ETHICAL GUIDELINES AND PROHIBITIONS

ARKANSAS SCHOOL LAWS ANNOTATED

CHAPTER 24
ARKANSAS “ETHICS” LEGISLATION

- ACT 1599 OF 2001
- ACT 1381 OF 2005
- ACT 2161 OF 2005
- ACT 878 OF 2011
- ACT 608 OF 2013
SOMETIMES IT JUST DOESN’T SEEM LIKE A BIG DEAL.....
ADE RULES

• Detailed rules governing ethical guidelines and prohibitions for educational administrators, employees, board members, and other parties are posted on the ADE website.

• “Forms” are included!
ADE RULES

• THESE RULES APPLY TO BOTH EMPLOYMENT AND NON-EMPLOYMENT CONTRACTS!
NON-EMPLOYMENT CONTRACTS

• CONTRACTS FOR SERVICES OR PRODUCTS.
FORM A – “NOTIFICATION LETTER”

- Board members, administrators, & school employees are to sign this form acknowledging that they have received “notification” of the requirements of A.C.A. 6-24-101.

- All have an affirmative obligation to disclose relationships with vendors before the district enters into a contract or before services are performed.
FORM A – “NOTIFICATION LETTER”

• A.C.A. 6-24-101 REQUIRES FULL OPEN DISCLOSURE AND APPROVAL BEFORE A DISTRICT BOARD MEMBER OR EMPLOYEE MAY SELL, LEASE, PROVIDE SERVICES, OR ENTER INTO OTHER TRANSACTION WITH THE SCHOOL DISTRICT WHERE HE/SHE IS A BOARD MEMBER OR EMPLOYED.

• 5% RULE! “FINANCIAL INTEREST”
FORM A – “NOTIFICATION LETTER”

• 6-24-101 ALSO APPLIES WHEN THE BOARD MEMBER, ADMINISTRATOR, OR SCHOOL EMPLOYEE IS “DIRECTLY INTERESTED” IN THE TRANSACTION. THIS MEANS RECEIVING COMPENSATION OR OTHER BENEFITS PERSONALLY.

• “THAT’S MY SPOUSE’S BUSINESS” WON’T FLY!
ACT 608 OF 2013

• DEFINITION OF: “DIRECTLY INTERESTED.”

• RECEIVING COMPENSATION OR OTHER BENEFITS PERSONALLY OR TO AN INDIVIDUAL’S HOUSEHOLD FROM THE PERSON, BUSINESS, OR ENTITY CONTRACTING WITH THE PUBLIC EDUCATIONAL ENTITY.
FORM B – “CONTRACT DISCLOSURE FORM FOR SCHOOL BOARD MEMBERS”

- A.C.A. 6-24-101 AND ACT 1381 OF 2005 REQUIRE FULL, OPEN DISCLOSURE AND APPROVAL BEFORE A BOARD MEMBER OR A MEMBER OF THE BOARD MEMBER’S FAMILY MAY SELL, LEASE, PROVIDE SERVICES, OR ENTER INTO TRANSACTIONS WITH THE DISTRICT WHERE THEY SERVE.

- AFFIRMATIVE OBLIGATION TO DISCLOSE POTENTIAL TRANSACTIONS.
FORM B – “CONTRACT DISCLOSURE FORM FOR ADMINISTRATORS”

• AN ADMINISTRATOR IS DEFINED IN THE LAW AS ANY SUPERINTENDENT, ASST. SUPERINTENDENT OR THEIR EQUIVALENT, SCHOOL DISTRICT TREASURER, BUSINESS MANAGER, OR OTHER INDIVIDUAL DIRECTLY RESPONSIBLE FOR ENTITY-WIDE PURCHASING.

• WILL VARY FROM DISTRICT TO DISTRICT.

• AGAIN – AFFIRMATIVE OBLIGATION!
FORM B – “CONTRACT DISCLOSURE FORM FOR ADMINISTRATORS”

• DETERMINING FACTOR FOR BEING CONSIDERED AN “ADMINISTRATOR” IS THE AUTHORITY OF AN INDIVIDUAL TO MAKE PURCHASES FOR THE ENTIRE ORGANIZATION.
• BUILDING PRINCIPALS? PROBABLY NOT
• ATHLETIC DIRECTOR? PROBABLY
• FOOD SERVICE DIRECTOR? PROBABLY
• MAINTENANCE SUPERVISOR? PROBABLY
FORM B – “CONTRACT DISCLOSURE FORM FOR EMPLOYEES”

• EMPLOYEE MEANS A FULL-TIME OR PART-TIME EMPLOYEE OF A PUBLIC EDUCATIONAL ENTITY.

