CEO 25-6 – September 17, 2025

CONFLICT OF INTEREST

SCHOOL BOARD MEMBER AND PRIVATE BUSINESS OWNER VOLUNTEERING ON BEHALF OF HER PRIVATE BUSINESS AND PROMOTING HER PRIVATE BUSINESS WITHIN HER DISTRICT'S SCHOOLS

To: Name withheld at person's request (Flagler County)

SUMMARY:

Ethics advice is provided to a school board member as to a variety of circumstances involving her school district, her private business, and the clients of that business who may be district students. Referenced are CEO 78-86, CEO 80-19, CEO 80-35, CEO 82-13, CEO 82-28, CEO 82-85, CEO 84-111, CEO 89-47, CEO 90-42, CEO 94-5, CEO 03-7, CEO 04-17, CEO 05-14, CEO 07-9, CEO 09-3, CEO 09-10, CEO 10-3, CEO 10-12, CEO 10-15, CEO 12-23, CEO 13-13, CEO 13-16, CEO 13-21, CEO 14-21, CEO 14-27, CEO 15-2, CEO 15-14, CEO 16-9, CEO 16-12, CEO 19-23, CEO 22-1, CEO 22-3, CEO 22-4, CEO 23-2, and CEO 23-5.

QUESTION 1:

Would a prohibited conflict of interest be created for a member of a school board if their business sells services to students of the school district?

This question is answered as follows.

According to your inquiry, you are a recently-elected School Board member. In your private capacity, you are the owner of a small business that provides medical training, courses, and certifications. Your inquiry asks whether certain aspects of your business will conflict with your public office.

You describe your business as having two client bases for enrollment in its courses and trainings: adults and minors. Through your attorney, you informed Commission staff that your business has serviced 776 total clients in the last 2.5 years, consisting of 539 adults and 237 minors.

For adults, your business offers courses for certification and recertification for medical assistants and phlebotomists, which cost at least $1,299. Your business also offers stand-alone trainings in CPR and first aid, among other topics; the pricing of those offerings range from $25 to $120. Your business's most popular offering for adults (61% of all adult clients) is a stand-alone course in basic life support, the average cost of which is $75.

For minors, your business offers youth medical camps, which cost $600 for five days or $135 per day, and other courses appropriate for minors, which cost $25. Your business's most popular offering to minors (59.1% of all minor clients) is a babysitting certification course, which costs $135. These offerings to minors are unrelated to school curriculum and, you state, they are

unrelated to the District's effort to comply with the new law requiring that school districts provide basic training to students on first aid and CPR. See Ch. 2025-67, Laws of Fla.

You state that your business's sales to minors are not essential to your business and that your business could discontinue such sales without completely closing.

Your inquiry included several questions about whether your volunteerism, marketing strategy, and hiring practices would coincide with your public responsibilities to create a prohibited conflict of interest. However, in order to provide you with the full spectrum of ethical guidance, we must first address a preliminary issue: whether you would have a conflict of interest if your business sold its services to students of the District.

Relevant to your inquiry, Section 112.313(7)(a), Florida Statutes, provides:

> 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.

Because your business is not selling to the District and is not regulated by the District, which is a concern that would be addressed by the first part of this statutory provision, our analysis in this question is confined to second part of the statute. The second part of Section 112.313(7)(a) "establishes an objective standard which requires an examination of the nature and extent of the public officer's duties together with a review of his private employment to determine whether the two are compatible, separate and distinct or whether they coincide to create a situation which tempts dishonor." Zerweck v. State Comm'n on Ethics, 409 So. 2d 57, 61 (Fla. 4th DCA 1982) (internal quotations omitted).

