

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1828

By: Representative Kizzia

For An Act To Be Entitled

AN ACT TO AMEND THE ETHICAL GUIDELINES AND PROHIBITIONS FOR SCHOOL DISTRICT BOARDS OF DIRECTORS, ADMINISTRATORS, AND EMPLOYEES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ETHICAL GUIDELINES AND PROHIBITIONS FOR SCHOOL DISTRICT BOARDS OF DIRECTORS, ADMINISTRATORS, AND EMPLOYEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-24-102, concerning the definitions for ethical guidelines and prohibitions for school district board members, administrators, and employees, is amended to add an additional subdivision to read as follows:

(18) "Unusual and limited circumstances" means circumstances that are uncommon, rare, and restricted, which may include without limitation:

(A) For an employment contract, a shortage of qualified candidates for employment in a particular position; and

(B) For a vendor contract:

(i) The selected vendor being the only vendor within a reasonable distance offering the required services; or

(ii) The selected vendor offering the lowest bid for prices or services as compared to two (2) or more other bidders.



SECTION 2. Arkansas Code § 6-24-105(c)-(e), concerning exceptions to prohibitions on a school board from entering into certain contracts with board members or family members of a board member, is amended to read as follows:

(c) Exceptions.

(1) Board Approval.

~~(A)(i)~~ In unusual and limited circumstances, a public educational entity's board may approve a contract, ~~but not an employment contract,~~ between the public educational entity and the board member or the member's family if the board determines that the contract is in the best interest of the public educational entity.

~~(ii) In unusual and limited circumstances, a public educational entity's board may approve an employment contract as provided in this section.~~

~~(B)(2)(A)(i)~~ The approval by the public educational entity's board shall be documented by written resolution after fully disclosing the reasons justifying the contract or employment contract in an open meeting.

(ii) Approval for a contract other than an employment contract:

(a) May be for a particular transaction or contract or a series of related transactions or contracts; and

(b) Shall not be granted for a period greater than two (2) complete and consecutive fiscal years.

(B) The resolution shall:

(i) state State the unusual and limited circumstances necessitating the contract or employment contract;

(ii) and shall document Document the restrictions and limitations of the contract or employment contract; and

(iii) State how the approval of the contract is in the best interest of the public educational entity.

~~(C) (3)~~ If any proposed contract or employment contract is with a family member of a board member or a board member directly or indirectly interested in the proposed contract or employment contract, then the board member shall leave the meeting until the voting on the issue is concluded, and the absent member shall not be counted as having voted.

~~(2)Independent Approval.~~

~~(A)(i) If it appears the total transactions or contracts with the board member or a family member for a fiscal year total, or will total, five thousand dollars (\$5,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution along with all relevant data to the commissioner for independent review and approval.~~

~~(ii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the state board to assure that adequate notice has been received by the Department of Education and to provide a record for the school district board of directors sending the request for approval.~~

~~(B)(i) Upon review of the submitted data for any contract, including an employment contract as provided in subsection (b) of this section, the commissioner, within twenty (20) days of receipt of the resolution and other relevant data, shall approve or disapprove in writing the board's request.~~

~~(ii) The commissioner may request additional information or testimony before ruling on a request. If additional data are needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.~~

~~(iii) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.~~

~~(C) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval. The commissioner may grant the approval for a particular transaction or contract, a series of related transactions or contracts, or employment contracts. However, approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years, excluding employment contracts.~~

~~(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public~~

~~educational entity within the time periods specified in this section.~~

(d) Records. The ~~department and the~~ public educational entity shall maintain a record and copy of all documentation relating to transactions or contracts with board members or members of their families.

(e) Providing false or incomplete information. It is a breach of the ethical standards of this chapter for ~~Any a~~ board member or other person to to knowingly ~~furnishing~~ furnish false information or knowingly not fully ~~disclosing~~ disclose relevant information necessary for a proper determination by the public educational entity ~~or the commissioner shall be guilty of violating the provisions of this chapter~~ under this section.

SECTION 3. Arkansas Code § 6-24-106(b)-(d), concerning exceptions to prohibitions on a school board from entering into certain contracts with administrators or family members of administrators, is amended to read as follows:

(b) Family Members as Employees. This chapter does not prohibit an administrator's family members from being employed by the public educational entity the administrator serves or any other public educational entity. ~~However, beginning July 1, 2002,~~ Except as provided under subsection (c) of this section, a member of an administrator's immediate family or former spouse may not be initially employed as a disbursing officer of the public educational entity where the administrator is employed ~~unless the public educational entity receives written approval from the Commissioner of Education. Before issuing a written approval or denial, the commissioner shall request the Division of Legislative Audit to review the internal controls, including the segregation of duties, present at the public educational entity. The Division of Legislative Audit shall report its findings in writing to the commissioner.~~

(c) Exceptions.

(1) In unusual and limited circumstances ~~and only with prior written approval from the commissioner,~~ an administrator may contract with a public educational entity other than the public educational entity employing him or her.

