

FILE 2797 — April 21, 2023

CONFLICT OF INTEREST

EMPLOYEES OF SCHOOL DISTRICT WHO ARE MEMBERS AND DIRECTORS OF A NONPROFIT CORPORATION

To: Paul Gibbs, General Counsel (Brevard County Public Schools)

SUMMARY:

Guidance is provided regarding School District personnel at all levels of the District as to whether they have conflicts of interest under Sections 112.313(3) and (7)(a), and, if so, whether they have the benefit of an exemption under either Section 112.313(12)(f), Florida Statutes, or Section 112.316, Florida Statutes. CEO 81-2, CEO 93-31, CEO 97-21, CEO 99-7, CEO 04-17, CEO 09-1, CEO 10-2, CEO 10-15, CEO 14-12, CEO 14-21, CEO 14-27, CEO 14-28, CEO 16-12, CEO 18-4, CEO 18-5, CEO 19-1, CEO 19-9, CEO 19-14, and CEO 23-2 are referenced.

QUESTION:

Will certain School District personnel have a prohibited conflict of interest if the Superintendent, on behalf of the School District, purchases an institutional membership with a nonprofit corporation?

This question is answered as follows.

You are the general counsel for the Brevard County School District (School District) and you write on behalf of the School District and certain individuals in its employ. You explain that the Superintendent is considering a purchase for the School District of an institutional membership with a nonprofit corporation called the Brevard Alliance of Black School Educators (Brevard ABSE). The mission of this entity is "to enhance and facilitate the education and social development of all students in Brevard County, with a particular focus on African-American students." Brevard ABSE accomplishes this mission in a variety of ways. According to the president of the organization, who is also the School District's Director of Elementary Leading and Learning, the organization forms partnerships to financially support recruitment events to attract minority teachers and to supply food for teachers who provide service to the school and its students in after-school hours. Brevard ABSE partnered with a Head Start program by donating needed items to the school. Brevard ABSE also provides a scholarship for a student to attend a historically black college or university.

Brevard ABSE offers individual memberships and numerous teachers, administrators, and department directors of the School District hold individual memberships. Additionally, Brevard ABSE offers institutional memberships at a cost of \$250 per year, which is available for purchase by any institution offering instruction from kindergarten through higher ed. With an institutional membership, the School District will receive a Certification of Institutional Membership, the opportunity to network with fellow educators, two (2) complimentary individual memberships, a link on Brevard ASBE's webpage to the School District's webpage, and a 20 percent discount on the organization's paid events.

At present, Brevard ABSE's board of directors consists of teachers, administrators, and department directors within the School District, all of whom are individual members of Brevard

ABSE. The members of the board of directors of Brevard ABSE are not compensated for their service.

With that background, you ask whether a conflict of interest will be created for any of the School District personnel associated with Brevard ABSE if the Superintendent purchases an institutional membership for the School District.

Relevant to your inquiry is Section 112.313(3), Florida Statutes, which states:

DOING BUSINESS WITH ONE'S AGENCY.—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer's or employee's spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer's or employee's own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision This subsection shall not affect or be construed to prohibit contracts entered into prior to:

- (a) October 1, 1975.
- (b) Qualification for elective office.
- (c) Appointment to public office.
- (d) Beginning public employment.

The first prohibition of this provision operates to prevent a public employee from acting in his or her public capacity as a purchasing agent, or a public officer acting in his or her official capacity, from purchasing, renting, or leasing any realty, goods, or services for his or her agency from any business entity in which he or she (or his or her spouse or child) is an officer or director or in which the employee or officer (or his or her spouse or child) owns more than a five-percent ownership interest. The second prohibition of this subsection prevents a public employee or officer from acting in his or her private capacity to rent, lease, or sell any realty, goods, or

services to his or her public agency or to any agency of his or her political subdivision. "Acting in a private capacity" includes situations where one is an officer, director, or owner of more than a 5 percent interest of a business entity that is selling, renting, or leasing to the agency or political subdivision. See CEO 81-2 and CEO 09-1.