As we have opined, "the statute is entirely preventative; it is directed at what might happen." CEO 07-9. In fact, it "does not require an actual transgression to occur for a conflict of interest to be found." CEO 22-3, Question 1 (citing CEO 05-14). While other provisions of the Code of Ethics address actual transgressions, the second part of Section 112.313(7)(a) only addresses the potential incompatibility of one's public position with a particular employment or contractual relationship. CEO 10-3, Question 1. The public need not hope that a public officer or employee will voluntarily refrain from acting on a conflict of interest because the statute entitles the public to a public officer who is free from prohibited conflicts of interest in the first place.

Our application of the second part of Section 112.313(7)(a) to the sale of goods and services to students by district officials and teachers has evolved over the 51-year history of this agency. Early on, we did not identify the sale of goods and services to students by district officials and teachers as an issue that concerned the second part of Section 112.313(7)(a).

For example, in 1980, we reviewed a scenario where an assistant superintendent of a school district would sell athletic supplies to students and found "no provision [of the Code of Ethics] which would prohibit this situation." CEO 80-35. We analyzed the scenario under several provisions of the Code of Ethics, but did not specifically analyze the scenario under Section

112.313(7)(a), and, perhaps for that reason, we did not discuss in the opinion the various aspects of the assistant superintendent's business model (e.g., whether the business sold equipment only to students or to the community at large, whether it was a retail establishment serving anonymous customers or another business model where the customer relationships were more involved, etc.).

Similarly, in CEO 80-19, which was issued that same year, we reviewed a schoolteacher's travel agency selling a trip to Mexico to a school-related organization comprised of the parents of gifted children from within the District. There, we opined that there would be no conflicting contractual relationship because "the particular organization of parents of gifted students involved here is not receiving financial support from the schools and is not directly controlled by the schools," which is to say that they were not regulated by or doing business with the school district, which is merely a concern for the first part of Section 112.313(7)(a). It does not appear we analyzed the second part of the statute.

Two years later, in CEO 82-85, we issued an opinion to a director of food service for a school district, opining that a prima facie conflict of interest under Section 112.313(3) would have been present if he sold photography services in his private capacity to his school district, but Section 112.313(3) would not be violated because he only wanted to sell his services to district students. Once again, we did not explicitly analyze the business model to determine whether the sale to students was a conflicting contractual relationship under Section 112.313(7)(a).

Starting in 2004, however, we began to recognize that some contractual relationships between district officials or teachers and district students could compromise the objective pursuit of their public responsibilities to those students, and could harm the public trust the Code of Ethics was intended to steward. Reflecting this recognition, the second part of Section 112.313(7)(a) became more prominent in our analyses of these contractual relationships.

For example, we opined that a teacher would have a prohibited conflict of interest if he sold tutoring services to the students in his classes. CEO 04-17, Question 3. We recognized that contractual relationships of this nature tempted the dishonor of teachers' public responsibilities, opining:

> [a] teacher who has a private contractual relationship with the parents of some of his or her students may be tempted to demonstrate favoritism to those students in grading, assignment of roles in school performances and events, and other in-class treatment. . . . By this we do not mean to suggest that the teacher would actually succumb to such temptation and thereby compromise his public duties in favor of his private interests. The statute is entirely preventative in nature. [CEO 04-17, Question 3.]

A few years later, we affirmed our opinion that some contracts between teachers and students could tempt one to dishonor his or her public responsibilities. In CEO 10-15, we opined that a public-school art teacher could operate an art camp as a private business, but that the second part of Section 112.313(7)(a) would prohibit her from selling admittances to the art camp to the students in her public school classes. In that opinion, we specifically identified the temptation creating the conflict of interest as "the potential for the teacher's responsibility to treat the child impartially to be impeded by the desire to maintain a harmonious and profitable relationship with the child and parents in his or her private endeavor." CEO 10-15.

Two years later still, we again opined that a public school teacher or coach could tutor or instruct children for compensation only as long as those children were not students in the teacher's

classes or on the coach's teams (and tryouts). CEO 12-23. As we applied the second part of Section 112.313(7)(a) in that opinion, we emphasized "our recognition that the conflicts found are based on a teacher (public school district employee) having public capacity power or duties regarding a student at the same time that the teacher seeks to do secondary business with the student (or parents) or engages in secondary employment tutoring or instructing the student." Id. (parentheticals there).

