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June 21, 2024

Victoria Manning
School Board Member At-Large
City of Virginia Beach
PO Box 6038
2512 George Mason Drive
Virginia Beach, VA 23456

Dear Ms. Manning:

By email dated June 10, 2024 and supplemented with information provided by you in an email dated June 20, 2024 you requested an opinion under the Conflict of Interests Act ("the Act") regarding your ability to vote on whether the Virginia Beach School Board should renew its annual membership with the Virginia School Boards Association (VSBA). You advise that The VSBA "provide governance training to school board members across the state [and they] also offer policy services to school boards." You further advise that you are a volunteer member of School Board Member's Alliance (SBMA). You advise that SBMA also provides the same type of governance training and policy services as VSBA. You ask whether your membership in SBMA creates a conflict of interest under the Act that would preclude you from participating in and voting on the renewal of the annual membership in the VSBA by the Virginia Beach School Board.

As is detailed in an opinion letter dated January 25, 2024 as an elected member of the Virginia Beach School Board you are an "Officer" within the meaning of the Act and as such you are prohibited from taking certain actions as a result of your position. Specifically, you would be prohibited from participating in any transactions or contracts in which you have a personal interest. In contrast, however, to the circumstances as they were set out in the January 25, 2024 letter, you advise that you did not ultimately accept a position of employment/compensation with SBMA and remain with that organization in a volunteer capacity. You further advise that you are a board member of SBMA and that you personally paid the individual membership fee of \$250 for this year but that it was paid by the school division in a previous year.

As a threshold matter however, your question relates to your taking a vote on the Virginia Beach School Board renewing its membership with VSBA, not SBMA. You advise that all members of the Virginia Beach School Board are members of the VSBA, including yourself. Your concern arises out of the potential for conflict arising from the possibility of SBMA incurring some type of detriment (or benefit) arising as a result of the approval (or disapproval) of the Virginia Beach School Board's vote on the renewal of the annual membership in VSBA. Following clarification in an email dated June 20, 2024, you confirmed that you requested this opinion given that the approval of the membership with VSBA would potentially make a membership approval (which is not currently before the Virginia Beach School Board) less likely. Out of an abundance of caution, you requested this opinion to ensure that you were acting within the bounds of the Act.

The Conflict of Issues Act does not prescribe a general code of ethics for state and local government officers and employees. It "defines and prohibits inappropriate conflicts and requires disclosure of economic interests" so that "its citizens maintain[] the highest trust in their public officers and employees" and "so that the standards of conduct for such officers and employees may be uniform throughout the Commonwealth." See Virginia Code § 2.2-3100. To that end, the Act prohibits, among other things, public officers and employees from accepting money, gifts, or other things of value as a result of their position as a public officer or employee (See Virginia Code § 2.2-3103 – § 2.2-3103.1), participation in contracts in which the public officer or employee has a personal interest (See Virginia Code § 2.2-3108), and participation in transactions in which the public officer or employee has a personal interest (See Virginia Code § 2.2-3112).

The proposed vote on whether the Virginia Beach School Board will renew its membership in the VSBA is a "matter considered by any governmental agency ... on which official action is taken or contemplated." Pursuant to Virginia Code § 2.2-3101 that would amount to a transaction before the Virginia Beach School Board. As such, you would be prohibited from participating in the transaction if it were determined that you had a "personal interest in [the] transaction."

A "personal interest in a transaction" is defined by the Act as:

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction

See Virginia Code § 2.2-3101.

A "personal interest" is defined by the Act as:

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

Id.

Before determining if you have a personal interest in the above transaction, I would first need to determine that you had a "personal interest" in either VSBA or SBMA. If you do not have a "personal interest" under the Act in either of these entities, then you would also not, under the Act, have a "personal interest in the transaction." You would not be prohibited by the Act from participating either in the discussion or in voting on the proposed membership renewal with VSBA.

While you are a volunteer member of the board of SBMA and possess a paid membership with that organization and you have a current membership with VSBA (along with the rest of the Virginia Beach School Board), that does not provide you with any ownership interest exceeding three percent of the total equity in either organization. You also do not disclose any annual income from either organization that exceeds, or may reasonably be expected to exceed, \$5000 either through ownership or salary from either organization. You do not disclose any property, real or personal, exceeding \$5000 that stands to incur a financial benefit or liability. You do not disclose any personal liability you have incurred or assumed on behalf of either organization, much less than one that exceeds three percent of the asset value of either VSBA or SBMA, and finally you do not disclose that you have any options to obtain ownership of any property, real or personal, that would place you in any of the categories above. In short, under the terms of the Act, it is my opinion that you do not have a personal interest in either VSBA or SBMA. Having determined that you do not have a personal interest in either VSBA or SBMA, I am also of the opinion that you do not have a personal interest in the transaction that is scheduled for a vote on June 25, 2024 relating to the renewal of the Virginia Beach School Board's membership in VSBA. Given the timeframe involved in the requesting of this opinion and the scheduled vote, I have approved this opinion and have authorized Deputy Commonwealth's Attorney Michael D. Defricke to sign this opinion letter on my behalf.

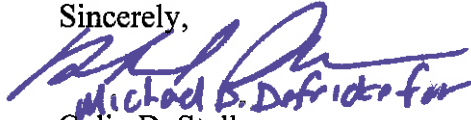
I appreciate your requesting this opinion under the Conflict of Interests Act. The Act recognizes "that our system of representative government is dependent in part upon...its citizens

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maintaining the highest trust in their public officers and employees.” Virginia Code §2.2-3100. To that end, the Act is construed liberally to accomplish that purpose. In that respect, the Act places the burden on the individual officer to evaluate whether the facts presented would affect the public’s trust in its officers.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael B. DeFridero".

Colin D. Stolle

Commonwealth’s Attorney