The term "agency" is defined in Section 112.312(2), Florida Statutes, as:

any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; any public school, community college, or state university; or any special district as defined in s. 189.012.

We have opined in the past, when interpreting this definition, that the agency of a public officer or public employee is the lowest unit of government to which one's influence could be said to extend. See CEO 93-31 and CEO 99-7. For a teacher or administrator whose position is within a school, we have found that their agency is the school where they work. See CEO 04-17, CEO 10-15, CEO 16-12. However, the agency of an employee of a school district's central office was found to be the department where he or she worked. See CEO 14-28. For school board members, though, we have found their agency to be the entire school district. See CEO 14-21 and CEO 14-27. The agency of the superintendent of a school board is the school district. See, generally, CEO 97-21.

Unless an exemption applies to negate the conflict, a prohibited conflict of interest under Section 112.313(3) will be created for those School District personnel who also serve on Brevard ABSE's board of directors when the Superintendent, on behalf of the School District, purchases an institutional membership. In that instance, those individuals will be acting in a private capacity either to sell an institutional membership to their agency or an agency of their political subdivision, depending where their public positions are within the School District.

Also, if the Superintendent is a member of the Board of Directors of Brevard ABSE, then he will be acting in an official capacity to purchase from a business entity of which he is a director. That would present a conflict for the Superintendent under Section 112.313(3) in the absence of an applicable exemption.

To provide a complete analysis of the possible conflicts of interest arising from the scenario you present, a second statute, Section 112.313(7)(a), Florida Statutes, must be applied. Section 112.313(7)(a) states:

No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee . . . ; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

The first clause of this statute prohibits a public officer from having any contractual relationship with a business entity or an agency that is regulated by or is doing business with his or her agency. The second clause prohibits a public officer from having a contractual relationship that would create a continuing or frequently recurring conflict of interest or would create an impediment to the full and faithful discharge of his or her public duties. In determining whether a contractual relationship exists, we have often said that membership in a nonprofit corporation creates a contractual relationship between a public officer or public employee and that nonprofit corporation. See, e.g., CEO 19-1, CEO 14-12, and CEO 10-2.

Without the benefit of an exemption, if the Superintendent or any staff of the Superintendent's Office¹ holds an individual membership while the School District is contemporaneously doing business with Brevard ABSE (through the purchase of an institutional membership or by other means), they will have a conflicting contractual relationship under the first clause of Section 112.313(7)(a). They will hold contractual relationships (through their individual memberships) with Brevard ABSE, which will be a business entity doing business with their agency.

If the Superintendent or personnel of the School District who have a role in the approval process for the purchase of the institutional membership are also both (1) individual members of Brevard ABSE and (2) members of its board of directors, then they will have a conflict of interest under the second clause of Section 112.313(7)(a). They will have, on the public side of the transaction, an operational role in their agency's treatment of the business entity while at the same time having a representational role on behalf of the same business entity. As we recently opined, such a relationship can tempt a public officer or public employee to dishonor their public responsibilities as they relate to decisions about business entity. See, e.g., CEO 23-2 and the opinions therein cited.

All other School District personnel, even those who have individual memberships with Brevard ABSE or sit on the organization's board of directors, will not have a conflicting contractual relationship under Section 112.313(7)(a). They will merely hold contractual

¹ An organizational chart on the Brevard Schools website shows that the Superintendent is the head of the Superintendent's Office, which is a School District department staffed by: district and school security, a staff attorney, a chief of staff, five assistant superintendents, a deputy superintendent, a chief financial officer, a chief of human resources, and a chief operating officer. We find that the agency of these positions is the entire School District, due to the scope of the influence of these high-level positions. The identity of the agency, for purposes of Section 112.313(7)(a), of specific support staff to those high-level positions will either be the School District or the Superintendent's Office, depending on the nature and duties of their individual positions; for specific guidance on how this opinion might affect those support staff, which will require a fact-dependent determination of their agency, please contact Commission staff.

relationships (individual memberships) with a business entity (Brevard ABSE) that is doing business with the Superintendent's Office, which is an agency other than their own. Such a relationship does not create a prohibited conflict of interest under the first clause of Section 112.313(7)(a). Also, there is nothing in the fact pattern to suggest that their memberships in Brevard ABSE will tempt these individuals to dishonor their public responsibilities. See Zerweck v. State Commission on Ethics, 409 So.2d 57, at 61 (Fla. 4th DCA 1982).