In 2015, we considered a teacher who owned a company that sold shirts. In CEO 15-2, we opined that the teacher "could sell to customers who pay with their personal funds, without limitation, unless they are students in your classes or in your public charge."

In 2016, we considered a teacher selling not remedial or nonremedial tutoring, coaching, or camps, but legal services. There, we opined that a teacher who maintained outside employment as an attorney could not have students in his classes (or subordinate district employees) as clients. CEO 16-12, note 3.

We have not limited our application of the second part of Section 112.313(7)(a) to teachers; we have also recognized that the staff of a school and even school board members may also be tempted to dishonor their public responsibilities when selling goods or services to students within their districts. In CEO 13-21, we considered an opinion request from a middle school teacher for exceptional and special education (ESE) students, who also served the entire middle school as an ESE support facilitator and the ESE department chair. We advised that his business, which sold therapy and counseling services, could not sell to students of his middle school because the "temptation extends to all students in the teacher's middle school, given the breadth of his several ESE roles at the school." In CEO 14-27, we addressed a school board member who owned a private education company that sold tutoring services. We found the company's sale of tutoring services to district students created a prohibited conflict of interest under the second part of Section 112.313(7)(a) because it could undermine the school board member's objectivity regarding student matters.

To the best of our knowledge, since 2004, every time we have opined about the propriety of a school district officer or employee selling goods or services to students, we have performed an analysis of the second part of Section 112.313(7)(a), and each time we have concluded that the sale of goods and services cannot occur if the officer or employee has public responsibilities to that student.[1] In each of those opinions, the finding of a conflict of interest prohibited the public officer or employee from maintaining a contractual relationship that could tempt him or her to dishonor his or her public responsibilities by showing favoritism or special attention to matters

[1] CEO 10-12 is not an exception to that. In that opinion, we considered the inquiry of a candidate for school board who was the president of a school uniform company. The school district had named his company as a "preferred vendor." He asked whether that "preferred vendor" status would coincide with his public office to create a prohibited conflict of interest if he was elected. As part of our opinion in that matter, we concluded that the requestor would not have a conflict of interest under Section 112.313(3), Florida Statutes, because he was not selling goods or services to his own agency, as is prohibited under subsection (3), but to the parents and students of the district. We limited the scope of the advisory opinion to whether the preferred vendor status created a conflict, but never addressed whether the sale of goods and services to students of the district would create a prohibited conflict under the second part of Section 112.313(7)(a). We do not find CEO 10-12 to be persuasive authority here to interpret a part of the statute it did not even analyze on a question it did not even consider.

affecting a student-customer. Underpinning the reasoning of our opinions since 2004 is that a necessary predicate for showing a student favoritism is knowing the student's identity and also understanding how a public capacity action might motivate, encourage, or induce that student to continue to transact business privately.

The businesses on which we have opined since 2004 concerned tutoring (CEO 04-17), tutoring and coaching (CEO 12-23), and attendance at art camps and non-remedial tutoring (CEO 10-15). The businesses described in those opinions involve the students transacting and consuming the services of the business in an open and personal manner, and they necessarily require the employees and contractors of the business to form relationships with the students. Tutoring services and camp services require enrollment and registration and the services are impossible to provide impersonally.

On the other end of the spectrum, we can imagine, for instance, a school board member or teacher operating a fast-food restaurant where tens of thousands of customers annually order food at a drive through window or across a counter, never even having to identify themselves in the transaction, and receive their food, without the establishment having to attend to them further. There is no enrollment or registration, there is no personalized service, and there is no personal relationship formed. The business is designed to be completely anonymous, nearly instantaneous, and unobtrusive. In such a scenario, we would be hard-pressed to find that the owners of those kinds of businesses could be tempted to dishonor their public responsibilities "to maintain a harmonious and profitable relationship with the child and parents" because they would be, by design, unlikely to be able to identify individuals among their tens of thousands of customers or to identify what their interests might be such that a public action could be taken to motivate them to continue transacting business privately.

