



Alameda County Office of Education

L. Karen Monroe
Superintendent

Gary Jones
Associate Superintendent

BOARD OF EDUCATION

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Trustee Area 4

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Trustee Area 7

DATE: December 12, 2016

TO: Alameda County Board of Supervisors

FROM: L. Karen Monroe, Alameda County Superintendent of Schools

RE: Approval of Alameda County Office of Education Conflict of Interest Code

RECOMMENDED ACTION

Approve the updated Alameda County Board of Education Bylaw (BB/E 9270) and Board Policy (BP 2300) governing the terms and disclosure categories for the Alameda County Office of Education Conflict of Interest Code.

REASONS FOR RECOMMENDATION

The Political Reform Act (Government Code 8100 et seq.) requires every local agency to review its Conflict of Interest Code for accuracy and to notify its code reviewing body on even numbered years, whether it does or does not need to be amended. The County Board of Supervisors is the code reviewing body for county agencies and other local agencies whose jurisdiction is solely within the county.

BACKGROUND

ACOE underwent a reorganization in early 2016. The Superintendent's cabinet (designated positions) was consolidated into five positions including the County Superintendent of Schools. The associated Board Policy (BP 2300) and Board Bylaw (BB/E 9270) was approved by the Alameda County Board of Education on November 8, 2016. All designated personnel have reported annually by filing the Form 700.

Enclosures (6)

313 W. Winton Ave.
Hayward, California
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(510) 887-0152

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Conflict of Interest

The Political Reform Act, Government Code 81000, et seq., requires local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (2 CCR 18730) which contains the terms of a standard Conflict of Interest, which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings.

The County's conflict of interest code shall be comprised of the terms of 2 CCR 18730 and any amendments to it duly adopted by the Fair Political Practices Commission.

Persons occupying the following positions are designated employees and must disclose financial interests as defined below:

County Superintendent of Schools

Associate Superintendent

Chief of Learning and Accountability

Chief of Schools

Chief of Personnel and Leadership

These designated employees shall file a yearly statement of economic interests, as required by law. These statements of economic interests shall be available for public inspection and reproduction.

APPENDIX

DISCLOSURE CATEGORIES

These designated employees shall report his/her:

Interests in real property located entirely or partly within county boundaries, or within two miles of county boundaries or of any land owned or used by the County Office. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.

Investments or business positions in or income from sources which:

- a. Are engaged in the acquisition or disposal of real property within the County
- b. 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 County Board and/or County Office
- c. Manufacture or sell supplies, books, machinery or equipment of the type used by the County Board and/or County Office

Legal Reference:

GOVERNMENT CODE

1090-1097 Prohibitions Applicable to Specified Officers

1125-1128 Incompatible Activities

82028 Definitions "Gift"

82030 Definitions "Income"

82033 Definitions "Interest in Real Property"

82034 Definitions "Investment"

87100-87500 Conflicts of Interest

87200-87210 Disclosure

87300-87313 Conflict of Interest Codes

91001-91015 Enforcement

Policy ALAMEDA COUNTY OFFICE OF EDUCATION

adopted: August 11, 1992 Hayward, California

revised: March 8, 2005

revised: February 10, 2009

revised: June 29, 2011

revised: November 8, 2016

Conflict of Interest

The County Board of Education desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the county office of education (COE) and the public. In accordance with law, County Board members shall disclose any conflict of interest and, as necessary, shall abstain from participating in any decisions or discussions that could affect or be effected by those interests, especially, as prohibited by Government Code 1090, those interests related to contracts. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

The County Board shall adopt a resolution that specifies the terms of its conflict of interest code, designates any consultant positions required to complete conflict of interest reporting, and establishes disclosure categories required for each position. The conflict of interest code must be approved by the appropriate code reviewing body. Upon request by the code reviewing body, the County Board shall review the conflict of interest code and submit any changes to the code reviewing body.