For those individuals who have a conflict of interest under Sections 112.313(3) and/or (7)(a), as described above, there appears to be an exemption available that will operate to negate the conflicts. According to Section 112.313(12)(f), Florida Statutes, a conflict of interest under Sections 112.313(3) or (7)(a) will be exempted if "[t]he total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year." If the School District only buys the institutional membership each calendar year, the total amount of the transactions in the aggregate between the School District and Brevard ABSE will be \$250 in each calendar year, and the exemption will apply to negate the conflicts for everyone who would otherwise have a conflict. Of course, if the School District transacts additional business with Brevard ABSE—for example, if the School District makes use of its 20 percent discount on the organization's paid events by purchasing admissions to those events—the individuals with conflicts will lose the benefit of the exemption when the total aggregated business transacted between the School District and Brevard ABSE exceeds \$500. In that event, a second exemption will be needed.

There is, though, a second exemption available, through an application of Section 112.316, Florida Statutes. Section 112.316 states:

Construction.—It is not the intent of this part, nor shall it be construed, to prevent any officer or employee of a state agency

or county, city, or other political subdivision of the state or any legislator or legislative employee from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge by such officer, employee, legislator, or legislative employee of his or her duties to the state or the county, city, or other political subdivision of the state involved.

Section 112.316 only operates to negate certain conflicts arising under Section 112.313(3) and the first clause of Section 112.313(7)(a). Because Section 112.316, by its plain meaning, precludes its application to any pursuit that interferes with the full and faithful discharge of a public officer's or employee's duties, as is precisely defined to be a conflict under the second clause of Section 112.313(7)(a), those individuals with conflicts under the second clause of Section 112.313(7)(a), as described above, will not benefit from this exemption and, therefore, will have a prohibited conflict.

We have interpreted Section 112.316 to negate conflicts derived from Section 112.313(3) and the first clause of Section 112.313(7)(a) when the public officers and employees who might otherwise have a conflict played no public role in their agency's dealings with or oversight of the business entity. See, e.g., CEO 18-4, CEO 18-5, CEO 19-9, CEO 19-14. The conflicts of School District personnel who are not involved in the process of approving the School District's purchasing of the institutional membership from Brevard ABSE will be negated by an operation of Section 112.316. For those personnel who are involved in the process—not just the Superintendent, who provides the final approval of the purchase, but anyone else who offers legal, financial, or other preliminary approvals prior to the Superintendent's final approval and exercise of his or her purchasing authority—a negation of their conflicts through an application of Section 112.316 is not available.

In conclusion, so long as the total amount of the transactions in the aggregate between the School District and Brevard ABSE does not exceed \$500 in any calendar year, all school district

personnel described above who might otherwise have a conflict of interest will benefit from the exemption in Section 112.313(12)(f) and their conflicts will be negated. If, however, the total amount of the transactions in the aggregate between the School District and Brevard ABSE does exceed \$500 in any calendar year, then a prohibited conflict of interest will be created for those individuals who (1) are individual members of Brevard ABSE and/or are members of the board of directors of Brevard ABSE and (2) are involved in the School District's approval process for transactions with Brevard ABSE. However, Section 112.316 will operate to negate the conflict of interest for those who are individual members of Brevard ABSE and/or are members of the board of directors of Brevard ABSE, but are not involved in the School District's approval process for the purchase.

Your question is answered accordingly.

