



TO: Senate Government Operations Committee  
FROM: Sue Ceglowski, Executive Director  
RE: H.875 as passed by the House  
DATE: April 19, 2024

Good afternoon, my name is Sue Ceglowski, Executive Director of the Vermont School Boards Association. Thank you for the opportunity to provide testimony on H.875.

First, I would like to give you some context by providing you with a brief overview of the ethics resources currently utilized by school board members.

The Vermont School Boards Association provides new school board members with free training on their roles and responsibilities, including their ethical responsibilities. We also provide free monthly webinars for all members which cover timely topics and include roles and responsibilities. As part of those trainings, school board members learn about the Essential Work of Vermont School Boards, which includes six areas:

1. Establish a Vision and Engage the Community
2. Establish Policy
3. Budget and Financial Oversight
4. Board and Superintendent Partnership
- 5. Effective and Ethical Operations**
6. Monitor Progress and Performance

VSBA provides resources for school board members in each of the six areas, including model policies, delineation of the roles and responsibilities of the school board and the superintendent, self assessment tools and additional resources.

In the area of Effective and Ethical Operations, VSBA provides a model conflict of interest policy which is attached to this testimony (all school boards are required by 16 VSA Section 563(20) to have this policy), a model code of ethics, delineation of ethics roles and responsibilities of the school board and the superintendent, a self assessment tool, and additional resources including a webinar on addressing board member conduct, sample procedures for addressing board member conduct, and recommended operating protocols.

In addition to these trainings, we send the book *The Essential Work of Vermont School Boards* to each new school board member in the state (free of charge). I will leave a copy of this book with the Committee Chair in case it is helpful for the Committee to see the contents. Specifically, I would point you to the Effective and Ethical Operations section on page 55, the model code of ethics for school board members on page 56, the sample board operating protocols on pages 79-80, and the section on addressing board member misconduct on pages 92-93.

The section on addressing board member misconduct states that it is the duty of all school board members to adhere to the highest ethical standards and that the clearer a board is about expectations for board member conduct and a process for addressing unethical conduct, the better it will be equipped to address issues when and if they occur. These are the expectations provided to boards:

- As trustees for education on behalf of their communities, members of the board should discuss and agree to conduct themselves in accordance with the following responsibilities:
- Board members ensure prudent use of the district's assets, including facilities, people and good will.

- Board members ensure that the district follows applicable laws, policies and regulations or actions adopted by the board.
- Board members do not engage in activities that harm the district's ability to pursue its mission.
- Board members provide oversight to ensure activities of the district advance its effectiveness and sustainability.
- Board members make decisions that are in the best interest of the district, not in individual self interest, including personal and financial interests.
- Board members avoid taking actions or making representations that compromise the authority of the full board of directors to make decisions on behalf of the district.

Once a board has discussed and agreed to operate in accordance with these responsibilities, it is critical that board member conduct that violates those expectations is addressed in a consistent manner. One way to ensure consistency is to adopt a code of ethics (provided on VSBA's website and in the *Essentials* book) and a process for addressing board member misconduct.

The *Essentials* book provides a sample process on page 93. It is set out below in italics:

*Sample Process for Addressing Board Member Misconduct*

*It will be considered misconduct for a member of the board of directors to fail to adhere to the expectations agreed to by the board, or to engage in conduct that is otherwise injurious to the district.*

*The board chair (or, if the situation involves the board chair, another board member) shall document and give written notice of the alleged misconduct to the board member. Such written notice may be subject to a public records request and should be limited to a description of the alleged conduct and the specific expectation that was violated by the conduct.*

*After three documented instances of alleged misconduct, or one instance of serious misconduct that directly harms the district, the board chair (or, if applicable, the*

*executive committee of the SU/SD board) will (meet to) review the conduct of the board member. The person who is the subject of the misconduct allegations will be given a chance to view the documentation of alleged misconduct and to meet with the board chair/executive committee to respond to the allegations.*

*Discussion of a board member's performance is a permissible subject for discussion in executive session under Vermont's open meeting law. See 1 VSA Section 313(a)(3). However, any action taken to censure or issue a formal request for resignation must occur in open session.*

*After meeting with the subject of the alleged misconduct, the board chair (or executive committee, if applicable) may recommend one or more the following actions to the full board of directors for its action:*

- 1. Board level discussion of the misconduct, including a possible vote of censure against the person in question.*
- 2. Communication of the misconduct to the community represented by the board member.*
- 3. A formal request for that person's resignation from the board of directors.*

*Before taking any of the above actions, a board should consult with its attorney to ensure the wording of any proposed motion does not create legal issues for the district.*

The above resources provide school boards with tools to utilize in the event of board member conflict of interest and other possible misconduct. If the Committee is considering adding school boards to H.875, we strongly recommend that you take testimony from the Agency of Education on any interconnectedness or overlap with the new Governance Standards for school boards which are part of the District Quality Standards required by Act 127 of 2022.

We also recommend that you take testimony from the Vermont Superintendents Association, Vermont Principals' Association and the Vermont-NEA because it appears that the bill could sweep in administrators, and possibly even teachers, as "officers."

Additionally, there are concerns about the liaison to the State Ethics Commission outlined in the bill - school boards would be required to designate an employee as their liaison to the commission and designate an officer to receive and investigate complaints. Most likely this would be an administrator within the school system. This setup is antithetical to the trust that school boards and administrators seek to build in order to work together productively for the betterment of their school system.

Finally, we are very concerned that adding school boards to the bill will result in additional unfunded costs for school districts at a time when an unprecedented number of school budgets have experienced multiple defeats.

Thank you for the opportunity to testify on H.875. Please see below for more information on VSBA's ethics resources for school boards.