When a change in the conflict of interest code is necessitated due to changed circumstances, such as the hiring of a new consultant in a position that is not already designated in the conflict of interest code or a change to an existing consultant's scope of work in a manner that changes the consultant's position to a designated position, the amended code shall be submitted to the code reviewing body within 90 days. (Government Code 87306)

When reviewing and preparing the conflict of interest code, the County Board shall provide members of the community, the County Superintendent of Schools, COE staff, and consultants of the County Board adequate notice and a fair opportunity to present their views. (Government Code 87311)

County Board members shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the conflict of interest code. A County Board member who leaves office 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 of leaving office. (Government Code 87302,87302.6)

Conflict of Interest under the Political Reform Act

A County Board member 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 conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the County Board member's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the County Board member's participation is legally required. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

A County Board member is involved in making a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or

commits the County Board to any course of action, or votes to enter into or approve any contractual agreement on behalf of the County Board. (2 CCR 18704)

A County Board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the County Board shall abstain from voting on the matter. Although he/she may remain on the dais, if they do choose to stay their presence shall not be counted towards achieving a quorum for that matter. A County Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the County Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue. (2 CCR 18700)

Conflict of Interest under Government Code 1090 - Financial Interest in a Contract

County Board members shall not be financially interested in any contract made by the County Board and shall not be included in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids for such contracts. If a County Board member has such a financial interest, the County Board is barred from entering into the contract. (Government Code 1090; *Klistoff v. Superior Court*, (2007) 157 Cal.App. 4th 469)

A County Board member shall not be considered to be financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5.

A County Board member shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091 and if the remote interest is disclosed during a County Board meeting and noted in the official County Board minutes. The affected County Board member shall not vote or debate on the matter or attempt to influence any other County Board member's vote. (Government Code 1091)

To avoid the appearance of impropriety, County Board members may decide not to participate in any discussion or action involving contracts where his/her interest is a "noninterest" or "remote interest" as described in Education Code 1091 and 1091.5.

Common Law Doctrine Against Conflict of Interest

A County Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

County Board members shall abstain from voting on personnel matters that uniquely affect relatives. Relative means an adult who is related to the County Board member by blood, affinity, or adoptive relationship within the third degree.

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

Rule of Necessity or Legally Required Participation

On a case-by-case basis and upon advice of legal counsel, a County Board member with a financial interest in a contract may participate in the making of the contract if the rule of necessity or legally required participation applies pursuant to Government Code 87101 and 2 CCR 18705.

Incompatible Offices and Activities

County 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 County Board member's duties as an officer of the COE. (Government Code 1099, 1126)

Gifts

County Board members may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitation on gifts does 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 current gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the County Board for its members. (Government Code 89506)

Honoraria

County Board members 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 COE for donation into the general fund without being claimed as a deduction from income for tax purposes

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office

35230-35240 Corrupt practices, especially:

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

81000-91014 Political Reform Act of 1974, especially:

82003 Agency definition

82011 Code reviewing body

82019 Definition, designated employee

82028 Definition, gift

82030 Definition, income

82033 Definition, interest in real property

82034 Definition, investment

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

PENAL CODE

85-88 Bribes

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

ATTORNEY GENERAL OPINIONS

92 Ops.Cal.Atty.Gen. 26 (2009)

92 Ops.Cal.Atty.Gen. 19 (2009)

89 Ops.Cal.Atty.Gen. 217 (2006)

86 Ops.Cal.Atty.Gen. 138(2003)

85 Ops.Cal.Atty.Gen. 60 (2002)

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)
63 Ops.Cal.Atty.Gen. 868 (1980)

Management Resources:

CSBA PUBLICATIONS

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009

Understanding the Basics of Public Service Ethics: Transparency Laws, 2009

WEB SITES

CSBA: <http://www.csba.org>

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

Institute of Local Government: <http://www.ca-ilg.org>

Bylaw ALAMEDA COUNTY OFFICE OF EDUCATION

adopted: June 29, 2011 Hayward, CA

revised: December 10, 2013

revised: November 8, 2016

(PAST) Board Policy 2300 – Conflict of Interest

The Political Reform Act, Government Code 81000, et seq., requires local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (2 CCR 18730) which contains the terms of a standard Conflict of Interest, which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings.