GG/sjz/ks

cc: Paul Gibbs

Steverson, Kathryn

From: Stillman, Kerrie
Sent: Monday, November 7, 2022 1:56 PM
To: Steverson, Kathryn
Cc: Zuilkowski, Steven
Subject: FW: Ethics Issue
Attachments: Brevard ABSE Invoice.pdf

Kathy,

Please add this to the informals list.

Kerrie

From: Gibbs.Paul@General Counsel <Gibbs.Paul@Brevardschools.org>
Sent: Tuesday, September 27, 2022 10:53 AM
To: Stillman, Kerrie <STILLMAN.KERRIE@leg.state.fl.us>
Subject: Ethics Issue

Good Morning Kerrie,

I spoke with Kathy Hayward last week who advised that you requested an email submission with all of the facts of this issue for a response. There is an employee support organization in Brevard County called Brevard ABSE (Brevard Alliance of Black School Educators). The ABSE is a Florida Non-Profit Organization registered to do business in the state. This organization is an affiliate of the National Alliance of Black School Educators (NABSE). Brevard ABSE's mission statement is "To enhance and facilitate the education and social development of all students in Brevard County, with a particular focus on African-American students." The Brevard Public School District has inquired about joining ABSE with an institutional membership which comes at a cost of \$250.00 annually. Benefits of the institutional membership include "the opportunity to network with fellow educators, two (2) complimentary individual memberships, recognition on BrevardABSE net of support with a link via your home page, Certification of Institutional membership, and 20% discount on BrevardABSE paid events. The attached invoice for joining with an institutional membership clarifies that the fee comes with 2 voting members (the individual memberships).

Brevard ABSE's Board are all Brevard Public Schools employees, President is Dr. Karen Ivery, Vice-President, Mr. Ron Shaw, Secretary, Tessa Thompson, Treasurer, Dr. Steve Primus, and Asst. Secretary/Asst. Treasurer, Kathy Hamilton-Brown. As such, the Board of the Brevard ABSE is made up of employees, and the School District would get to appoint 2 individual members who will have voting authority within ABSE, which means that there would be additional employee entanglement that comes along with the institutional membership. I contrast this with NABSE, which would have the same goal and mission, but is at the national level, and likely not run by Brevard Public School employees. As I advised Kathy Hayward, this seems to potentially implicate the ethics provisions of doing business with your own agency as BPS employees make up the Board and likely most of the voting membership of the Brevard ABSE organization. As such, I have sought guidance from the Commission on Ethics regarding whether Brevard Public Schools would be allowed to pay for an institutional membership into this organization.

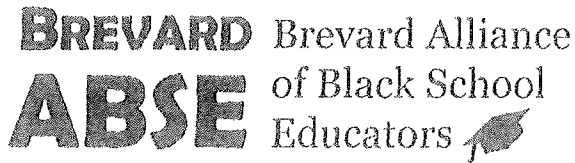
Please feel free to reach out with any additional questions or concerns.

Thank you, and have a great day.

Paul Gibbs

Paul Gibbs, Esq.
General Counsel
Office of Legal Services
Brevard County Public Schools
2700 Judge Fran Jamieson Way
Viera, Florida 32940-6601
O: (321) 633-1000 ext. 11438
E-mail: Gibbs.Paul@BrevardSchools.org

Due to Florida's broad public records law, most written communications to or from government employees regarding public education are public records. Therefore, this e-mail communication may be subject to public disclosure.



INVOICE

INVOICE # I 2022- 001
JUNE 1, 2022

TO:

Brevard Public Schools
Attn: Mike Alba
2700 Judge Fran Jameison Parkway
Viera, FL 32904
Phone: 321-633-1000

SHIP TO:

Brevard Alliance of Black School Educators
Attn: Treasurer Dr. Steve Primus
1485 Modoc Circle
Melbourne, Florida, 32934
Phone: 321-961-9936

COMMENTS OR SPECIAL INSTRUCTIONS:

Institutional Membership fee for Brevard Public Schools: Membership includes: 2 voting Members, Advertisement of flyers on website/Social Media – support with recruitment,

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
1	Institutional Membership	250.00	250.00

