

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1828

5 By: Representative Kizzia  
6

## For An Act To Be Entitled

8 AN ACT TO AMEND THE ETHICAL GUIDELINES AND  
9 PROHIBITIONS FOR SCHOOL DISTRICT BOARDS OF DIRECTORS,  
10 ADMINISTRATORS, AND EMPLOYEES; AND FOR OTHER  
11 PURPOSES.  
12  
13

## Subtitle

14 TO AMEND THE ETHICAL GUIDELINES AND  
15 PROHIBITIONS FOR SCHOOL DISTRICT BOARDS  
16 OF DIRECTORS, ADMINISTRATORS, AND  
17 EMPLOYEES.  
18  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

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

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

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

32 (B) For a vendor contract:

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

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



1  
 2 SECTION 2. Arkansas Code § 6-24-105(c)-(e), concerning exceptions to  
 3 prohibitions on a school board from entering into certain contracts with  
 4 board members or family members of a board member, is amended to read as  
 5 follows:

6 (c) Exceptions.

7 (1) Board Approval.

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

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

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

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

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

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

25 (B) The resolution shall:

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

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

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

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

1                   ~~(2)Independent Approval.~~

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

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

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

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

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

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

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

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

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

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

11  
12 SECTION 3. Arkansas Code § 6-24-106(b)-(d), concerning exceptions to  
13 prohibitions on a school board from entering into certain contracts with  
14 administrators or family members of administrators, is amended to read as  
15 follows:

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

29 (c) Exceptions.

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

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

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

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

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

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

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

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

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

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

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

1                    (C) The resolution shall:

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

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

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

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

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

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

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

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

22  
 23                    SECTION 4. Arkansas Code § 6-24-107(b)-(d), concerning exceptions to  
 24 prohibitions on a school board from entering into certain contracts with  
 25 employees, is amended to read as follows:

26                    (b) Exceptions.

27                    (1) Approval by Board.

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

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

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

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

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

3 (C) The resolution shall:

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

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

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

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

14 ~~(2) Independent Approval.~~

15 ~~(A)(i) If it appears that the total transactions with an~~  
16 ~~employee for a fiscal year total, or will total, five thousand dollars~~  
17 ~~(\$5,000) or more, the superintendent or other chief administrator of the~~  
18 ~~public educational entity shall forward the written resolution along with all~~  
19 ~~relevant data to the Commissioner of Education for independent review and~~  
20 ~~approval.~~

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

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

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

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

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

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

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

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

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

21  
 22 SECTION 5. Arkansas Code § 6-24-111 is amended to read as follows:

23 6-24-111. Restrictions on employment of present and former  
 24 administrators.

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

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

32 (b) ~~Unless written approval is granted by the commissioner, it~~ It is a  
 33 breach of the ethical standards of this chapter for administrators to engage  
 34 in selling or attempting to sell commodities or services to the public  
 35 educational entity they served or were employed by for one (1) year following  
 36 the date employment or service ceased.