

Remarks to Board of Education, Community Unit School District 200, August 12, 2009

My name is Mark Stern and I am a Wheaton resident and taxpayer.

Tonight, the Board votes on a nepotism policy, which states, in part, that: “The District strives to avoid favoritism, the appearance of favoritism and conflicts of interest in employment decisions.” Current events within this State and my own *alma mater*, the University of Illinois, make open and impartial decision making, without perception of improper influence or bias, more important than ever to restore public trust in government. For too long, too many people, including myself, have kept silent out of personal feeling, for fear of causing offense, or because “that’s just the way things are done.” I can no longer keep silent.

Three members of Board Member Kenneth Knicker’s immediate family have been employed by District 200 while he has been in office. Ironically, his daughter is listed for employment on tonight’s personnel report, on the very same night that the Board votes on the nepotism policy. Can Board Member Knicker even vote on the policy, or must he abstain?

Since 2006, Board Member Knicker has abstained four times from votes affecting his family members’ employment. However, after reviewing four years of board minutes, I found that he has also voted four times on personnel matters involving his immediate family. This is actually worse, because the fact that he abstained four times indicates that he knows the conflict of interest, and the fact that he voted four times indicates that he doesn’t take it seriously. I also found one instance in which Member Intihar voted on employment of a family member. These minutes are on the District web site, and I have cited all of them in the attachments. In none of these instances was there any public disclosure of the conflict of interest at the time of the vote, as far as appears in the minutes.

Tonight’s proposed nepotism policy has crystallized this issue and made the hypocrisy of the Board in seeking to bar nepotism in some cases, while turning a blind eye to it in others, only more apparent. I call upon Member Knicker to resign office immediately.

MARK O. STERN
1115 SOUTH GABLES BOULEVARD
WHEATON, ILLINOIS 60189

August 12, 2009

Members of the Board of Education
Community Unit School District 200
130 West Park Avenue
Wheaton, Illinois 60189

Re: Nepotism Policy / Board Member Kenneth Knicker Conflict of Interest

Dear Board Members:

Tonight, the Board is proposing to revise its Policy 5.30, General Personnel – Hiring Process and Criteria, to state, in part, that: “The District strives to avoid favoritism, the appearance of favoritism and conflicts of interest in employment decisions.” Current events within the State of Illinois and my own *alma mater*, the University of Illinois, make open and impartial decision making, without improper influence or bias, more important than ever to restore public trust in government in this State. For too long, too many people, including myself, have kept silent out of personal feeling, for fear of causing offense, or because “that’s just the way things are done.” I can no longer keep silent.

The Board, unfortunately, does not live up to its own proposed standards. On July 3, 2009, I submitted comments to the proposed policy (copy attached). At that time, I stated, “I am not aware of any Board member or district personnel having taken any unlawful actions.” However, since that time I have made further investigations.

Three members of Board Member Kenneth Knicker’s immediate family have been or now are employed by District 200 while he has been in office. In fact, his daughter is listed for employment on tonight’s personnel report, on the very same night that the Board will vote on the “Nepotism Policy.” Can Board Member Knicker even vote on the policy (which, by the way, contains a “grandfather clause” affecting his family members), or must he abstain? The irony would be delicious, if the situation were not so intolerable.

The conflicts of interest are manifold.

First, Board Member Knicker’s wife is the fourth-highest paid administrator in the District and oversees the Special Services department, which consumes a major and increasing share of the District budget. Member Knicker abstained from voting on her raise awarded April 25, 2007. As far as I can determine, however, he has never abstained in budget deliberations where scarce resources must be allocated among his wife’s department and other departments. Can other administrators, over whose jobs Member Knicker has authority, act freely and impartially with respect to his wife? Furthermore, Member Knicker supported the Board’s fight against Freedom of Information Act requests seeking, *inter alia*, copies of assistant superintendent contracts, in which he had a direct and personal interest given that his wife was among those affected. He did not recuse himself from these disputes.

Second, Board Member Knicker's daughter was hired for a full-time position with the District on August 27, 2008. At that time, she resided in his household, according to DuPage County voter records. Around the time of the hiring, Assistant Superintendent Dr. Lori Belha stated at a Board meeting that the District had received over 8,000 job applications for about 78 openings – a factor of 100 to 1. What message does it send when the child of a Board member and top administrator is hired against such odds? Out of 870 school districts in the State of Illinois, ought she not to have applied elsewhere? Board Member Knicker abstained from the vote, but did not publicly disclose the reason for such abstention.

