

CONFLICT OF INTEREST

The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. ~~Accordingly, no "District Official," in accordance with law, no~~ **defined as a Board member, district employee, or other person in a designated or position designated in the district's conflict of interest code,** shall participate in the making of any decision for the district **when the decision will or may be affected by the District Official's financial, family, or other personal interest or consideration, as defined by law.** ~~in which he/she has a financial or personal interest.~~

~~Even if a prohibited conflict of interest does not exist,~~ **Additionally,** a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which **the Board member's relative** ~~his/her relative~~ belongs. Relative means an adult who is related to the Board member by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. ~~(Education Code 35107)~~

A relationship within the third degree includes an individual's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, niece, nephews, and the similar family of the individual's spouse/registered domestic partners unless the individual is widowed or divorced.

Conflict of Interest Code

~~The Board shall adopt a resolution that specifies the terms of the District's conflict of interest code, the District's designated positions, and the disclosure categories required for each position.~~

The Board shall adopt for the district a conflict of interest code that incorporates the provisions of 2 CCR 18730 by reference, **delineates the District Officials,** ~~specifies that district's designated positions,~~ and provides the disclosure categories required for each position. The conflict of interest code shall be submitted to the district's code reviewing body for approval, in accordance with Government Code 87303 and within the deadline for submission established by the code reviewing body. ~~(Government Code 87303).~~

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code and submit any changes to the code reviewing body or, if no change is required, the Board shall submit a written statement to that effect. (Government Code 87603.5)

When a change in the District's conflict of interest code is necessitated by **due to** changed circumstances, such as the creation of new **District Officials or changes to the duties of District Officials,** **the Board shall amend the code, which** ~~designated positions, amendments or revision, changes to the duties assigned to existing positions, amendments, or revisions,~~ the changed code shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. (Government Code 84306)

When reviewing and preparing conflict of interest codes, the District shall provide officers, employees, consultants, and members of the community adequate notice and fair opportunity to present their views. (Government Code 85311)

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~~Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the District's conflict of interest code. A Board member who leaves office or a designated employee who leaves district employment shall, within 30 days, file a revised statement covering the period of time between the closing date of the last statement and the date of leaving office or district employment. (Government Code 87302, 87500)~~

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

Conflict of Interest under the Political Reform Act

A Board member, designated employee or other person in a designated position shall not make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a disqualifying conflict of interest. A disqualifying conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" which is distinguishable from the effect on the public generally, on one or more of the Board member, designated employee or other person in a designated position, his/her immediate family, or any financial interest described in 2 CCR 18700.-2 CCR 18700-18709)

A **District Official** ~~Board member, designated employee or other person in a designated position~~ makes a governmental decision when, acting within the authority of ~~his/her~~ **the** office or position, **the District Official** authorizes or directs any action on a matter, votes or provides information or opinion on it contacts or appears before a district official for the purpose of affecting the decision, or takes any other action specified in 2 CCR ~~18702.1-18704~~. **18704**.

However, a **District Official** ~~Board member~~ **is not prohibited from** ~~shall participate~~ **participating** in the making of a contract in which **the District Official** ~~he/she~~ has a financial interest if ~~his/her~~ **such** participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR ~~18795~~ **18705**.

~~A Board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the Board shall abstain from voting on the matter. He/she may remain on the dais, but his/her presence shall not be counted towards achieving a quorum for that matter. A Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue. (2 CCR 18702.1)~~

Conflict of Interest from Campaign Contributions

Prior to the district rendering a decision in a proceeding before the district involving a contract, license, permit, or other entitlement for use, as defined by Government Code 84308, a Board member whose campaign committee received a contribution of more than \$500 from any party or participant to the proceeding, or from an agent of such a party or participant, in the prior 12 months, and the party who made such a contribution, shall both publicly disclose that fact on the record of the proceeding. Additionally, if a