To understand whether your business will tempt you to dishonor your public responsibilities, we must analyze your business's place on that spectrum. We find your business is more like the tutoring businesses and the art camp, than a hypothetical fast-food restaurant. Like the tutoring businesses and the art camp, your business requires each student be identified through an enrollment process, and the service is performed in an interpersonal manner that fosters relationships with the clients. Also, like the tutoring business and the art camp, your business has serviced a numerable number of clients over a 2.5-year period, which indicates that your business model places a larger emphasis on the importance of each client than, for example, a hypothetical fast-food restaurant.

As a member of the School Board, you may infrequently undertake votes on matters affecting individual students. However, much more frequently, perhaps inevitably, you will be contacted by parents to intercede on matters affecting individual students, drawing the attention of District staff to individual student matters that might otherwise be handled without special attention, consideration, or pressure from a School Board member. While any parent might call upon a school board member to intercede on a student matter, that board member is in a position to be tempted to more freely give attention to matters affecting an identifiable client or customer of his or her business. That is a cause for concern here, as the situation creates a temptation to favor students and families of your private business over your public responsibilities.

Under the unique circumstances presented by this inquiry, we find that the sale of the services by your business to District students could tempt you to dishonor your public responsibilities in favor of your private interests, and that is all that is required to find a conflict of interest under the second part of Section 112.313(7)(a).

In coming to this conclusion, we must acknowledge that very few of your clients are minors, and that you believe a minority of those are District students. The statute explicitly precludes contractual relationships "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." [Emphasis added.] To give the meaning to the second half of that disjunction (after the "or"), which does not require that the conflict be frequently recurring, we have repeatedly opined that a single instance can give rise to a violation of the second part of Section 112.313(7)(a). See CEO 78-86 ("[A]ny representation of a client for compensation before a board of which one is a member impedes the full and faithful discharge of one's public duties"), CEO 89-47 (A public officer's firm could not represent a client before the officer's board "in any hearing"), CEO 09-10 (The representation of a client by a public officer or a member of his or her firm before the public officer's board, even a single appearance, was a prohibited conflict), CEO 13-16 (a city police officer's private investigations firm could not take on any clients from outside his city to investigate matters of marital infidelity and employee theft because, even though those matters would be unlikely to result in criminal investigations in his city, his participation in those criminal investigations would be likely if they were to arise), and CEO 15-14 (a county employee serving on the committee that determines whether a Section 8 tenant's participation in the program should be terminated would tempted to dishonor his public responsibilities if he rented to any tenants receiving Section 8 rental vouchers from the county).

We also must acknowledge that nothing in your inquiry would indicate that you would intentionally compromise your public responsibilities in favor of your private interests. "In making our finding of a prohibited conflict, we do not impugn [your] character or personal integrity," and we do not imply that you intend to act on the conflict we have identified here. CEO 10-3, Question 1. As we said earlier, we only address the incompatibility of being a member of a school board and operating the business as described in the inquiry.

Question 1 is answered accordingly.

QUESTION 2:

May a school board member volunteer at schools to educate students on matters generally pertaining to the services your business offers?

This question is answered in the affirmative.