(2) In unusual and limited circumstances ~~and only with prior written approval from the commissioner,~~ an administrator's family members may contract with a public educational entity employing the administrator.

(3)(A) An administrator seeking to contract with other public educational entities, or an administrator's family member seeking to contract with the public educational entity employing the administrator, shall first present the request, with all relevant facts and circumstances justifying approval, to the board currently employing the administrator at an open meeting.

(B)(i) After reviewing the request in an open meeting, the board may, by written resolution, approve the contract ~~subject to approval by the commissioner~~ or contract or a series of related transactions or contracts.

(ii) Approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years.

~~(ii) A copy of the approval resolution and all relevant data shall be forwarded by the board president to the commissioner.~~

~~(iii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been received by the Department of Education and to provide a record for the school district board of directors sending the request for approval.~~

~~(4)(A) Upon review of the submitted data, the commissioner shall, within twenty (20) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.~~

~~(B) The commissioner may request additional information or testimony before ruling on a request. If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.~~

~~(C) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.~~

~~(5) If approved, the approval letter shall state all relevant facts and circumstances considered in the approval and shall state any restrictions or limitations of the approval. The commissioner may grant an approval for a particular transaction or a series of related transactions. No approval shall be granted for a period greater than two (2) complete and consecutive fiscal years.~~

(C) The resolution shall:

(i) State the unusual and limited circumstances necessitating the contract;

(ii) Document the restrictions and limitations of the contract or employment contract; and

(iii) State how the approval of the contract is in the best interest of the public educational entity.

(6) ~~The Department of Education and the~~ public educational entity shall maintain a record and copy of all documentation relating to an exemption from the provisions of this chapter.

~~(7) A contract subject to this subsection is not valid until the commissioner:~~

~~(A) Approves the contract; or~~

~~(B) Fails to respond to the public educational entity within the time periods specified in this section.~~

(d) Providing False or Incomplete Information. It is a breach of the ethical standards of this chapter for Any an administrator to knowingly furnishing furnish false information or knowingly not fully disclosing disclose relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter under this section.

SECTION 4. Arkansas Code § 6-24-107(b)-(d), concerning exceptions to prohibitions on a school board from entering into certain contracts with employees, is amended to read as follows:

(b) Exceptions.

(1) Approval by Board.

(A)(i) In unusual and limited circumstances, a public educational entity's board may approve a contract between the public educational entity and an employee if the board determines that the contract is in the best interest of the public educational entity.

(ii) Approval may be for a particular transaction or contract or a series of related transactions or contracts.

(iii) Approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years.

(B) The approval by the public educational entity's board

shall be documented by written resolution after fully disclosing the reasons justifying the contract in an open meeting.

(C) The resolution shall:

(i) ~~state~~ State the unusual circumstances necessitating the contract;

(ii) ~~and shall document~~ Document the restrictions and limitations of the contract; and

(iii) State how the approval of the contract is in the best interest of the public educational entity.

~~(G)(D)~~ Any board member directly or indirectly interested in the proposed contract shall leave the meeting until the voting on the issue is concluded, and the absent member shall not be counted as having voted.

~~(2) Independent Approval.~~

~~(A)(i) If it appears that the total transactions with an employee for a fiscal year total, or will total, five thousand dollars (\$5,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution along with all relevant data to the Commissioner of Education for independent review and approval.~~

~~(ii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been received by the Department of Education and to provide a record for the school district board of directors sending the request for approval.~~

~~(B)(i) Upon review of the submitted data, the commissioner shall, within twenty (20) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.~~

~~(ii) The commissioner may request additional information or testimony before ruling on a request. If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.~~

~~(iii) If the commissioner does not respond to the public educational entity within the twenty day period or request additional time or data for a proper review of the contract, the contract shall be~~

~~deemed to be approved by the commissioner.~~

~~(C) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval. The commissioner may grant the approval for a particular transaction or a series of related transactions. However, approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years.~~

~~(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.~~

(c) Documentation. The ~~department and the~~ public educational entity shall maintain a record and copy of all documentation relating to transactions with employees.

(d) Providing False or Incomplete Information. ~~Any~~ It is a breach of the ethical standards of this chapter for an employee or other person to knowingly furnishing furnish false information or knowingly not fully ~~disclosing~~ disclose relevant information necessary for a proper determination by the public educational entity ~~or the commissioner shall be guilty of violating the provisions of this chapter under this section.~~

SECTION 5. Arkansas Code § 6-24-111 is amended to read as follows:

6-24-111. Restrictions on employment of present and former administrators.

~~(a)(1) Unless written approval is granted by the Commissioner of Education, it~~ It is a breach of the ethical standards of this chapter for administrators to be or become the employee, agent, or independent contractor of any party contracting with the public educational entity the administrators serve.

~~(2) The commissioner's approval letter shall be filed with and maintained by the public educational entity employing the administrator.~~

(b) ~~Unless written approval is granted by the commissioner, it~~ It is a breach of the ethical standards of this chapter for administrators to engage 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.