this policy.

A required employee receives a direct benefit from a contract when the Required Employee or Related Person:

1. Is a party to or intended beneficiary of any contract with STC or the Sioux Falls School District (the District);
2. Has more than a five percent ownership interest in an entity that is party to any contract with STC or the District;
3. Acquires property under the contract; or
4. Will receive compensation, commission, promotion, or any other monetary benefit directly attributable to any contract with STC or the District.

A required employee has an interest in a contract when the required employee or related person:

1. Is employed by a party to any contract with STC or the District; or
2. Receives more than nominal compensation or reimbursement for actual expenses for serving on the board of directors of an entity that derives income or commission directly from the contract or acquires property under the contract.

A Required Employee does not derive a direct benefit from, or have an interest in, a contract:

1. Based solely on the value associated with the person's publicly-traded investments or holdings, or the investments or holdings of any other person with whom the person lives with or comes into assets;
2. By participating in a vote or decision in which the person's only interest arises from an act of general application;

3. Based on the person receiving income as an employee or independent contractor of a party with whom STC the District has a contract, unless the person receives an increase in compensation or a promotion directly attributable to the contract, or unless the person is employed by the party as a board member, executive officer, or other person working for the party in an area related to the contract;
4. If the contract is for the sale of goods or services, or for maintenance or repair services, in the regular course of business, at a price at or below a price offered to all customers;
5. If the contract is subject to the public bidding process;
6. If the contract is with the official depository as set forth in SDCL 6-1-3;
7. Based solely on the person receiving nominal income or compensation, a per diem authorized by law, or for actual expenses incurred; or
8. If the contract or multiple contracts with the same party within a 12-month period is in an amount less than five thousand dollars (\$5,000).

3. Definitions

Required Employee: Board member, administrator, or other employee with the authority to enter into a contract or spend money in an amount greater than five thousand dollars (\$5,000).

Related Person: the spouse of a required employee or any person the required employee lives with and commingles assets.

4. Reporting Procedures

Disclosure and Authorization Procedure

The School Board shall place on its regular meeting agenda an inquiry for conflict disclosures prior to the consideration of any substantive matters.

If the required employee is a School Board member, the School Board member shall be excused from discussion and consideration of the School Board's inquiry into the conflict. And, if an actual or perceived conflict exists, the School Board member should excuse themselves from any discussion and vote on the substantive matter at that School Board meeting and any subsequent School Board meetings in accordance with Policy STC 220 - School Board Member Conflict of Interest.

This policy requires good faith disclosure. Any person who knowingly violates this policy may be removed from office or employment and may face criminal sanction. A contract made in violation of this policy may be voidable and any benefit derived from a knowing violation may be subject to disgorgement.

When a conflict exists, the required employee must submit the disclosure form to the District Business Manager at least four business days before a scheduled meeting in order to be included in the posted agenda and acted upon at the next scheduled School Board meeting. The request must be made prior to entering, or within Forty-five (45) days, after entering into the contract.

Direct Benefit

The School Board may authorize the required employee to derive a direct benefit from a contract when the School Board finds the terms of the contract are fair, reasonable, and not contrary to the public interest.

The Disclosure Form shall identify:

1. All parties to the contract;
2. The person's role in the contract or transaction;
3. The purpose or objective of the contract;
4. The consideration or benefit conferred or agreed to be conferred upon each party;
5. The duration of the contract;
6. Any other relevant information; and
7. A statement explaining why the School Board should authorize the direct benefit as fair, reasonable, and not contrary to the public interest.

Each disclosure, and the School Board's determination, shall be listed in the minutes and shall be publicly available. The School Board President shall formalize the School Board's determination on an authorization form. The disclosure forms and authorization forms shall be filed with the Auditor General and Attorney General and shall also be kept on file with the Business Manager.

If the School Board rejects authorization, the contract is voidable and subject to disgorgement, or the required employee may choose to resign.

Ongoing conflicts shall be re-disclosed at the Annual School Board meeting in July, but no new authorization is required.

Interest in a Contract

The Disclosure Form shall identify:

1. The existence of the contract; and
2. The person's role in the contract.

School Board authorization is not required for the required employee to have an interest in a contract. Each disclosure shall be included in the School Board minutes. The disclosure forms shall be kept on file with the Business Manager.

5. Dissemination of Policy and Training

The policy is located on STC's website under Consumer Information – Southeast Tech Policies

Legal References:

SDCL Ch. 3-23 Conflicts of Interest

SDCL Ch. 6-1-3 Deposit of funds permitted despite bank connection of public officer

Board Approved: ##/##/####

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