SUBTOTAL 250.00

SALES TAX

SHIPPING & HANDLING

TOTAL DUE 250.00

Make all checks payable to Brevard Alliance of Black School Educators

If you have any questions concerning this invoice, contact Dr. Steve Primus, 321-961-9936 – Brevardabse@gmail.com

Please email the names of the 2 voting members to Attn: Tessa Thompson – Brevardabse@gmail.com

THANK YOU FOR YOUR PARTNERSHIP

President: Dr. Karen Ivery – Vice President: Mr. Ron Shaw – Secretary: Tessa Thompson , Treasurer:
Dr. Steve Primus, Asst. Secretary/Asst. Treasurer: Kathy Hamilton-Brown

Steverson, Kathryn

From: Zuilkowski, Steven
Sent: Thursday, November 17, 2022 4:50 PM
To: Gibbs.Paul@Brevardschools.org
Cc: Ravencroft, Alexa; Steverson, Kathryn
Subject: Commission on Ethics
Attachments: Gibbs Letter.pdf

Mr. Gibbs:

We are reviewing your ethics request and kindly request some additional information. Please refer to the attached letter for the information request. If you have any questions, please let me know. Thank you.

Steve

Steven J. Zuilkowski

Deputy Executive Director & General Counsel

Florida Commission on Ethics

P.O. Drawer 15709

Tallahassee, FL 32317-5709

(850) 488-7864

(850) 488-3077 (Fax)

ethics.state.fl.us

Physical address:

325 John Knox Road

Building E, Suite 200

Tallahassee, FL 32303

John Grant
Chair
Glenton "Glen" Gilzean, Jr.
Vice Chair
Michelle Anchors
William P. Cervone
Don Gaetz
William "Willie" N. Meggs
Ed H. Moore
Wengay M. Newton, Sr.
Jim Waldman



State of Florida
COMMISSION ON ETHICS
P.O. Drawer 15709
Tallahassee, Florida 32317-5709

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Building E, Suite 200
Tallahassee, Florida 32303

"A Public Office is a Public Trust"

Kerrie J. Stillman
Executive Director

Steven J. Zuilkowski
*Deputy Executive Director/
General Counsel*

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November 17, 2022

Paul Gibbs, Esq.
General Counsel
Brevard County Public Schools
2700 Judge Fran Jamieson Way
Viera, FL 32940-6601

BY EMAIL

Dear Mr. Gibbs:

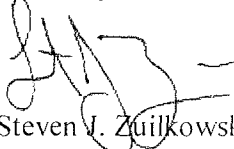
The Florida Commission on Ethics has received your recent ethics inquiry. Before we proceed with the opinion, we have several questions.

1. Are you writing on behalf of and with the knowledge and consent of the named ABSE Board members? In order to receive an advisory opinion from the Commission on Ethics, the individual making the request must have standing pursuant to Rule 34-6.002, Florida Administrative Code.
2. What are these individuals' public roles? Are they employees of the School District, or of individual schools?
3. Are the board members compensated by ABSE? If so, would the membership fee paid by the Brevard County School District be going toward this compensation?
4. Are the board members rank-and-file members of the nonprofit, in addition to being its officers?

5. Lastly, what role do the board members play, if any, in determining whether and how the School District is able to purchase this membership?

We look forward to hearing from you and please do not hesitate to reach out if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Zuilkowski', with a horizontal line extending to the right.

Steven J. Zuilkowski
Deputy Executive Director and General Counsel

Steverson, Kathryn

From: Steverson, Kathryn on behalf of Zuilkowski, Steven
Sent: Thursday, January 12, 2023 9:51 AM
To: Steverson, Kathryn
Subject: FW: Response to Letter
Attachments: Signed COE response 11-18-22.pdf

Kathryn Steverson

*Assistant to the Executive Director
Florida Commission on Ethics
P.O. Drawer 15709
Tallahassee, FL 32317-5709
(850) 488-7864
(850) 488-3077 (Fax
www.ethics.state.fl.us*

Physical address:
325 John Knox Road
Building E, Suite 200
Tallahassee, FL 32303

From: Gibbs.Paul@General Counsel <Gibbs.Paul@Brevardschools.org>
Sent: Friday, November 18, 2022 3:13 PM
To: Zuilkowski, Steven <ZUILKOWSKI.STEVEN@leg.state.fl.us>
Subject: Response to Letter

Good Afternoon Mr. Zuilkowski,

Please find my responses to your questions attached. Please feel free to reach out to me with any questions regarding this matter. I will be available on my cell next week if needed, the District will be closed down though.

