School Boards and Conflicts of Interest

If a board member “believes or has reason to believe” she has a conflict of interest regarding a contract or financial transaction that requires the board’s approval, MCL 380.1203 requires that the board member disclose the conflict of interest and to abstain from voting on the contract or financial transaction in question. This section of statute also applies to legal counsel, advisors, and consultants.

A board member is presumed to have a conflict if the board member or his family member has a financial interest or a competing financial interest in a contract or financial transaction with the school or if the board member’s family member is an employee of the district.

The law defines “family member” as a person’s spouse or spouse’s sibling or child; a person’s sibling or sibling’s spouse or child; a person’s child or child’s spouse; or a person’s parent or parent’s spouse, and includes these relationships as created by adoption or marriage. The law makes clear that having a child who is a student in the district does not create a conflict for the board member.

An individual does not have a financial conflict of interest in the following situations:

- The person is a stockholder owning 1% or less of total stock if the stock is not listed on a stock exchange or less than $25,000 market value if the stock is listed on a stock exchange;
- The person is a beneficiary of a trust under the same financial standards as above;
- The person is an employee (and not a member) of a professional limited liability company (LLC);
- Contracts involving a corporation or a firm that does not include a board member or an administrator as a director, officer, member, or employee.
- Contracts between the ISD and constituent school districts

A major issue contained in the law is subsection 5, which allows for minority rule in certain conflict of interest situations. Subsection 5 states that if a majority of a board is required to abstain from voting due to conflicts of interest, the remaining board members constitute a quorum and a majority of that quorum may vote to approve a contract.

This issue could arise, for example, if a school board were voting on a tentative agreement reached between the district and its teachers’ union’s bargaining teams. If four board members had family members who were teachers in the district, those board members would be required to disclose their conflict of interest and abstain from voting. The three remaining board members would
then constitute a quorum of the board and only two board members would be required to approve ratifying the contract.

MCL 380.1203 requirements are in addition to other laws concerning conflicts of interest that apply to school boards\(^1\) and intermediate school boards\(^2\).

\(^1\) MCL 388.1769b – “A board member of a district, intermediate district, public school academy, or public school academy corporation shall abstain from voting on any contract in which the board member has a conflict of interest.” Michigan Constitution Article IV, Section 10 – “No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.”

\(^2\) MCL 380.634