

VOLUME NO. 37

OPINION NO. 78

CONFLICT OF INTEREST - School trustees, furnishing supplies for the operation and maintenance of schools; SCHOOLS - Trustees, furnishing supplies for the operation and maintenance of schools, conflict of interest; REVISED CODES OF MONTANA, 1947 - Section 59-501.

HELD: It is unlawful under section 75-6808, R.C.M. 1947, for a corporate business in which a school board trustee is a minor stockholder to furnish supplies for the operation and maintenance of the school.

14 October 1977

Keith D. Haker, Esq.  
Custer County Attorney  
Custer County Courthouse  
Miles City, Montana 59301

Dear Mr. Haker:

You have requested my opinion on the following question:

Is it unlawful for a corporate business in which a school board trustee is a minor stockholder, to furnish supplies for the operation and maintenance of the school?

Section 59-501, R.C.M. 1947, sets out a general prohibition against interest by public officials in contracts made in their official capacity. However, section 75-6808, R.C.M. 1947, is a specific and stricter prohibition against financial interest by school trustees in school affairs. The more specific statute is therefore applicable to the instant situation.

Section 75-6808 provides in part:

(1) It is unlawful for any trustee to: (a) have any pecuniary interest, either directly or indirectly, in an contract for the erection of any school building or for the warming, ventilation, furnishing, or repairing the same; or (b) be in any manner connected with the furnishing of supplies for the maintenance and operation of the schools; or (c) be employed in any capacity by the school district of which he is trustee.

It is clear from a comparison of the above-quoted language to that in section 59-501 that the Legislature intended for school trustees to be held to a higher degree of accountability in this regard than public officials generally. While section 59-501 is specifically inapplicable to a person whose only interest is that of a minority stockholder, section 75-6808 prohibits being "in any manner connected with" furnishing supplies for the school. Ownership of a minority stock interest in a corporation clearly constitutes the minimal connection required in section 75-6808.

THEREFORE, IT IS MY OPINION:

It is unlawful under section 75-6808, R.C.M. 1947, for a corporate business in which a school board trustee is a minor stockholder to furnish supplies for the operation and maintenance of the school.

Very truly yours,

MIKE GREELY  
Attorney General