Thank you, and have a great day, weekend, and Thanksgiving.

Paul Gibbs

Paul Gibbs, Esq.
General Counsel
Office of Legal Services
Brevard County Public Schools
2700 Judge Fran Jamieson Way
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O: (321) 633-1000 ext. 11438
C: (321) 576-8361
E-mail: Gibbs.Paul@BrevardSchools.org

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School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6601

Mark W. Mullins, Ed.D., Superintendent



November 18, 2022

Steven J. Zuilkowski, Esq.
Deputy Executive Director/General Counsel
State of Florida Commission on Ethics

By Email

Dear Mr. Zuilkowski:

I received your request for information regarding ABSE and am answering your questions.

1. No, I do not represent nor was I requesting information on behalf of ABSE or its Board members. I was asking on behalf of the School District which is seeking to join ABSE with an institutional membership. I was not sure if paying for an institutional membership with district dollars would run afoul of the ethics rules as ABSE is made up of current teachers and administrators within the District. There are 2 members that are retired employees of the District, all others are currently active employees of the School District.
2. All of the members of ABSE are current teachers or administrators (principals, assistant principals, directors, etc.) within the District. All employees are legally employees of the District although they may work at individual schools.
3. No board members of ABSE are compensated and therefore the funds paid for the membership would not go toward any compensation.
4. The board members of ABSE are selected from the general membership of the registered non-profit organization.
5. We were a little unsure of what was meant by this question. ABSE and the board established bylaws for the registered non-profit which allows for a tiered system of membership including individual, and institutional. Institutional membership gets the District 2 members with the group for 2 years. The School District is simply looking to join the group through the institutional membership.

Please feel free to reach out to me with any additional questions or concerns.

Thank you and have a great day and weekend.

Paul Gibbs
General Counsel
School Board of Brevard County, Florida

Paul Gibbs
District General Counsel
Phone: (321) 633-1000, ext. 11438

Zuilkowski, Steven

From: Gibbs.Paul@General Counsel <Gibbs.Paul@Brevardschools.org>
Sent: Tuesday, March 21, 2023 11:40 AM
To: Zuilkowski, Steven
Subject: RE: Formal Opinion

Good Morning Mr. Zuilkowski,

You may adjust the facts based on Dr. Ivery's information. She will be far more informed than I am on the workings of ABSE.

Thank you, and have a great day.

Paul Gibbs

From: Zuilkowski, Steven <ZUILKOWSKI.STEVEN@leg.state.fl.us>
Sent: Tuesday, March 21, 2023 11:13 AM
To: Gibbs.Paul@General Counsel <Gibbs.Paul@Brevardschools.org>
Subject: RE: Formal Opinion

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Mr. Gibbs:

I spoke with Dr. Ivery this morning and she was incredibly helpful and provided me with great insights into Brevard ABSE, which will be helpful to the Commission. In the course of our conversation, she mentioned that the institutional membership comes with two rank-and-file memberships to Brevard ABSE. She mentioned that these members do not automatically sit on the board of directors of Brevard ABSE.

In a conversation you and I had early on in this process, you had indicated to me that you thought the institutional membership included two memberships to the board of directors of Brevard ABSE. Would you mind if I adjusted the facts of your request to conform with Dr. Ivery's explanation that the institutional membership comes with two rank-and-file memberships that are not automatically members of the board of directors? Thank you for your time.

