



NEBO SCHOOL DISTRICT ADMINISTRATIVE DIRECTIVE

Directive
No.
5.1

SECTION: PERSONNEL
TITLE: PRIVATE, BUT PUBLIC EDUCATION-RELATED ACTIVITIES
DATE: JULY 2012

The purpose of this Administrative Directive is to provide employees of Nebo School District with information and direction concerning “**private, but public education-related activities.**” These are activities in which a teacher, coach, or other public education employee engages in outside of his/her regular employment and which involves current or prospective students. Such activities include tutoring, lessons, clinics, camps, and travel opportunities. Under Utah law these activities are permitted so long as they are done within certain parameters. By issuing this Directive, it is the Administration’s intent to educate employees about the restrictions within which these private activities may be legally conducted, and by doing so protect District employees from potential serious consequences that may result from violating state law and Board policy.

The Utah Public Officers’ and Employees’ Ethics Act, Utah Code Ann., §67-16-1, et seq. (the “Ethics Act”) sets forth standards of conduct for officers and employees of the State of Utah and its political subdivisions (i.e., school districts). A “public employee” includes all full-time, part-time, or contracted employees of a school district. A “public officer” includes members of the Board of Education of a school district.

The Ethics Act prohibits certain types of conduct, such as: (a) improperly disclosing or using private, controlled, or protected information; (b) using one’s position to further his/her personal economic interests; (c) using one’s position to secure privileges or exemptions; (d) accepting employment which would impair independence, judgment, or ethical performance; (e) prohibiting certain gifts, donations, and business transactions; (e) etc. Penalties for violation of the Ethics Act include employment disciplinary action, including dismissal from employment; rescission of contract; and criminal prosecution.

In addition to the Ethics Act, educators in the State of Utah must comply with professional practices and conduct prescribed by the Utah Professional Practices Advisory Commission (“UPPAC”) set forth in the Utah Administrative Code, R686-100, et seq. Penalties for violation of the UPPAC professional practices and conduct may include suspension or revocation of an educator’s license.

Utah Code Ann., §67-16-4(2) provides an exception from certain portions of the Ethics Act for “education-related services to public school students by public education employees acting outside their regular employment.” These “private, but public education-related activities” include activities by a public education employee (i.e., teacher, coach, etc.) outside of his/her regular employment to current or prospective students and for which the employee receives compensation. Such activities include tutoring, lessons, clinics, camps, and travel opportunities.

The parameters within which such “private, but public education-related activities” may be conducted are set forth in the Utah Administrative Code, R277-107, et seq. For example, Utah Administrative Code, R277-107-4 provides, in part, as follows:

- B. An employee that participates in a “private, but public education-related activity” is subject to the following:
 - (1) the employee's participation in the activity shall be separate and distinguishable from the employee's public employment as required by this rule.
 - (2) the employee may not, in promoting the activity:
 - (a) contact students at the public schools except as permitted by this rule; or

- (b) use education records or information obtained through their public employment unless the records or information are readily available to the general public.
- (3) the employee may not use school time to discuss, promote, or prepare for any private activity.
- (4) the employee may:
 - (a) offer public education-related services, programs or activities to students provided that they are not advertised or promoted during school time;
 - (b) discuss the private but public education-related activity with students or parents outside of the classroom and the regular school day;
 - (c) use student directories which are available to the general public; and
 - (d) use student or school publications in which commercial advertising is allowed, to advertise and promote the activity.
- C. Credit and participation in a public school program or activity may not be conditioned on a student's participation in such activities as clinics, camps, private programs, or travel activities not equally and freely available to all students.
- D. No employee may state or imply to any person that participation in a regular school activity or program is conditioned on participation in a private activity.

With respect to a public school employee “advertising” his/her “private, but public education-related activities,” the following must be complied with as set forth in Utah Administrative Code, R277-107-5:

- A. An employee may purchase advertising space to advertise an activity or service in a publication, whether or not sponsored by the public schools, that accepts paid or community advertising.
- B. The advertisement may identify the activity participants and leaders or service providers by name, provide non-school contact information, and provide details of the employee's employment experience and qualification.
- C. Posters or brochures may be posted or distributed in the same manner as could be done by a member of the general public, advertising an employee's services, consistent with school and district policy.
- D. Unless an activity is sponsored by the school or district, the advertisement shall state clearly and distinctly that the activity is NOT sponsored by the school or district.
- E. The name of schools or districts shall not be named in the advertisement except as they may relate to the employee's employment history or if school facilities have been rented for the activity.
- F. If the name of the employee offering the service or participating in the activity is stated in any advertisement sent to the employee's students, or is posted, distributed, or otherwise made available in the employee's school, the advertisement shall state that the activity is not school sponsored.

Utah law specifically provides that a local Board of Education may adopt policies implementing these standards and parameters for “private, but public education-related activities,” and to address particular circumstances present in the school district.

Employees who engage in any “private, but public education-related activities” must also comply with Nebo School District policies. Employees who wish to use school facilities to conduct such private activities must comply with Nebo School District's School Facility Use Policy #KA. Any questions or clarifications concerning this Administrative Directive may be directed to the school principal or district administration.