Third, although Board Member Knicker abstained from the December 17, 2008 vote to extend the District's teacher contract and award raises (presumably due to the fact that his daughter was subject to such contract, although again, he did not publicly state any reason), he did not excuse himself from any closed meetings discussing the contract, at least as far as can be determined from Board minutes. If he is unable to vote, why should he be allowed to participate in closed door discussions? Even had he recused himself entirely, how can he effectively perform his duties as a Board member if he is unable, due to a conflict, to vote on the teacher contract, which constitutes roughly 70% of the District's expenditures? The citizens of District 200 deserve a Board member who can fully participate, without excuse or reservation, in the most vital issues faced by the Board.

Fourth, Member Knicker has voted on matters in which he is directly conflicted. Prior to tonight, there have been 9 such votes since June 2006, including employment issues for his wife and both daughters while they were legally residing in his household. He abstained four times: on December 17, 2008 (vote on extension of teacher contract), August 27, 2008 (full time employment of daughter), May 23, 2007 (part time employment of both daughters), and April 25, 2007 (raise for wife). However, he voted on June 10, 2009 (part time employment for daughter), May 28, 2008 (part time employment for both daughters), June 13, 2007 (part time employment for daughter), and not only voted on June 14, 2006 (part time employment of both daughters), but actually moved the resolution. He was absent for the vote on July 8, 2009 (part time employment for daughter). This inconsistency in abstaining is actually worse than if he had always voted. Abstaining indicates that he is fully aware of the conflicts, but fails to act diligently to avoid them. One vote could be an oversight; four votes indicate negligence or deliberate indifference to this conflict.

Fifth, as noted, Member Knicker has never publicly stated at a Board meeting in my hearing, or as far as I can tell from the minutes, for the record, why he is abstaining from any vote or the nature of his conflict of interest. If the conflict is serious enough to require his abstention, it is serious enough to tell the public why. "Don't ask, don't tell" is not acceptable here.

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Sixth, the remaining Board members share in these conflicts, particularly Members Coghill, Intihar, and Johnson, who shared campaign funds with Member Knicker for their most recent reelection campaign, as disclosed on printed April 2009 campaign materials, but still repeatedly voted on employment matters concerning his immediate family. Member Intihar also voted on at least one occasion on employment of her own family member (June 13, 2007).

In light of the many identified conflicts of interest, the continued service of Board Member Knicker casts a pall over personnel matters in the entire District, particularly the Special Services department. The above listed particulars make it evident that he is unable to serve and act on all matters before the Board without restrictions or reservation as befits a Board member. Tonight's proposed nepotism policy has crystallized this issue and made the hypocrisy of the Board in seeking to bar nepotism, while turning a blind eye and/or aiding and abetting it, only more apparent. It is therefore appropriate for Member Knicker to resign office immediately.

Yours truly,

Mark O. Stern

Enclosure

cc: Hon. Lisa Madigan
Hon. Joe Birkett
Hon. Darlene Ruscitti

**Comments on Proposed Revisions to Board Policy 5.30
Community Unit School District 200**

Submitted by:

Mark O. Stern
1115 South Gables Boulevard
Wheaton, Illinois 60189

July 3, 2009

A ban on nepotism in hiring is needed

A ban on nepotism in District 200 is long overdue. Numerous recent scandals have arisen at all levels of Illinois government, including major educational institutions. Citizens – including myself – are partially to blame; we have a right to demand that this practice be abolished but have been silent too long on the abuses taking place. Unfortunately, the proposed policy, as drafted, is inadequate and is specifically written to exempt certain egregious examples of nepotism and conflicts of interest currently existing in the District. Attached to these comments are proposed revisions.

District 200 should establish fiduciary standards to avoid any appearance of impropriety

“As elected public officials, board members hold a fiduciary position and owe duties of loyalty and good faith to the entities that they are elected to serve. The fiduciary duty requires the board member to put the best interests of the district ahead of his or her other personal or financial interests. As the Illinois Supreme Court has noted, ‘The faithful performance of official duties is best secured if a governmental officer, like any other person holding a fiduciary position, is not called upon to make decisions that may advance or injure his individual interest.’”¹ Fiduciary duties are the highest standard of duty implied by law².

