

CONFLICT OF INTEREST

Incompatible Activities

Governing Board members shall not engage in any employment or activity 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 [1126](#))

Conflict of Interest Code

The district's conflict of interest code shall be comprised of the terms of California Code of Regulations, Title 2, Section 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a district attachment specifying designated positions and the specific types of disclosure statements required for each position.

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code in even-numbered years. If no change in the code is required, the district shall submit by October 1 a written statement to that effect to the code reviewing body. If a change in the code is necessitated by changed circumstances, the district shall submit an amended code to the code reviewing body. (Government Code [87306.5](#))

When a change in the district's conflict of interest code is necessitated by changed circumstances such as the creation of new designated positions, amendments or revisions shall be submitted to the code reviewing body within 90 days. (Government Code [87306](#))

When reviewing and preparing conflict of interest codes, the district shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code [87311](#))

If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code [87103](#), this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required. (2 CCR [18700](#))

Statements of economic interests submitted to the district by

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designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction. Government Code [81008](#))

Financial Interest

Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as Board members or designated employees. (Government Code [1090](#))

A Board member shall not be considered to be financially interested in a contract if his/her interest includes, but is not limited to, any of the following: (Government Code [1091.5](#))

1. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code [1091](#)
4. That of a spouse of an officer or employee of the district if his/her spouse's employment or officeholding has existed for at least one year prior to his/her election or appointment

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5. That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records
6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the nonprofit board or to which the school Board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records
7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that such interest is noted in its official records
8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm

In addition, a Board member or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. (Government Code [1091.5](#))

A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and

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if the remote 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 to enter into the contract. Remote interests are specified in Government Code [1091\(b\)](#); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code [1091](#))

A Board member may be able to enter into a contract if the rule of necessity or legally required participation applies as defined in Government Code [87101](#). Legal counsel should be consulted, however, in such situations.

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person 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 the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

### Gifts

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

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](#)) Gifts of travel and related lodging and subsistence shall be subject to the prevailing gift limitation except as described in Government Code [89506](#).

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

Honoraria

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 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

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APPENDIX  
DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

It has been determined that persons occupying the following positions manage public investments and shall file a full statement of economic interests pursuant to Government Code [87200](#):

Governing Board Members  
Superintendent of Schools

1. Persons occupying the following positions are designated employees in Category 1:

Assistant Superintendents  
Purchasing Agent

Designated persons in this category must report:

- a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries or of any land owned or used by the district. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
- b. Investments or business positions in or income from sources which:
  - (1) Are engaged in the acquisition or disposal of real property within the district
  - (2) Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district or
  - (3) Manufacture or sell supplies, books, machinery or equipment of the type used by the district

2. Persons occupying the following positions are designated employees in Category 2:

Director  
Principal

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Assistant Principal  
 Maintenance and Operations Director  
 Program Coordinator  
 Project Specialist  
 Supervisor  
 Dean of Students

Designated persons in this category must report investments or business positions in or income from sources which:

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
  - b. Manufacture or sell supplies, books, machinery or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.
3. Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR [18701](#))

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the district to enter into, modify or renew a contract that requires district approval

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- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- f. Grant district approval to a plan, design, report, study or similar item
- g. Adopt or grant district approval of district policies, standards or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR [18702.2](#) or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's Conflict of Interest Code. (2 CCR [18701](#))

Legal Reference:

EDUCATION CODE

- [1006](#) Qualifications for holding office
- [35107](#) School district employees
- [35230-35240](#) Corrupt practices
- [35233](#) Prohibitions applicable to members of governing boards

GOVERNMENT CODE

- [1090-1098](#) Prohibitions applicable to specified officers
- [1125-1129](#) Incompatible activities
- [81000-91015](#) Political Reform Act of 1974, especially:
- [82011](#) Code reviewing body

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- [82019](#) Definition of designated employee
- [82028](#) Definition of gifts
- [82030](#) Definition of income
- [87100-87103.6](#) General prohibitions
- [87200-87210](#) Disclosure
- [87300-87313](#) Conflict of interest code
- [87500](#) Statements of economic interests
- [89501-89503](#) Honoraria and gifts
- [91000-91014](#) Enforcement

CODE OF REGULATIONS, TITLE 2

[18110-18997](#) Regulations of the Fair Political Practices Commission

COURT DECISIONS

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th. 655  
 Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

ATTORNEY GENERAL OPINIONS

- 82 Ops.Cal.Atty.Gen. 83 (1999)
- 81 Ops.Cal.Atty.Gen. 327 (1998)
- 80 Ops.Cal.Atty.Gen. 320 (1997)
- 69 Ops.Cal.Atty.Gen. 255 (1986)
- 68 Ops.Cal.Atty.Gen. 171 (1985)
- 65 Ops.Cal.Atty.Gen. 606 (1982)

Management Resources:

WEB SITES

Fair Political Practices Commission: <http://www.fppc.ca.gov>  
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