Steve

Steven J. Zuilkowski
Deputy Executive Director & General Counsel
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From: [Gibbs.Paul@General Counsel](mailto:Gibbs.Paul@GeneralCounsel) <Gibbs.Paul@Brevardschools.org>
Sent: Thursday, March 16, 2023 8:44 AM
To: Zuilkowski, Steven <ZUULKOWSKI.STEVEN@leg.state.fl.us>
Subject: FW: Formal Opinion

Good Morning Steve,

Please see the response below from Dr. Karen Ivery on her availability to discuss ABSE, along with her contact information.

Thank you, and have a great day.

Paul Gibbs

From: [Ivery.Karen@Elementary Programs](mailto:Ivery.Karen@ElementaryPrograms) <Ivery.Karen@Brevardschools.org>
Sent: Thursday, March 16, 2023 8:39 AM
To: [Gibbs.Paul@General Counsel](mailto:Gibbs.Paul@GeneralCounsel) <Gibbs.Paul@Brevardschools.org>
Subject: RE: Formal Opinion

With Spring Break I forgot to respond. I am free today from now until 11 and then from 1 until 4.

Free tomorrow

Next Week: Tuesday before 11

321-633 1000 ext 11542 or my cell 321-482-1728

From: [Gibbs.Paul@General Counsel](mailto:Gibbs.Paul@GeneralCounsel) <Gibbs.Paul@Brevardschools.org>
Sent: Thursday, March 9, 2023 7:34 AM
To: [Ivery.Karen@Elementary Programs](mailto:Ivery.Karen@ElementaryPrograms) <Ivery.Karen@Brevardschools.org>
Subject: FW: Formal Opinion

Good Morning Dr. Ivery,

Are you willing to talk to Steve Zuilkowski? It looks like when our issue went to the Commission on Ethics, some Commissioners may have had questions that he is trying to get answered, prior to going to the meeting which will now occur in April instead of March. Although we will get to see the draft opinion on April 5.

If you are willing to talk with him, let me know what number you would like him to call and times that you are available.

Thank you, and have a great day.

Paul Gibbs

From: Zuilkowski, Steven <ZUULKOWSKI.STEVEN@leg.state.fl.us>
Sent: Wednesday, March 8, 2023 4:28 PM
To: [Gibbs.Paul@General Counsel](mailto:Gibbs.Paul@GeneralCounsel) <Gibbs.Paul@Brevardschools.org>

Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>
Subject: RE: Formal Opinion

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Mr. Gibbs:

I've been asked to get more information about the Brevard ABSE. This information is necessary to determine whether a particular application of Section 112.316 is available to exempt certain public officers and employees from a conflict of interest. Is there someone from the organization to whom you could refer me so that I might ask them some questions? This opinion request is now scheduled to be heard by our Commission at the April 21, 2023 Commission Meeting. The draft will be posted to our website on April 5.

Steve

Steven J. Zuilkowski
Deputy Executive Director & General Counsel
Florida Commission on Ethics
P.O. Drawer 15709
Tallahassee, FL 32317-5709
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(850) 488-3077 (Fax)
ethics.state.fl.us

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Building E, Suite 200
Tallahassee, FL 32303

From: [Gibbs.Paul@General Counsel](mailto:Gibbs.Paul@GeneralCounsel) <Gibbs.Paul@Brevardschools.org>
Sent: Tuesday, February 21, 2023 9:48 AM
To: Zuilkowski, Steven <ZUILKOWSKI.STEVEN@leg.state.fl.us>
Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>
Subject: RE: Formal Opinion

He is not currently, and I don't think there is any intention of he naming himself to the board. We currently have an interim superintendent pending a search for a permanent, I'm not sure if the permanent would ever want to name themselves to the board. Presumably they would have the ability to change who they have named to the board with the membership.

Let me know if there are any further questions or concerns.

Thank you, and have a great day.

