

74:09:01:20. Board member conflict of interest. A board member who is personally related to a party involved in a contested case hearing by two degrees of consanguinity, who has a direct financial interest in a party involved in a contested case hearing through employment or by contract, or whose spouse is employed by or directly contracts with a party involved in a contested case hearing, may not participate in a contested case proceeding concerning that party. The member shall make an oral statement of recusal on the record at the initiation of the hearing in the contested case. A recused member may not participate in board discussions or decision-making regarding that contested case proceeding.

Source: 40 SDR 198, effective May 29, 2014.

General Authority: SDCL 34A-1-6, 34A-6-1.6, 34A-6-1.14, 34A-11-9, 45-9-13.

Law Implemented: SDCL 1-2-27, 34A010121, 34A—43, 34A-1-44, 341-1-45, 34A-1-46.

7:09:01:21. Board member potential conflict of interests. A potential conflict of interest is an indirect financial interest, or a personal relationship or another interest in a party involved in a contested case hearing or enforcement hearing that is different from that of the general public, that a reasonable person would believe might result in bias or prejudice of a contested case hearing. Board members shall disclose any potential conflict of interest in a contested case proceeding on the record at the initiation of the hearing, or during the hearing if they become aware of the existence of a potential conflict of interest. Upon its own motion or the motion of a party, the board may recuse a member with a potential conflict of interest if it determines that the potential conflict of interest raises an unacceptable risk of bias or prejudice in the contested case proceeding.

Source: 40 SDR 198, effective May 29, 2014.

General Authority: SDCL 34A-1-6, 34A-6-1.6, 34A-6-1.14, 34A-11-9, 45-9-13.

Law Implemented: SDCL 1-26-27, 34A-1-21, 34A-1-43, 34A-1-44, 34A-1-45, 34A-1-46.