Board member willfully or knowingly received a contribution to the Board member's campaign committee of more than \$500 from any party or participant to such a proceeding, or from an agent of a party or participant, in the prior 12 months, and knows or has reason to know that the participant has a financial interest in the district's decision, the Board member shall not make, participate in making, or in any way attempt to use the Board member's official position to influence the district's decision in the proceeding. However, a Board member may make, participate in making, or attempt to use the Board member's official position to influence the decision if the contribution is returned within 30 days after the decision was made or after the Board member knows or should have known about the contribution and the proceeding, whichever is later. All Board members and the Superintendent are prohibited from accepting, soliciting, or directing a contribution of more than \$500 to a candidate or ballot measure campaign committee from any party or participant to a proceeding before the district involving a contract, license, permit, or other entitlement for use, as defined by Government Code 84308, or from an agent of a party or participant, while the proceeding is pending before the district and for 12 months following the date the district renders a final decision in the proceeding, if the Board member or Superintendent knows or has reason to know that the participant has a financial interest in the district's decision. However, if a Board member or the Superintendent does accept, solicit, or direct such a contribution during those 12 months but did not do so knowingly or willingly, the Board member or the Superintendent may cure the violation by ensuring that the contribution, or the portion exceeding \$500, is returned within 30 days of accepting, soliciting, or directing the contribution. The Board member or Superintendent shall maintain records of curing the violation. (Government Code 84308) For a Board member or the Superintendent, a proceeding becomes "pending" when an item involving the contract, license, permit, or other entitlement for use, as defined by Government Code 84308, is placed on a Board agenda for discussion or decision or when it is reasonably foreseeable that the proceeding will come before the district for a decision. For a party or participant, and the agent of a party or participant, a proceeding becomes "pending" when an application is filed with the district, or, if the proceeding process does not require an application, when the proceeding is before the district for a decision or other action. (Government Code 84308) The contributions disclosure requirements and restrictions above do not apply to contracts that are required to be competitively bid, labor contracts, personal employment contracts, contracts valued under \$50,000, contracts where no party receives financial compensation, or contracts with another governmental agency. (Government Code 84308)

Form 700

Each District Official shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the district's conflict of interest code. An individual who ceases to be a District Official shall, within 30 days, file a revised statement covering the period of time between the closing date of the last required statement and the date the individual ceased to be a District Official. (Government Code 87302)

Additional Requirements for Boards that Manage Public Investments

Any Board member, district employee, or district consultant who manages public investments, as defined by Government Code 87200, and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, do all of the following: (Government Code 87105; 2 CCR 18707)

1. Publicly identify each financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required
2. Not discuss or vote on the matter, or otherwise act in violation of Government Code 87100 3 For a Board member, the Board member shall not be counted toward achieving a quorum while the item is discussed.

3. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded. However, the Board member, district employee, or district consultant who manages public investments, as defined by Government Code 87200, may speak on the issue during the time that the general public speaks on it. Additionally, for a Board member, if the matter has been placed on the consent calendar, the Board member shall abstain from voting on the consent calendar or, if the Board removes the item from the consent calendar, the Board member shall abstain from voting on the item. In any event, the Board member shall refrain from discussing or voting on the item. However, the Board member is not required to leave the room during consideration of the consent calendar.

4. If a decision is made during closed session, disclose the interest orally during the open session preceding the closed session. This disclosure shall be limited to a declaration that the recusal is because of a conflict of interest pursuant to Government Code 87100. The Board member, district employee, or district consultant who manages public investments, as defined by Government Code 87200, shall not be present when the item is considered in closed session and shall not knowingly obtain or review a recording or any other nonpublic information regarding the decision.