Next, we consider whether you may continue to volunteer at District schools by performing first aid and phlebotomy demonstrations and discussing career pathways in the medical field.[2]

Prior to initiating your campaign for election to the School Board, you volunteered on behalf of your business at District schools. In District high schools, you represented your business at career fairs to market your certification courses in medical assisting and phlebotomy. In District elementary and middle schools, you visited classrooms to discuss general medical topics, like stress management, self-confidence and self-care education, and dietary information. These volunteer opportunities sometimes involved demonstrations for CPR or phlebotomy. Prior to the

[2] We understand this question to be distinct from the issue of whether you may market your business by wearing branded clothes or distributing branded materials while volunteering, which is addressed in Question 3, below.

commencement of your campaign, you wore your business's uniform emblazoned with its logo and distributed branded informational materials like pamphlets and business cards. Since then, however, you have not worn branded uniforms or distributed branded material when volunteering at District schools.

Section 112.313(6), Florida Statutes, proscribes the corrupt misuse of a public officer's or public employee's position. Specifically, it states:

> MISUSE OF PUBLIC POSITION.--No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others.

In a similar manner, the Florida Constitution prohibits the abuse of one's position to achieve a disproportionate benefit for oneself and certain others. Specifically, Article II, Section 8(h)(2), Florida Constitution, states:

> A public officer or public employee shall not abuse his or her public position in order to obtain a disproportionate benefit for himself or herself; his or her spouse, children, or employer; or for any business with which he or she contracts; in which he or she is an officer, a partner, a director, or a proprietor; or in which he or she owns an interest.

The Commission promulgated a rule detailing several factors for determining whether a benefit, privilege, exemption, or result constitutes a "disproportionate benefit." Rule 34-18.001(3), Fla. Admin. Code; see also CEO 19-23.[3]

Your volunteerism is a purely gratuitous act. You visit the schools to convey information to the students. Where you are not simultaneously taking the opportunity to market your business by distributing branded materials or wearing branded clothing, the nature of your interest in the event is such that no special privilege, benefit, or exemption or disproportionate benefit results from your participation. For that reason, we find that Section 112.313(6) and Article II, Section 8(h)(2), Florida Constitution, will not operate to restrict you from volunteering at District schools.

Your question is answered accordingly.

QUESTION 3:

> May a school board member market her business to students when she volunteers at schools?

This question is answered as follows.

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[3] According to Rule 34-18.001(3), Fla. Admin. Code, the Commission must consider several factors to determine whether a benefit is disproportionate, including the nature of the interests involved.

In your inquiry, you ask whether you may resume wearing clothing branded with your business's logo and distributing branded materials discussing your business's course offerings when volunteering in District schools. You also ask whether you may use an online digital platform called PeachJar to market your business. According to you, this platform allows local businesses, subject to approval by the individual schools, to disseminate commercial flyers to students and parents by email. Both questions involve the targeted marketing of District students in District contexts.

As noted above, a violation of Section 112.313(6), Florida Statutes, requires (1) a use or misuse of a position, (2) a benefit, privilege, or exemption to oneself or another, and (3) a corrupt intent.

First, we see your presence in a District school, or your use of any District processes through District-approved digital platforms, as an unavoidable use of your position. As an elected constitutional officer and member of the School Board, you carry the authority and gravitas of your office, at a minimum, whenever you interact with others on a District property or in a District-approved digital space and the inalienable nature of your authority distinguishes you from any other business owner that might volunteer in the schools. Emblematic of this, Section 1001.4205, Florida Statutes, allows any district school board member to, "on any day and at any time at his or her pleasure, visit any district school in his or her school district" without any limitation by the superintendent or school principal on "the duration or scope of the visit" and without any limitation by board, district, or school administrative policy. It is clear the law intends for you to have this authority whenever you are present in a school. We also see the potential for each interaction you have with students, parents, and District staff when inside a school or in a District-approved digital space to be influenced by the inalienable nature of your authority there. You could potentially opt to wear another hat, so to speak, in other places in the community, but the setting matters, and those with whom you interact with inside a school, especially students, will likely not be able to tell the difference.