## Efficient and Ethical Operations: Roles and Responsibilities

### School Board

1. Operates with the highest legal and ethical standards
2. Adopts policies and protocols governing effective and ethical operations
3. Governs the business of the district through meetings conducted in accordance with Vermont's open meeting law
4. Participates in opportunities for board development and training
5. Handles quasi-judicial hearings in a consistent and orderly fashion and arrives at clear, fair conclusions
6. Understands they are community trustees to assure quality education and that taxpayers get a great return on investment, not the operators of the school

### Superintendent

1. Along with the board chair, participates in eight hours of legally-mandated training annually
2. Oversees procedures for legal compliance with all applicable laws and regulations
3. Supports the board in ensuring compliance with and regular review of policy
4. Attends all meetings of the board
  - Provides staff at board meetings when appropriate for minute taking and other supports
  - Ensures that the technical provisions of the open meeting law including posting warnings, agendas, and meeting minutes are followed
5. Assists the board in obtaining opportunities for board development
6. Obtains legal resources and supports for the board when necessary

16 V.S.A. 563

16 V.S.A. 561



## Code of Ethics for Vermont School Board Members

As a member of my local school board, I will remember that my primary concerns must be the educational welfare of the students in my district and excellent return on investment for taxpayers. I agree to conduct myself in accordance with the following commitments. I will:

### **Act within the scope of my official role:**

- Act only as a member of the board and not assume any individual authority when the board is not in session, unless otherwise directed by the board
- Give no directives, as an individual board member, to any school administrator or employee, publicly or privately
- Avoid making commitments that may compromise the decision-making ability of the board or administrators

### **Act within the scope of my fiduciary role:**

- Ensure prudent use of the district's assets, including facilities, people, and good will.
- Ensure that the district follows applicable laws, policies and resolutions or actions adopted by the board.
- Refrain from engaging in activities that harm the district's ability to pursue its mission.
- Provide oversight to ensure activities of the district advance its effectiveness and sustainability.

### **Uphold the highest ethical standards:**

- Not receive anything of value, by contract or otherwise, from the school district or supervisory union unless it is received:
  - as a result of a contract accepted after a public bid
  - in public recognition of service or achievement
  - as a board stipend reimbursement or expense allowed by law for official duties performed as a member of such board;
- Not solicit or receive directly or indirectly any gift or compensation in return for making a recommendation or casting a vote;
- Agree to recuse and remove myself from board deliberation and votes when necessary to avoid the appearance of conflict of interest;
- Not agree to the hiring of a superintendent, principal, or teacher already under contract with another school district unless assurance is first secured from the proper authority that the person can be released from his or her contract

### **Respect my peers and constituents, and uphold confidentiality:**

- Voice opinions respectfully and treat with respect other board members, administrators, school staff, and members of the public;
- Maintain confidentiality of information and discussion conducted in executive session and uphold applicable laws with respect to the confidentiality of student and employee information;
- Attend all regularly scheduled board meetings insofar as possible.

***I agree to abide by the expectations outlined in this Code of Ethics and will do everything in my power to work as a productive member of the leadership team.***

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**REQUIRED<sup>[1]</sup>**

## **BOARD MEMBER CONFLICT OF INTEREST**

### **Statement of Policy**

It is the ethical and legal duty of all school board members to avoid conflicts of interest as well as the appearance of conflicts of interest.

### **Definitions**

1. **Conflict of interest** a situation when a board member's private interests, as distinguished from the board member's interest as a member of the general public, would benefit from or be harmed by their actions as a member of the board.

### **Administrative Responsibilities**

The board and its members shall adhere to the following recommended standards:

1. A board member shall not give the impression that they would represent special interests or partisan politics for personal gain.
2. A board member shall not give the impression that they have the authority to make decisions or take action on behalf of the Board or the school administration.
3. A board member shall not use their position on the Board to promote personal financial interests or the financial interests of family members, friends or supporters.
4. A board member shall not solicit or accept anything of value in return for taking particular positions on matters before the Board.
5. A board member shall not give the impression that their position on any issue can be influenced by anything other than a fair presentation of all sides of the question.
6. Board members shall be familiar with, and adhere to, those provisions of Vermont education law that define school board powers and govern board member compensation and public bidding processes.
7. When a board member becomes aware that they are in a position that creates a conflict of interest or the appearance of a conflict of interest as defined in state law or this policy, they shall declare the nature and extent of the conflict or appearance of conflict for inclusion in the board minutes, and shall abstain from voting or participating in the discussion of the issue giving rise to the conflict.

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[1] 16 V.S.A. § 563(20) requires each school board to "establish policies and procedures designed to avoid the appearance of conflict of interest."



8. When a conflict of interest claim against a board member is brought to the board in writing and is signed by another board member or a member of the public, and the board member against whom the claim is made does not concur that a conflict in fact exists, the following board procedures shall be followed.
  - a. Upon a majority vote of the remaining board members, or upon order of the chair, the board shall hold an informal hearing on the conflict of interest claim, giving both the board member and the person bringing the claim an opportunity to be heard.
  - b. At the conclusion of the informal hearing, the remaining board members shall determine by majority vote whether to:
    - i. Issue a public finding that the conflict of interest charge is not supported by the evidence and is therefore dismissed;
    - ii. Issue a public finding that the conflict of interest charge is supported by the evidence and that the member should disqualify themselves from voting or otherwise participating in the board deliberations or decision related to that issue, as required by Vermont statute; and/or
    - iii. Issue a public finding that the conflict of interest charge is supported by the evidence and the board member should be formally censured or subjected to such other action as may be allowed by law.