• PUBLIC EDUCATION ENTITY – PUBLIC SCHOOL DISTRICTS, CHARTER SCHOOLS, AND EDUCATIONAL COOPERATIVES. NOT INSTITUTIONS OF HIGHER LEARNING.
FORM B – “CONTRACT DISCLOSURE FORM - MISCELLANEOUS”

• **IN UNUSUAL AND LIMITED CIRCUMSTANCES, FAMILY MEMBERS OF A BOARD MEMBER, ADMINISTRATOR, OR EMPLOYEE MAY CONTRACT WITH THE SCHOOL AFTER SUBMITTING COMPLETE AND FULL DISCLOSURE OF ALL RELEVANT FACTS IN A CONTRACT DISCLOSURE FORM.**

• **AT AN OPEN BOARD MEETING.**

• **MAJORITY VOTE OF THE BOARD.**
FORM B – “CONTRACT DISCLOSURE FORM - MISCELLANEOUS”

• MAY OR MAY NOT REQUIRE APPROVAL BY ADE COMMISSIONER.

• IF CONTRACT TOTALS $5,000 OR MORE – YES

• “WRITTEN” APPROVAL IS REQUIRED.
FORM C – “RESOLUTION”

• OPEN MEETING.

• QUORUM PRESENT.

• SIGNED BY SUPERINTENDENT AND BOARD PRESIDENT.
“STATEMENT OF FINANCIAL INTEREST”

• SUPT AND BOARD MEMBERS COMPLETE.
• DUE JANUARY 31ST OF EACH YEAR.
• SIGNED AND NOTARIZED.
• FILED WITH THE COUNTY CLERK.
• FORM CAN BE FOUND AT:
  
  WWW.ARKANSASETHICS.COM
“STATEMENT OF FINANCIAL INTEREST”
(MUST REPORT)

• INCOME (SPOUSE TOO) EXCEEDING $1,000.
• BUSINESS HOLDINGS.
• SECURITIES, STOCKS, AND BONDS ($1,000)
• MUTUAL FUNDS ($1,000)
• BANK ACCOUNTS ($1,000)
• GIFTS ($100)
DEFINITION OF “FAMILY”

- SPOUSE.
- CHILDREN OF INDIVIDUAL AND OF SPOUSE.
- SPOUSES OF CHILDREN LISTED ABOVE.
- PARENTS OF INDIVIDUAL AND OF SPOUSE.
- SIBLINGS OF INDIVIDUAL AND OF SPOUSE.
- ANYONE LIVING IN RESIDENCE OF INDIVIDUAL.
- ANYONE ACTING AS AN AGENT OF THE INDIVIDUAL.
DEFINITION OF “FINANCIAL INTEREST”

• OWNERSHIP OF MORE THAN 5%.
• HOLDING A POSITION AS OFFICER, DIRECTOR, OR OTHER TOP LEVEL MANAGEMENT POSITION.
• COMPENSATION IS BASED IN WHOLE OR PART ON TRANSACTIONS WITH THE PUBLIC ENTITY.
• NOT OWNERSHIP OF STOCK IN PUBLICLY OWNED COMPANY. (WAL-MART)
• NOT HOURLY COMPENSATED EMPLOYEES.
DEFINITION OF “DIRECTLY” OR “DIRECTLY INTERESTED”

- RECEIVING COMPENSATION OR OTHER BENEFITS PERSONALLY OR TO AN INDIVIDUAL’S HOUSEHOLD FROM THE PERSON, BUSINESS, OR ENTITY CONTRACTING WITH THE PUBLIC EDUCATIONAL ENTITY.
DEFINITION OF “GRATUITY”

• A PAYMENT, LOAN, SUBSCRIPTION, ADVANCE, DEPOSIT OF MONEY, TRAVEL, SERVICES, OR ANYTHING HAVING A PRESENT MARKET VALUE OF $100 OR MORE.
TECHNOLOGY CAUTION

• ALL TRANSACTIONS INVOLVING THE PURCHASE, LEASE, ACQUISITION OR OTHER USE OF COMPUTERS, SOFTWARE, COPIES OR OTHER ELECTRONIC DEVICES FROM FAMILY MEMBERS OF AN EMPLOYEE RESPONSIBLE FOR ESTABLISHING SPECIFICATIONS OR APPROVING PURCHASES SHALL BE APPROVED…..