We commented on this dynamic in CEO 80-35, when we advised an assistant superintendent of a school district that he could sell athletic supplies to district students (this opinion is discussed in context in Question 1. In that opinion, we connected the use of his position to his presence on school property, cautioning:

> …we would advise that you be extremely careful to avoid both the use of your position and the appearance of using your position in any manner in connection with sales of athletic supplies to individual customers who may be students in public schools or teachers employed by the school district. For example, we suggest that you be particularly cautious about personal solicitations of students and personnel of the school system *while on school property.*

[Emphasis added.]

Further demonstrating that we have found physical presence on the premises of one's office to be a use of that office, we found probable cause of a violation of Section 112.313(6) in In re Mae Beville, Complaint No. 04-233. In that case, the respondent was a county supervisor of elections who, on numerous occasions, wore a name tag with the text "Re-elect Mae Beville" when she was physically present in the office of the supervisor of elections.

Second, we also see any effort to market your business while volunteering within a District school as demonstrating an obvious commercial benefit to you and your business by raising consumer awareness of your services and brand recognition.

That brings us to third element: whether the marketing of your business to District students in District contexts would be corrupt within the meaning of the statute. It has been our position in recent years not to resolve fully the question of whether something would constitute a misuse of office under Section 112.313(6) because such would require a determination of one's state of mind. A corrupt intent is "difficult to determine outside the context of an ethics complaint, where a full investigation and administrative hearing can be conducted to collect all relevant information and judge the credibility of witness testimony." CEO 23-5, note 6 (citing CEO 22-4, Question 3, and CEO 22-3, Question 2). With that being said, we have some relevant observations that may assist you in proceeding.

The Code of Ethics defines "corruptly" to mean "done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties."§ 112.312(9), Fla. Stat. The District Court of Appeal has interpreted the statute to find no corrupt intent where there is a valid public purpose for the use of one's position, notwithstanding that the use provides an incidental private benefit to the official. See Blackburn v. State Commission on Ethics, 589 So. 2d 431 (Fla. 1st DCA 1991).

It appears the private benefit realized by you and your business when marketing while volunteering in a District school will not be incidental to a public purpose. It is apparent that the public purpose of your volunteerism—the pedagogical benefit to the students—can be achieved without simultaneously marketing your business, and that the marketing of your business in a school, divorced from the volunteering, achieves no separate public purpose. In short, if you are purely volunteering in schools to provide instruction or information to District students—as described in Question 2—the "benefit" and "corrupt intent" elements required to show a misuse of position will be missing. However, if you are marketing or promoting your business in any way while engaging in such volunteering, an argument can be made that all three required elements will be met and Section 112.313(6) will be violated.[4]

We recognize that other private sector businesses might volunteer in the classrooms and their representatives might wear uniforms with logos and distribute branded materials, but we do not believe they are your comparators. More appropriately, your comparators are the other District officials, faculty, and staff in the building who also cannot market their private businesses to students in a captivated setting.

Your question is answered accordingly.

QUESTION 4:

Will a prohibited conflict of interest be created if a school board member hires teachers from her district to work for her private business?

This question is answered in the affirmative.

[4] The same observations are applicable to an analysis of the prohibition against abusing one's position to obtain a disproportionate benefit found in Article II, Section 8(h)(2), Florida Constitution.

You ask whether you, as a School Board member, may hire District employees as employees or independent contractors of your private business without violating any ethical standards.

We first considered the question of whether a public employee entering into a private contractual relationship with his or her subordinate would present a conflict of interest in CEO 82-28, where we recognized the looming likelihood that "[the] private business relationship and the employee's interests in keeping that relationship harmonious, productive, and profitable would impede the employee's duty of impartially evaluating the subordinate's job performance and would lead to a frequently recurring conflict between those interests." CEO 82-28.

