

OFFICE OF THE SUPERINTENDENT

Millburn Public Schools

INFORMATION ITEM

July 6, 2010

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: First Reading-Ethics-5:120

Changes to this policy include the removal of the section on political activities and inclusion of that section under Ethics and Gift Ban. The section on Ethics and Gift Ban is new to this policy.

We ask that you use this as your first reading period and then put this on the next BOE meeting agenda for a second reading and approval.

## General Personnel

### Ethics 1

All District employees are expected to maintain high standards in their school relationships, to demonstrate integrity and honesty, to be considerate and cooperative, and to maintain professional and appropriate relationships with students, parents, staff members, and others. <sup>2</sup>

The following employees must file a “Statement of Economic Interests” as required by the Illinois Governmental Ethics Act: <sup>3</sup>

1. Superintendent;
2. Building Principal;
3. Head of any department;
4. Any employee responsible for negotiating contracts, including collective bargaining agreement, in the amount of \$1,000 or greater;
5. Hearing officer;
6. Any employee having supervisory authority for 20 or more employees; and
7. Any employee in a position that requires an administrative or a chief school business official endorsement.

### Ethics and Gift Ban

School Board policy 2:105, *Ethics and Gift Ban*, applies to all District employees. <sup>4</sup> Students shall not be used in any manner for promoting a political candidate or issue.

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**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> The State Officials and Employees Ethics Act (5 ILCS 430/1-1 *et seq.*), requires a policy on a subject-matter covered in this sample policy; State and federal law controls its content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This policy concerns an area in which the law is unsettled.

<sup>2</sup> 105 ILCS 5/10-22.39, amended by P.A. 96-431, requires each board to conduct in-service training on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel. These expectations will be most effective when the in-service curriculum reflects local conditions and circumstances. While The School Code only requires the in-service, the new requirement presents an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district staff to maintain boundaries and act appropriately, professionally, and ethically with students. See discussion in third option of footnote 3, 5:100, *Staff Development*. After its discussion of these issues, the board may have further expectations and may choose to reflect those expectations here. Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing procedures containing new conduct rules without first offering to negotiate them with the applicable exclusive bargaining representative.

<sup>3</sup> 5 ILCS 420/4A-101.

<sup>4</sup> The State Officials and Employees Ethics Act prohibits State employees from engaging in certain political activities and accepting certain gifts (5 ILCS 430/1-1 *et seq.*). The Act requires all school districts to adopt an “ordinance or resolution” “in a manner no less restrictive” than the Act’s provisions. See policy 2:105, *Ethics and Gift Ban*.

Districts may not inhibit or prohibit employees from petitioning, making public speeches, campaigning for or against political candidates, speaking out on public policy questions, distributing political literature, making campaign contributions, and seeking public office (50 ILCS 135/1). An employee may not use his/her position of employment to coerce or inhibit others in the free exercise of their political rights or engage in political activities at work. *Id.*

### Outside Employment and Conflict of Interest

No District employee shall be directly or indirectly interested in any contract, work, or business of the District, or in the sale of any article by or to the District, except when the employee is the author or developer of instructional materials listed with the State Board of Education and adopted for use by the School Board. <sup>5</sup> An employee having an interest in instructional materials must file an annual statement with the Board Secretary. <sup>6</sup>

For the purpose of acquiring profit or personal gain, no employee shall act as an agent of the District nor shall an employee act as an agent of any business in any transaction with the District.

Employees shall not engage in any other employment or in any private business during regular working hours or at such other times as are necessary to fulfill appropriate assigned duties.

LEGAL REF.: U.S. Constitution, First Amendment.  
5 ILCS 420/4A-101 and 430/.  
50 ILCS 135/.  
105 ILCS 5/10-22.39, 5/22-5, and 5/24-22.  
Pickering v. Board of Township H.S. Dist. 205, 391 U.S. 563 (1968).  
Garcetti v. Ceballos, 547 U.S. 410 (2006).

CROSS REF.: 2:105 (Ethics and Gift Ban), 5:100 (Staff Development Program)

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<sup>5</sup> State law prohibits teachers from having an interest in the sale of any book, apparatus, or furniture used in any school in which the teacher is employed with the limited exception as provided in this policy (105 ILCS 5/22-5 and 5/24-22).

<sup>6</sup> Id.

## **General Personnel**

### **Ethics**

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1. Superintendent,
2. Building Principal,
3. head of any department,
4. any employee responsible for negotiating contracts, including collective bargaining agreement, in the amount of \$1,000 or greater,
5. hearing officer,
6. any employee having supervisory authority for 20 or more employees, and
7. any employee in a position that requires an administrative or a chief school business official endorsement.

### **Political Activities**

District employees shall not let their political activities interfere with their job responsibilities. Students shall not be used in any manner for promoting a political candidate or issue.

### **Outside Employment and Conflict of Interest**

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5 ILCS 420/4A-101.  
50 ILCS 135/1 et seq.  
105 ILCS 5/22-5 and 5/24-22.  
Pickering v. Board of Township H.S. Dist. 205, 391 U.S. 563 (1968).

ADOPTED: May 20, 2002