Conflict of Interest under Government Code 1090

~~Board members, employees, or district consultants~~ A District Official shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary internal discussions, negotiations, modifications, compromises, planning, deliberation of issues reasoning, and specifications and solicitations for bids. If a District Official Board member has such a financial interest in a contract made by the district, Board, the contract is void. (Government Code 1090)

Remote Interest Exception to Government Code 1090

A Board member shall not be considered to be financially interested in a contract in which there is only a "remote interest," if his/her interest is a "noninterest" as defined in Government Code 1091.5, if the interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member or district official to enter into the contract. (Government Code 1091)

~~In addition, a Board member~~ A District Official shall not be considered to be financially interested in a contract if the

~~in which his/her a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest~~ is a reimbursement in being reimbursed for his/her actual and necessary expenses incurred in the performance of his/her official duties, in the employment of his/her spouse/registered domestic partner who has been a district employee for at least one year prior to the Board member's election or appointment, or in any other "noninterest" applicable circumstance specified in Government Code 1091.5.

Common Law Doctrine Against Conflict of Interest

A District Official Board member shall abstain from any official action in which the District Official's his/her private or personal interest may conflict with his/her official duties pursuant to the common law doctrine against conflict of interest.

Incompatible Offices and Activities

Board members shall not engage in any employment or activity or hold any office, which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of the district. (Government Code 1099, 1126)

(cf. 4136/4236/4336 - Nonschool Employment)

Gifts

District Official ~~Board members and designated employees~~ may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730. ~~(Government Code 89503)~~

~~The limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)~~

~~In addition, the limitation on gifts does not apply to informational materials such as books, reports, pamphlets, calendars, and periodicals. (Government Code 82028)~~

Gifts of travel and related lodging and subsistence shall be subject to the above limitations except as described in Government Code 89506.

1. The travel is in connection with a speech given by a **District Official** ~~Board member or designated employee~~, provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.
2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Gifts of travel exempted from the gift limitation, as described in items #1 and 2 above, shall nevertheless be reportable on the recipient's Statement of Economic Interest/Form 700 as required by law.

A gift of travel does not include travel provided by the District for Board members and designated employees. (Government Code 89506)

Honoraria

District Official ~~Board members and designated employees~~ shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private conference, **convention, meeting, social event, meal, or like** gathering. ~~in accordance with law.~~ (Government Code 89501, 89502)

The term "honorarium" does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade or profession unless the sole or predominant activity of the business, trade or profession is making speeches.

- 2 Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes.

Advice

Any District Official, who, in good faith, believes that they may be subject to the requirements of this Bylaw and has questions, is unclear, or is unsure regarding the application of the requirements of this Bylaw to any particular instance or situation, may seek advice from the district's legal counsel with the permission of the Superintendent, Board President, or majority of the Board.

Training

Unless a Board member's term expires prior to January 1, 2026, each Board member shall complete ethics training in accordance with Government Code 53234-53235.2 by January 1, 2026, and at least once every two years thereafter as specified in Board Bylaw 9240 - Board Training.

See Resolution No. 1539.08/14- Adopting a Conflict of Interest Code

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office

35107 School district employees

35230-35240 Corrupt practices, especially:

35233 Prohibitions applicable to members of governing boards

4100-41003 Moneys received by school districts

41015 Investments

FAMILY CODE

297.5 Rights, protections, and benefits of registered domestic partners

GOVERNMENT CODE

1090-1099 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

8100-91014 Political Reform Act of 1974, especially:

82011 Code reviewing body

82019 Definition, designated employee

82028 Definition, gift

82030 Definition, income

Bylaws of the Board

BB 9270(e)

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82033 Definition, interest in real property

82034 Definition, investment

871000 87103.6 General prohibitions

87200- 87210 Disclosure

87300- 87313 Conflict of interest code

87500 Statements of economic interests

89501-89503 Honoraria and gifts

89506 Ethics; travel

9100-091014 Enforcement

PENAL CODE

85-88 Bribes

REVENUE AND TAXATION CODE

203 Taxable and exempt property - colleges

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission, especially:

18700-18707 General prohibitions

18722-18740 Disclosure of interests

18750.1-18756 Conflict of interest codes

COURT DECISIONS

McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)

Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261

Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655

Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511