We went on to extrapolate that a public officer and his or her subordinate's private contractual relationship would create a conflict of interest unless: (1) the public officer had no discretion over the subordinate and (2) the scope of the private business activity between the employee and the subordinate was limited. CEO 84-111 (no conflict of interest existed where officers of a city police department also worked together privately as independent contractors doing polygraph examinations because "the officers do not evaluate the detective who owns the polygraph company and do not have the authority to hire or fire detectives"), CEO 90-42 (no conflict of interest where a city manager and his subordinate together owned rental property because the city manager had only limited discretion regarding the subordinate's salary increases and because the scope of the private business activity between the city manager and his subordinate was comparatively limited).

We have readdressed this scenario more recently, finding that if a public officer engages in private business with a subordinate over whom she has "evaluation or recommendation responsibility," an inherent conflict of interest exists because such a private business relationship would compromise the public officer's objectivity in performing her public duty. CEO 09-3.

For example, in CEO 09-3, we considered an opinion request concerning a lieutenant of a city fire department who was the owner of a company that sold training to fire service and health care personnel. There, we opined that the lieutenant could continue to operate his business, but that he could not sell the training services to any firefighter over whom he had evaluation or personnel action recommendation responsibilities. We opined that his public job responsibilities to those employees would coincide with his private interests to create a prohibited conflict of interest, if he were allowed to sell to them.

In CEO 15-2, we again expressed our concern about forming contractual relationships with subordinate employees. In that opinion, we opined that a teacher who owned a company that sold shirts could not sell to "persons you supervise or evaluate in your public employment."

We have also investigated contractual relationships between public employees and their subordinates in our complaint process. In In re Angela Grant Sapp, Complaint No. 22-044, we found probable cause of a violation of Section 112.313(7)(a) when a member of the Quincy City Council accepted a $20,000 loan from the city manager, where the city council had the authority to review the performance of the city manager and, if necessary, to terminate him.

In fact, we have previously considered two situations analogous to yours, and, in both, determined that the recruitment and/or hiring of district school teachers by a school board member would impede the school board member's full and faithful discharge of her public duties. First, in CEO 14-21, we determined that a school board member could not, as part of her employment with a literacy foundation, recruit district teachers to work at the foundation because "she could be tempted to act less than objectively toward teachers in her District depending on whether or not they worked for the Foundation."

Second, we expounded on that analysis CEO 14-27, where we held that a school board member could not hire a district teacher to work for her private tutoring company, even though the school board member stated her public role did not require her to review how district teachers were performing and the presentation of teacher disciplinary recommendations to school members was "fairly rare." We determined that privately hiring a district teacher would compromise the school board member's public capacity duties because it was "inescapable" that the school board had authority or responsibility regarding district teachers, regardless of how rarely disciplinary recommendations came before the board, and the school board member's private employment of certain teachers might favorably dispose her toward those teachers.

Like the school board member in CEO 14-27, you have advised that your School Board reviews disciplinary recommendations made by the District Superintendent and staff concerning particular teachers. Pursuant to the Flagler County Public Schools School Board Policy Manual, the School Board also has the explicit authority to terminate employees, to accept the resignation of administrative and instructional staff members, and to consider appeals of complaint resolutions.[5] Your private employment of a District teacher would impede the full and faithful discharge of your public duties as a School Board member because you could be favorably disposed toward any teachers you privately employ in any of their matters that come before the School Board. In order words, here, as in CEO 14-27, "questions could be raised regarding your objectivity," regardless of whether such matters coming before the School Board were "fairly rare."

You note in your inquiry that you would be willing to recuse yourself from any votes regarding any matters before your School Board that might involve District teachers who are also employees of your private business. We find it important to clarify that recusal from a vote does not negate a prohibited conflict of interest under Section 112.313(7)(a). See CEO 16-9 n.4. See also CEO 03-7, Question 1, CEO 94-5, and CEO 23-2 n.10 (citing In re Milton West, Complaint No. 16-032, Final Order No. 17-057, aff'd by sub nom. Milton West v. Comm. on Ethics, 5D17-2076 (Fla. 5th DCA 2018)). This is because the voting conflict law, found in Section 112.3143, Florida Statutes, operates distinctly from Section 112.313(7)(a). CEO 94-5. Avoiding a voting conflict does not obviate the existence of a prohibited conflict of interest arising from a conflicting employment or contractual relationship: 0

> Nothing in Section 112.313(7)(a) indicates that compliance with Section 112.3143 creates an exemption from [its] application . . . . Moreover, we do not believe that abstention should have the effect of creating an exemption, because [a public officer's] duties are not confined to voting on or participating in matters which come before [his or her board] for formal consideration[.]

