

**PRESENTED AT**

**35<sup>th</sup> Annual School Law Conference**

February 20-21, 2020  
Austin, TX

**Quid Pro Quo  
School Officials and Conflicts of Interest: Issues  
Affecting Lawyers**

**John M. Hopkins  
Thompson & Horton, LLP**

**Christie Hobbs  
Northwest Independent School District**

# **Quid Pro Quo School Officials and Conflicts of Interest: Issues Affecting Lawyers**

John M. Hopkins  
Thompson & Horton, LLP  
and  
Christie Hobbs  
Northwest Independent School District

## **I. Introduction**

School officials are governed by numerous conflict-of-interest statutes, regulations, and policies, dictating when they can accept payments, gifts, and other benefits and when such matters require disclosure or disqualify an official from participating in a decision or vote. Following is an overview of the relevant provisions with additional consideration given to how these provisions impact the activities of in-house school attorneys or private attorneys representing school districts.

## **II. Disclosure Requirements of Chapter 176 of the Local Government Code**

### **A. Overview of Reporting Requirements**

Chapter 176 requires Local Government Officers (LGOs) and vendors to disclose certain business relationships, gifts, and family relationships when vendors enter contracts with school districts or are under consideration for contracts.<sup>1</sup> LGOs include board members, superintendents, and any agent of a district who exercises discretion in the planning, recommending, selecting, or contracting of a vendor.<sup>2</sup> An agent is a third party who transacts business or manages an affair on account of or under the authority of a district. Agents include district employees.<sup>3</sup>

An LGO of a district must file a conflicts disclosure statement (Texas Ethics Commission Form CIS) regarding a vendor that enters or is considering entering a contract with the district if:

- 1) the vendor has an employment or other business relationship with the LGO or a qualifying family member of the LGO that results in the LGO or family member receiving taxable, non-investment income that exceeds \$2,500 during the 12 months preceding the LGO becoming aware of a contract's execution or the consideration of a contract with the vendor;
- 2) the vendor has given the LGO or the LGO's qualifying family member one or more gifts with an aggregate value in excess of \$100 during the 12 months preceding the LGO becoming aware of a contract's execution or the consideration of a contract with the vendor; or
- (3) the vendor has a qualifying family relationship with the LGO.<sup>4</sup>

The Conflicts Disclosure Statement must be filed with the district's appropriate records administrator by 5 p.m. on the seventh business day after the LGO becomes aware of the facts

---

<sup>1</sup> See generally Texas Local Government Code Chapter 176.

<sup>2</sup> Tex. Loc. Gov't Code § 176.001(4).

<sup>3</sup> *Id.* § 176.001(1).

<sup>4</sup> *Id.* § 176.003(a).

requiring filing.<sup>5</sup> A district's records administrator for purposes of Chapter 176 is its superintendent or other designated person.<sup>6</sup>

Similarly, a vendor must file a conflict of interest questionnaire (Texas Ethics Commission Form CIQ) regarding an LGO when the vendor enters or is considering entering a contract with the district and any one of the three fact scenarios triggering an LGO's obligation to file a CIS is present.<sup>7</sup> The CIQ must be filed with the records administrator by 5 p.m. on the seventh business day after the vendor begins discussions or negotiations for a contract, or submits an application, bid response, or other similar document to the district, whichever is later.<sup>8</sup> A vendor has an obligation to file an updated CIQ not later than the seventh business day after the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate.<sup>9</sup>

### **B. "Family Member" versus "Family Relationship"**

Gifts or business income received by qualifying "family members" of an LGO are attributed to the LGO.<sup>10</sup> These attributable family members are those related to the LGO in the first degree by consanguinity (blood relations) or affinity (marriage).<sup>11</sup> These relatives include parents (including in-laws), children (including in-laws), spouses, and children of spouses.<sup>12</sup>

"Family Relationships" are a separate reporting requirement based solely on the vendor being related to an LGO in the third degree by consanguinity and the second degree by affinity.<sup>13</sup> These blood relatives include parents, children, siblings, grandparents, great grandparents, great grandchildren, aunts, uncles, nieces, and nephews.<sup>14</sup> These marital relatives include spouses, children of spouses, grandparents and grandchildren of spouses, and siblings of spouses (including in-laws).<sup>15</sup>

### **C. Exceptions When Disclosures Not Required**

Chapter 176 disclosures are not required for political contributions as defined by the Texas Election Code, food accepted as a guest, and gifts offered because of kinship or a personal, professional, or business relationship independent of the LGO's status.<sup>16</sup> The former exception for travel and entertainment accepted as a guest no longer applies.

---

<sup>5</sup> *Id.* § 176.003(b).

<sup>6</sup> *Id.* § 176.001(5).

<sup>7</sup> *Id.* § 176.006(a).

<sup>8</sup> *Id.* § 176.006(a-1).

<sup>9</sup> *Id.* § 176.006(d).

<sup>10</sup> *See id.* §§ 176.003(a), 176.006(a).

<sup>11</sup> *Id.* § 176.001(2).

<sup>12</sup> *See* Texas Gov't Code Chapter 573, Subchapter B.

<sup>13</sup> Tex. Loc. Gov't Code § 176.001(2-a).

<sup>14</sup> *See* Texas Government Code Chapter 573, Subchapter B.

<sup>15</sup> *Id.*

<sup>16</sup> Tex. Loc. Gov't Code §§ 176.001(2-b), .003(a)(2)(B), (a-1).

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Quid Pro No: School Officials and Conflicts of Interest

Also available as part of the eCourse

[2020 School Law eConference](#)

First appeared as part of the conference materials for the 35<sup>th</sup> Annual School Law Conference session

"Quid Pro No: School Officials and Conflicts of Interest "