Paul Gibbs
Paul Gibbs, Esq.
General Counsel
Office of Legal Services
Brevard County Public Schools
2700 Judge Fran Jamieson Way
Viera, Florida 32940-6601
O: (321) 633-1000 ext. 11438

E-mail: Gibbs.Paul@BrevardSchools.org

From: Zuilkowski, Steven <ZUILKOWSKI.STEVEN@leg.state.fl.us>
Sent: Tuesday, February 21, 2023 9:46 AM
To: [Gibbs.Paul@General Counsel](mailto:Gibbs.Paul@GeneralCounsel) <Gibbs.Paul@Brevardschools.org>
Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>
Subject: RE: Formal Opinion

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Last question: is the Superintendent a member of ABSE or on its board of directors? If not, does he plan to be at some point after the purchase of the institutional membership? Thanks again.

Steven J. Zuilkowski
Deputy Executive Director & General Counsel
Florida Commission on Ethics
P.O. Drawer 15709
Tallahassee, FL 32317-5709
(850) 488-7864
(850) 488-3077 (Fax)
ethics.state.fl.us

Physical address:
325 John Knox Road
Building E, Suite 200
Tallahassee, FL 32303

From: [Gibbs.Paul@General Counsel](mailto:Gibbs.Paul@GeneralCounsel) <Gibbs.Paul@Brevardschools.org>
Sent: Monday, February 20, 2023 4:39 PM
To: Zuilkowski, Steven <ZUILKOWSKI.STEVEN@leg.state.fl.us>
Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>
Subject: RE: Formal Opinion

The Superintendent was interested in purchasing the membership. He has purchasing authority up to \$50,000.00.

Paul Gibbs

From: Zuilkowski, Steven <ZUILKOWSKI.STEVEN@leg.state.fl.us>
Sent: Monday, February 20, 2023 4:35 PM
To: [Gibbs.Paul@General Counsel](mailto:Gibbs.Paul@GeneralCounsel) <Gibbs.Paul@Brevardschools.org>
Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>
Subject: RE: Formal Opinion

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Mr. Gibbs:

I just left you a voicemail, but if you like, you can reply to this email instead. I was wondering which department within the School District is approving or making the purchase of the institutional membership with Brevard ABSE. Is it the School Board itself, or is it a department within the District? Thanks for your help on this.

Steven J. Zuilkowski

Deputy Executive Director & General Counsel

Florida Commission on Ethics

P.O. Drawer 15709

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(850) 488-7864

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Tallahassee, FL 32303

From: [Gibbs.Paul@General Counsel](mailto:Gibbs.Paul@GeneralCounsel) <Gibbs.Paul@Brevardschools.org>

Sent: Monday, February 6, 2023 11:50 AM

To: Zuilkowski, Steven <ZUILKOWSKI.STEVEN@leg.state.fl.us>

Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>

Subject: RE: Formal Opinion

Good Morning Mr. Zuilkowski,

Yes, I am fine with proceeding with my request as a formal opinion through the commission on ethics.

Thank you, and have a great day.

Paul Gibbs

Paul Gibbs, Esq.

General Counsel

Office of Legal Services

Brevard County Public Schools

2700 Judge Fran Jamieson Way

Viera, Florida 32940-6601

O: (321) 633-1000 ext. 11438

E-mail: Gibbs.Paul@BrevardSchools.org

From: Zuilkowski, Steven <ZUILKOWSKI.STEVEN@leg.state.fl.us>

Sent: Monday, February 6, 2023 11:41 AM

To: [Gibbs.Paul@General Counsel](mailto:Gibbs.Paul@GeneralCounsel) <Gibbs.Paul@Brevardschools.org>

Cc: Steverson, Kathryn <STEVERSON.KATHRYN@leg.state.fl.us>

Subject: Formal Opinion

Caution: This email originated from outside of Brevard Public Schools. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Gibbs,

In our phone conversation at the end of last week, I indicated that I believed that your ethics inquiry should be handled as a formal opinion request. If you would, please reply back to this email for our records indicating that this is acceptable. Thank you.

Steve

Steven J. Zuilkowski

Deputy Executive Director & General Counsel

Florida Commission on Ethics

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