

APPENDIX B
LOCAL BOARD OF EDUCATION
CONFLICT OF INTEREST PROVISIONS IN GEORGIA LAW

§ 20-2-58.1. "Immediate family" defined; employment of family members

(a) As used in this Code section, the term "immediate family" means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent.

(b) No local board of education shall employ or promote any person who is a member of the immediate family of any board member unless a public, recorded vote is taken on such employment or promotion as a separate matter from any other personnel matter. Any board member whose immediate family member is being considered for employment shall not vote on such employment. Nothing in this Code section shall affect the employment of any person who is employed by a local school system on July 1, 2000, or who is employed by a local school system when an immediate family member becomes a member of the local board of education for that school system.

§ 20-2-63. Board Member Conflict of Interest

(a)(1) No local board of education member shall use or attempt to use his or her official position to secure unwarranted privileges, advantages, or employment for himself or herself, his or her immediate family member, or others.

(2) No local board of education member shall act in his or her official capacity in any matter where he or she, his or her immediate family member, or a business organization in which he or she has a material financial interest that would reasonably be expected to impair his or her objectivity or independence of judgment. Compliance with Code Section 20-2-505 shall not constitute a violation of this paragraph.

(3) No local board of education member shall solicit or accept or knowingly allow his or her immediate family member or a business organization in which he or she has an interest to solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing that board member in the discharge of his or her official duties. This paragraph shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office if the local board of education member has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the local board of education member in the discharge of his or her official duties. For purposes of this paragraph, a gift, favor, loan, contribution, service, promise, or other thing of value shall not include the items contained in subparagraphs (a)(2)(A) through (a)(2)(J) of Code Section 16-10-2.

(4) No local board of education member shall use, or knowingly allow to be used, his or her official position or any information not generally available to the members of the public which he or she receives or acquires in the course of and by reason of his or her official position for the purpose of securing financial gain for himself or herself, his or her immediate family member, or any business organization with which he or she is associated.

(5) No local board of education member or business organization in which he or she has an interest shall represent any person or party other than the local board of education or local school system in connection with any cause, proceeding, application, or other matter pending before the local school system in which he or she serves or in any proceeding involving the local school system in which he or she serves.

(6) No local board of education member shall be prohibited from making an inquiry for information on behalf of a constituent if no fee, reward, or other thing of value is promised to, given to, or accepted by the local board of education member or his or her immediate family member in return therefor.

(7) No local board of education member shall disclose or discuss any information which is subject to attorney-client privilege belonging to the local board of education to any person other than other board members, the board attorney, the local school superintendent, or persons designated by the local school superintendent for such purposes unless such privilege has been waived by a majority vote of the whole board.

(8) No member of a local board of education may also be an officer of any organization that sells goods or services to that local school system, except as provided in Code Section 20-2-505 and excluding nonprofit membership organizations.

(9) No local board of education member shall be deemed in conflict with this subsection if, by reason of his or her participation in any matter required to be voted upon, no material or monetary gain accrues to him or her as a member of any profession, occupation, or group to any greater extent than any gain could reasonably be expected to accrue to any other member of that profession, occupation, or group.

(b) Upon a motion supported by a two-thirds' vote, a local board of education may choose to conduct a hearing concerning the violation by a local board of education member of any conflict of interest provision in subsection (a) of this Code section. The local board of education member accused of violating said provision shall have 30 days' notice prior to a hearing on the matter. Said accused member may bring witnesses on his or her behalf, and the local board of education may call witnesses to inquire into the matter. If it is found by a vote of two-thirds of all the members of the board that the accused member has violated a conflict of interest provision contained in subsection (a) of this Code section, the local board shall determine an appropriate sanction. A board member subject to sanction pursuant to this Code section may, within 30 days of such sanction vote, appeal such decision to the State Board of Education, which shall be empowered to affirm or reverse the decision to sanction such board member. The State Board of Education shall promulgate rules governing such appeal process. This subsection shall apply only to local board of education members elected or appointed on or after July 1, 2010.

(c) As used in this Code section, the term 'immediate family member' means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent."

§ 20-2-505. Member prohibited from selling school supplies or equipment to county board; penalty

(a) No member of any county board of education in this state shall sell to any county board any supplies or equipment used, consumed, or necessary in the operation of any public school in this state unless there are fewer than three sources for such supplies or equipment within the county; provided, however, that any purchase pursuant to this subsection for supplies or equipment that is equal to or greater than \$10,000.00 shall be approved by a majority of the members of the board in an open public meeting.

