

**Subject:** [NDPS Board] Topic of Budget Committee Members

**From:** Nancy Woodward <woodwardn@newberg.k12.or.us>

**Date:** 10/2/2023, 7:31 PM

**To:** Board Members <boardmembers@newberg.k12.or.us>, Steve Phillips <phillipss@newberg.k12.or.us>, Scott Linenberger <linenbergers@newberg.k12.or.us>

Greetings,

Deb and I met with Dr. Phillips and Mr. Linenberger today to set the agenda for the Oct. 10 board meeting.

When the agenda is posted you will notice that a vote on budget committee members is not on the agenda. I plan to address the issue by verbally sharing information that I am sending to you in this email. After consultation with WESD legal counsel we learned two facts.

1. There is no policy that gives school board members the authority to remove a budget committee member.
2. It was suggested to contact the OGEC (Oregon Government Ethics Commission). I did that. The condensed answer is that it is up to a budget committee member to declare if they have a conflict of interest. The OGEC reply is copied below for you to read.

Sent to Nancy Woodward on 9/26/2023 By Susan Myers, OGEC (Oregon Government Ethics Commission)

“This advice instead will address whether the citizen budget committee member would be met with a conflict of interest if they participated as a member of the budget committee during the pendency of the litigation.

A public official is met with a conflict of interest when participating in any action, decision or recommendation, if the effect of that action, decision or recommendation would be (actual conflict of interest) or could be (potential conflict of interest) to the private pecuniary benefit or detriment of the public official, their relative, or any business with which they or their relative are associated. [ORS 244.020(1) and (13)]. The difference between an actual and a potential conflict of interest rests on the certainty that a financial impact will occur.

Elected officials and those appointed to a board or commission, such as a budget committee, when met with a conflict of interest, must on each occasion publicly announce the nature of their conflict of interest. Then, if the conflict of interest is potential, they may continue to participate in the discussion and vote on the matter. If the conflict of interest is actual, then after making the public announcement, they must refrain from any participation in the discussion, debate or vote on the matter. [ORS 244.120(2)].

In the circumstances you describe the citizen member of the budget committee would have, at most, a potential conflict of interest, and may not have any conflict of interest at all. The fact that the citizen member is plaintiff in the litigation does not necessarily give rise to a conflict of

interest. The fact that the school district budget may include line items funding the district's legal costs or the attorney fees for the board members also does not give rise to a conflict of interest for the citizen member. These line items do not provide the citizen member with a financial benefit or detriment.

On the other hand, if the school district budget includes line items to pay for the plaintiffs' attorney fees if they prevail in the litigation, or for compensatory or punitive damages awarded to the plaintiffs, then in that case, the citizen member would have a potential conflict of interest. In that case, the citizen member would need to make a public announcement at each meeting where the budget committee was discussing the budget that included such line items. Once they made this public announcement, the citizen member could participate in the discussion or debate and could vote to recommend the budget to the school district board."

Please contact me if you have questions about this.

Sincerely,  
Nancy Woodward  
Newberg School Board Chairperson