If District 200 intends to be an exemplary school district in accordance with its mission statement, it must set an example of best practices, not merely accept the bare minimum level of compliance needed to avoid direct violation of Illinois law. The Illinois Association of School Boards (IASB), of which District 200 is a member, urges board members to avoid even the appearance of impropriety. It states, “*Appearance of impropriety* is not a legal standard; it refers to conduct that appears questionable although it may be legal.”³

Furthermore, if the public interest requires that nepotism be banned under this policy, it should make no difference whether the nepotism exists now or hereafter. As far as I can determine, the District does not permit ongoing violation of any of its other personnel policies. If the policy is worthy of being adopted, it is worthy of being enforced.

¹ Illinois Association of School Boards, *Answers to FAQs Conflict of Interest and Incompatible Offices* (April 2009), p. 5, available at <http://www.iasb.com/law/FAQsConflictofInterestIncompatibleOffices.pdf>.

² *Black's Law Dictionary*, Sixth Edition (West Publishing Company, St. Paul, Minnesota, 1990).

³ Illinois Association of School Boards, *Answers to FAQs Conflict of Interest and Incompatible Offices*, p. 8.

Comments on Proposed Revisions to Board Policy 5.30 Community Unit School District 200

Banning nepotism benefits everyone

Bans on nepotism benefit everyone involved.

- Citizens benefit from having governmental decisions made in the best interest of the community, free from improper influence. This ensures that the best qualified individuals are hired, free of bias.
- The prospective employee benefits, because he or she can be confident that employment decisions are made solely based on merit and free of personal considerations – positive or negative.
- Co-workers benefit because they can be confident that they will be treated fairly in comparison with others.
- The individual making the hiring decision benefits; he or she need not feel pressured with respect to hiring relatives, or have his or her decisions questioned. The University of Illinois recognizes this in its policy 313; one purpose of the policy is “to protect individual members of a family from having or being perceived to have a conflict of interest with respect to one of their relatives.”⁴

Avoiding conflicts in the first place eliminates the need for recusal later

It is not always possible to avoid conflicts of interest. However, if they exist, extreme care must be taken to avoid acting improperly. In the business world, for example, some major corporations prohibit even taking part in decisions that affect relatives. 3M Corporation’s Conflict of Interest policy indicates that employees are to avoid taking part in: “Taking part in any 3M business decision involving a company that employs your spouse or family member.”⁵

If a relative is hired in a position over which one has supervisory authority, the superior must avoid taking any action involving the relative, to avoid the appearance of impropriety. This can result in the need for frequent recusal, preventing the superior from doing his or her job properly. It is better to avoid the situation in the first place.

The Board should also consider whether it is advisable to employ family members in the same building, even on a peer level, as this could create difficulties in relation to discipline and/or interaction with other staff, particularly if the relationship were to terminate (e.g., divorce).

The Board should also take steps to ensure that its summer hiring programs are well publicized and open to all, without preference to relatives of current staff.

⁴ See http://www.uic.edu/depts/hr/uic/hr/relations/PolicyDocs/HRPP%200300/313_092508.pdf.

⁵ See http://solutions.3m.com/wps/portal/3M/en_US/businessconduct/bcmain/policy/policies/protect3m/conflictinterest/.

**Comments on Proposed Revisions to Board Policy 5.30
Community Unit School District 200**

Specific concerns

I am not aware of any Board member or district personnel having taken any unlawful actions. However, the purpose of this policy, as noted above, is to set high standards to avoid the appearance of impropriety, even if the conduct prohibited by the policy is legal. In that regard, there is plenty of appearance of impropriety in District 200 today, and all involved would benefit from removing it. I therefore call for the immediate resignation of the Board member in question, so that his spouse can perform her job free of appearance of impropriety, and so the community can have a Board member who can fully participate in key decisions.

Bluntly stated, it is unacceptable for a Board member to be married to a senior member of the administration and to have had multiple children employed by the District, even if he recuses himself from certain votes. No one is well served by this arrangement.

- How can he impartially consider budget cuts among District programs, when he has a family relationship with the supervisor of a particular department?
- How can the administrator interact on an equal basis with others over whom her spouse has ultimate authority?
- How can he participate in discussions whether to disclose employment contracts of a class of administrators including his relative?
- How can he participate in closed meetings involving teacher contracts, even if he recuses himself from the final vote?
- If he cannot participate in teacher contract votes – representing the vast majority of the District expenditures – how can he serve effectively as a Board member?
- If his children are hired out of thousands of applicants, how can there be impartial consideration when he sits in judgment on the hiring administrators?
- Why does he not make specific disclosure of conflicts before abstaining, rather than do so silently?
- What benefits does he receive from the District by virtue of his spouse's employment, and what role has he had in shaping and approving those benefits?