CEO 23-2 n.10. Thus, recusing yourself from a vote involving a District employee who you also hired to work for your private business would not negate the prohibited conflict of interest under Section 112.313(7)(a).

For these reasons, the second part of Section 112.313(7)(a) would prohibit you from hiring a District teacher or employee to work for your private business, either as an employee or as an independent contractor, because the private contractual relationship between your business and

[5] Chapter 6, Code 651, 624, and 649 of the Flagler County Public Schools School Board Policy Manual.

that employee could undermine your objectivity as a School Board member and, ultimately, would impede the full and faithful discharge of your public duties.

Your question is answered accordingly.

QUESTION 5:

> Will a prohibited conflict of interest be created if the business of a school board member sponsors a school team in exchange for the school printing the logo of the business on the team's shirts?

This question is answered in the affirmative.

Prior to your election to the School Board, your business would sponsor certain school events. For example, you state that your business recently had an opportunity to sponsor the Future Problem Solvers Team at a District school. In return for your sponsorship, the school would place your business's name and logo on the team's shirts. You inquire as to whether your business can continue to sponsor District teams in this manner, and receive similar recognition in exchange, now that you are a member of the School Board.

The answer to this question requires an analysis under Section 112.313(7)(a). With regard to the prohibition in the first part of Section 112.313(7)(a), an entity is "doing business" with an agency "if they have entered into a lease, contract, or other type of arrangement where one party would have a cause of action against the other in the event of a breach or default." CEO 22-1. We have said in our opinions that donating to an agency does not amount to "doing business" with an agency because "'doing business' contemplates an exchange of consideration, such as money, property, or services." CEO 82-13. See also CEO 22-3, Question 1.

Along those lines, we have found that making a donation to an agency with the understanding that the agency has a mutual obligation in response would likely amount to "doing business." In CEO 13-13, a member of the Sarasota Manatee Airport Authority personally contracted to purchase some property about a half-mile from the end of one of the airport's runways and paid a deposit. The Board Member wanted to donate the purchase rights under the contract to the Airport Authority if the Airport Authority agreed to pay off the Board Member's deposit so the entirety of the deposit could be returned to the Board Member. We opined that, "in a strict sense it might be said that the Commissioner would hold a contractual relationship with a business entity (his company or his proprietorship) doing business with the Airport Authority (his public agency) by virtue of the mutual obligations of the donation." CEO 13-13.

Here, the facts as you present them indicate that your business's sponsorship of a team would consist of a one-time payment of money to the school to support a specific endeavor. In exchange for your business's sponsorship of a team, the schools will place your business's logo on the team's shirts.

Under your particular factual circumstances,[6] we determine that the placement of your business's logo on the shirts of a school's team would constitute consideration in exchange for your business's sponsorship. And such consideration would amount to your business "doing business" with the school. Thus, such a sponsorship would violate the first prohibition of Section 112.313(7)(a). However, if your business were to simply donate the sponsorship funds to the schools, without the expectation that the school would place your business's logo on the shirts,

[6] We limit the scope of this opinion to the facts presented in this particular scenario.

then we would consider that transaction to be a donation, and not doing business with your agency.[7]

Your question is answered accordingly.

ORDERED by the State of Florida Commission on Ethics meeting in public session on September 12, 2025, and **RENDERED** this 17th day of September 2025.

Jon M. Philipson, *Chair*

[7] We do not opine that all payments of money constitute a contractual relationship or doing business.