(b) Any member of any county board violating subsection (a) of this Code section shall be guilty of a misdemeanor.

§ 20-2-505.1. Board transacting business with bank or similar institution in which member has interest

A local board of education having any member thereof who is an employee, stockholder, director, or officer of a bank or similar financial institution shall nevertheless be authorized to transact business with such bank or financial institution without the board or member thereby incurring any criminal liability therefor, as long as such member owns less than 30 percent of the stock or other ownership interest in such bank or financial institution.

§ 20-2-1072. Financial interest in transportation facilities or sale of school buses, school bus equipment, or school bus supplies of state and local school authorities prohibited

No member of the Department of Education or county school superintendent or member of the county board of education shall be financially interested in procuring and operating means or facilities for school bus transportation or in selling school buses, school bus equipment, or school bus supplies to county boards of education.

§ 21-5-11. Acceptance by public officers of monetary fees or honoraria

(a) No public officer other than a public officer elected state wide shall accept a monetary fee or honorarium in excess of \$101.00 for a speaking engagement, participation in a seminar, discussion panel, or other activity which directly relates to the official duties of that public officer or the office of that public officer.

(b) No public officer elected state wide shall accept any monetary fee or honorarium for a speaking engagement, participation in a seminar, discussion panel, or other such activity.

(c) For purposes of this chapter, actual and reasonable expenses for food, beverages, travel, lodging, and registration for a meeting which are provided to permit participation in a panel or speaking engagement at the meeting shall not be monetary fees or honoraria.

Since some eligibility requirements relate to conflict of interest, board member qualifications are:

§ 20-2-51. Election of county board members; persons ineligible to be members or superintendent; ineligibility for local boards of education; ineligibility for other elective offices.

(a) No person shall be eligible for election as a member of a local board of education who is not a resident of the school district in which that person seeks election and of the election district which such person seeks to represent. Whenever there is in a portion of any county a local school system having a board of education of its own, receiving its pro rata of the public school fund directly from the State School Superintendent and having no dealings whatever with the local board, then the members of the board of such county shall be selected from that portion of the county not embraced within the territory covered by such local system.

(b) Whenever a member of a local board of education moves that person's domicile from the district which that person represents, such person shall cease to be a member of such local board of education, and a vacancy shall occur. The member shall provide notice of such move to the secretary of the local board of education and the election superintendent within ten days of such move.

(c)(1) No person serving on the governing body of a private elementary or secondary educational institution shall be eligible to serve as a member of a local board of education.

(2) No person employed by a local board of education shall be eligible to serve as a member of that board of education.

(3) No person employed by the Department of Education or serving as a member of the State Board of Education shall be eligible to serve as a member of a local board of education.

(4) (A) No person who has an immediate family member sitting on a local board of education or serving as the local school superintendent or as a principal, assistant principal, or system administrative staff in the local school system shall be eligible to serve as a member of such local board of education. As used in this paragraph, the term 'immediate family member' means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent whose employment as the local school superintendent or as a principal, assistant principal, or system administrative staff in the local school system began on or after January 1, 2010. This paragraph shall apply only to local board of education members elected or appointed on or after July 1, 2009. Nothing in this Code section shall affect the employment of any person who is employed by a local school system on or before July 1, 2009, or who is employed by a local school system when an immediate family member becomes a local board of education member for that school system.

(B) Notwithstanding subsection (b) of Code Section 20-2-244, in local school systems in which the initial fall enrollment count conducted in 2009 pursuant to Code Section 20-2-160 does not exceed a full-time equivalent count of 2,800, the State Board of Education shall be authorized to waive this paragraph upon the request of a local board of education or an individual attempting to qualify to run for local board of education member and in accordance with the provisions of subsections (d) and (e) of Code Section 20-2-244; provided, however, that prior to submitting any such request, the local board of education shall, upon its own initiative, or at the request of such individual attempting to qualify to run for local board of education member:

(i) Provide 30 days' notice of the individual's intent to run for office; and

(ii) Conduct a public hearing for the purpose of providing an opportunity for full discussion and public input on the issue of potential nepotism problems and other concerns with regard to such waiver. The public hearing shall be advertised at least seven days prior to the date of such hearing in a local newspaper of general circulation which shall be the same newspaper in which other legal announcements of the local board of education are advertised. The public hearing may be conducted in conjunction with a regular or called meeting of the local board or may be conducted independently, at the local board's discretion.