• “DIRECT INTEREST” IS ASSUMED.
EMPLOYMENT CONTRACTS

• ETHICS LAWS ALSO APPLY TO EMPLOYMENT CONTRACTS.
EMPLOYMENT CONTRACTS WITH FAMILY OF BOARD MEMBERS

- If initial employment compensation exceeds $5,000, written approval from the ADE Commissioner is required.
- ADE rules outline the information to be forwarded to the ADE Commissioner to help him/her make a decision.
EMPLOYMENT CONTRACTS CONTINUED

• A FAMILY MEMBER HIRED BEFORE THE ELECTION OF A BOARD MEMBER MAY CONTINUE THEIR EMPLOYMENT. (WITH STIPULATIONS)

• A FAMILY MEMBER MAY BE HIRED AS A SUB TEACHER, SUB CAFETERIA WORKER, OR SUB BUS DRIVER NOT TO EXCEED 30 DAYS PER FISCAL YEAR. THE LAW ACTUALLY NAMES THESE SCHOOL POSITIONS.
EMPLOYMENT CONTRACTS CONTINUED

• ANY CHANGE IN THE TERMS AND CONDITIONS OF A CONTRACT OR PROMOTION FOR FAMILY OF A BOARD MEMBER THAT WILL RESULT IN AN INCREASE OF MORE THAN $2500 MUST BE APPROVED BY THE ADE COMMISSIONER.

• EXCEPTION – CONTRACT RENEWAL BASED ON DISTRICT SALARY SCHEDULE.
• NO MEMBER OF AN ADMINISTRATOR’S IMMEDIATE FAMILY OR FORMER SPOUSE MAY BE INITIALLY EMPLOYED AS A DISBURSING OFFICER WHEN THE ADMINISTRATOR IS EMPLOYED UNLESS THE DIVISION OF LEGISLATIVE AUDIT HAS REVIEWED INTERNAL CONTROLS AND THE ADE COMMISSIONER HAS APPROVED THE HIRE.
THE LAW DOES NOT PROHIBIT AN ADMINISTRATOR’S FAMILY MEMBER FROM BEING EMPLOYED BY THE DISTRICT THE ADMINISTRATOR SERVES OR ANY OTHER SCHOOL DISTRICT. (ONE EXCEPTION MENTIONED EARLIER: DISBURSING OFFICER).
RESTRICTIONS ON EMPLOYMENT OF PRESENT AND FORMER ADMINISTRATORS

• MUST HAVE ADE COMMISSIONER APPROVAL BEFORE ADMINISTRATOR ENGAGES IN SELLING OR ATTEMPTING TO SELL COMMODITIES OR SERVICES TO THE PUBLIC EDUCATIONAL ENTITY THEY SERVED OR WERE EMPLOYED BY FOR ONE (1) YEAR FOLLOWING THE DATE EMPLOYMENT OR SERVICE CEASED.
DANGER
THIN ICE
VENDOR RELATIONSHIP TO BOARD MEMBER

- THE BOARD MEMBER MUST LEAVE THE MEETING UNTIL THE VOTING ON THE ISSUE IS CONCLUDED, AND THE ABSENT MEMBER SHALL NOT BE COUNTED AS HAVING VOTED.

Transaction Amount < $5,000.00?
  Yes
  Local Board Resolution (Form C) adopted and approved along with Contract Disclosure Form B.

Transaction Amount ≥ $5,000.00?
  Yes
  Local Board Resolution (Form C) adopted and approved along with Contract Disclosure Form B and ADE approval.
VENDOR RELATIONSHIP TO ADMINISTRATOR

Transaction Amount <$5,000.00? Yes

Transaction Amount ≥$5,000.00? Yes

Local Board Resolution (Form C) adopted and approved along with Contract Disclosure Form B and ADE approval

• REGARDLESS OF THE ESTIMATED DOLLAR AMOUNT OF TRANSACTIONS FOR THE FISCAL YEAR, THE DISTRICT IS REQUIRED TO REQUEST INDEPENDENT REVIEW AND APPROVAL BY ADE.
VENDOR RELATIONSHIP TO EMPLOYEE -

Transaction Amount < $5,000.00?

Yes

Local Board Resolution (Form C) adopted and approved along with Contract Disclosure Form B

Transaction Amount ≥ $5,000.00?

Yes

Local Board Resolution (Form C) adopted and approved along with Contract Disclosure Form B and ADE approval
WHEN IN DOUBT???

DISCLOSE!