The cost of such notice and public hearing shall be borne by the local board. The State Board of Education shall approve or deny a waiver request no later than 45 days after receipt of such waiver request, taking into consideration whether the benefit to the public would justify approval of the waiver. An approved waiver must be

received by the local election superintendent prior to an individual's filing of a declaration or notice of candidacy in accordance with Article 4 of Chapter 2 of Title 21.

(d) In all counties of this state having a population of not less than 500,000 or more than 600,000 according to the United States decennial census of 1990 or any future such census, the members of the county boards of education taking office after December 1, 1975, shall not hold any other elective governmental office. If any member of any such board should qualify at any time after December 1, 1975, for nomination or election to any other elective governmental office other than for membership on such county board, such member's position on such county board shall thereby become vacant. Such vacancy shall be filled as provided by the law applicable to any such county board.

(e) In addition to any other requirements provided by law, no person shall be eligible for election as a member of a local board of education unless he or she:

(1) Has read and understands the code of ethics and the conflict of interest provisions applicable to members of local boards of education and has agreed to abide by them; and

(2) Has agreed to annually disclose compliance with the State Board of Education's policy on training for members of local boards of education, the code of ethics of the local board of education, and the conflict of interest provisions applicable to members of local boards of education.

Each person offering his or her candidacy for election as a member of a local board of education shall file an affidavit with the officer before whom such person has qualified for such election prior to or at the time of qualifying, which affidavit shall affirm that he or she meets all of the qualifications required pursuant to this subsection. This subsection shall apply only to local board of education members elected or appointed on or after July 1, 2010.

(f) No person who is on the National Sex Offender Registry or the state sexual offender registry shall be eligible for election to or service on a local board of education.

§ 45-2-1. Persons ineligible to hold civil office; vacation of office; validity of acts performed while in office

The following persons are ineligible to hold any civil office; and the existence of any of the following facts shall be a sufficient reason for vacating any office held by such person; but the acts of such person, while holding a commission, shall be valid as the acts of an officer de facto, namely:

(1) Persons who are not citizens of this state and persons under the age of 21 years; provided, however, that upon passage of appropriate local ordinances, citizens of this state who are otherwise qualified and who have attained 18 years of age shall be eligible to hold any county or municipal office, except such offices of a judicial nature. The residency requirement for a candidate for any county office, except offices of a judicial nature, shall be 12 months residency within the county. The residency requirement for a candidate for any municipal office, except offices of a judicial nature, shall be 12 months residency within the municipality; provided, however, that municipalities may by charter provide for lesser residency requirements for candidates for municipal office, except offices of a judicial nature;

(2) All holders or receivers of public money of this state or any county thereof who have refused or failed when called upon after reasonable opportunity to account for and pay over the same to the proper officer;

(3) Any person finally convicted and sentenced for any felony involving moral turpitude under the laws of this or any other state when the offense is also a felony in this state, unless restored to all his rights of citizenship by a pardon from the State Board of Pardons and Paroles;

(4) Persons holding any office of profit or trust under the government of the United States other than that of postmaster and officers and enlisted men of the reserve components of the armed forces of the United States, or of either of the several states, or of any foreign state; provided, however, that without prejudice to his right to hold public office, any person may accept appointment to, and may receive his expenses and compensation arising from, membership upon any commission, board, panel, or other fact-finding or policy-making agency appointed by the President of the United States or other federal authority, where such appointment is of a temporary nature and the duties are not such as to interfere materially with the person's duties as a public officer. Acceptance of such an appointment and receipt of the emoluments therefrom shall not bar the right of any person to hold office in this state or to accede to a state office;

(5) Persons of unsound mind and persons who, from advanced age or bodily infirmity, are unfit to discharge the duties of the office to which they are chosen or appointed;

(6) Those persons who have not been inhabitants of the state, county, district, or circuit for the period required by the Constitution and laws of this state;

(7) A person who has not been a bona fide citizen of the county in which that person shall be elected or appointed at least 12 months prior to that person's election or appointment and who is not a qualified voter entitled to vote; provided, however, that no prior state or county residency requirement shall be applicable to any appointed local superintendent of schools; or

(8) All persons who are constitutionally disqualified for any cause. All officers are eligible for reelection and reappointment and to hold other offices, unless expressly declared to the contrary by the Constitution or laws of Georgia.

§ 45-2-2. Person to hold only one county office; commissioned officer not to be deputy for another

No person shall hold, in any manner whatever, or be commissioned to hold more than one county office at one time, except by special enactment of the General Assembly; nor shall any commissioned officer be deputy for any other commissioned officer, except by such special enactment.