The County's conflict of interest code shall be comprised of the terms of 2 CCR 18730 and any amendments to it duly adopted by the Fair Political Practices Commission.

Persons occupying the following positions are designated employees and must disclose financial interests as defined below:

County Superintendent of Schools

~~Associate County Superintendent for Business Services~~

~~Assistant County Superintendent for Educational Services~~

~~Assistant County Superintendent for Student Services~~

~~Chief Human Resources Officer~~

These designated employees shall file a yearly statement of economic interests, as required by law. These statements of economic interests shall be available for public inspection and reproduction.

APPENDIX

DISCLOSURE CATEGORIES

These designated employees shall report his/her:

Interests in real property located entirely or partly within county boundaries, or within two miles of county boundaries or of any land owned or used by the County Office. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.

(UPDATED) Board Policy 2300 – Conflict of Interest

NOTE: Underlining indicates the recommended changes to the CURRENT.

The Political Reform Act, Government Code 81000, et seq., requires local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (2 CCR 18730) which contains the terms of a standard Conflict of Interest, which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings.

The County's conflict of interest code shall be comprised of the terms of 2 CCR 18730 and any amendments to it duly adopted by the Fair Political Practices Commission.

Persons occupying the following positions are designated employees and must disclose financial interests as defined below:

County Superintendent of Schools

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Chief of Learning and Accountability

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Chief of Personnel and Leadership

These designated employees shall file a yearly statement of economic interests, as required by law. These statements of economic interests shall be available for public inspection and reproduction.

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Investments or business positions in or income from sources which:

- a. Are engaged in the acquisition or disposal of real property within the County
- b. 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 County Board and/or County Office
- c. Manufacture or sell supplies, books, machinery or equipment of the type used by the County Board and/or County Office

Legal Reference:

GOVERNMENT CODE

1090-1097 Prohibitions Applicable to Specified Officers

1125-1128 Incompatible Activities

82028 Definitions "Gift"

82030 Definitions "Income"

82033 Definitions "Interest in Real Property"

82034 Definitions "Investment"

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87200-87210 Disclosure

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revised: June 29, 2011

revised: November 8, 2016

(PAST) Board Bylaw 9270 – Conflict of Interest

The County 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. In accordance with law, Board members and designated employees shall disclose any conflict of interest and, as necessary, shall abstain from participating in the decision.

Incompatible Activities

A County Board of Education member shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to his/her duties as a member of the County Board. (Government Code 1126)

Conflict of Interest Code

The County Board's conflict of interest code shall be comprised of the terms of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission.

Upon direction by the county board of supervisors, the County Board shall review its conflict of interest code in even-numbered years. If no change in the code is required, the County Board shall submit to the county board of supervisors, by October 1, a written statement to that effect. If a change in the code is necessitated by changed circumstances, the County Board shall submit an amended code to the county board of supervisors. (Government Code 87306.5)

When a change in the County Board's conflict of interest code is necessitated by changed circumstances, amendments or revisions, the changed code shall be submitted to the county board of supervisors within 90 days after the changed circumstances necessitating the amendment to the code. (Government Code 87306)

When reviewing and preparing its conflict of interest code, the County Board shall provide members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

County Board members are subject to Fair Political Practices Commission rules and regulations and shall comply with disclosure requirements and any related prohibitions. County Board members will file a yearly Statement of Economic Interests/Form 700, as required by law and 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

(UPDATED) Board Bylaw 9270 – Conflict of Interest

The County Board of Education desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the county office of education (COE) and the public. In accordance with law, County Board members shall disclose any conflict of interest and, as necessary, shall abstain from participating in any decisions or discussions that could affect or be effected by those interests, especially, as prohibited by Government Code 1090, those interests related to contracts. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

The County Board shall adopt a resolution that specifies the terms of its conflict of interest code, designates any consultant positions required to complete conflict of interest reporting, and establishes disclosure categories required for each position. The conflict of interest code must be approved by the appropriate code reviewing body. Upon request by the code reviewing body, the County Board shall review the conflict of interest code and submit any changes to the code reviewing body.

When a change in the conflict of interest code is necessitated due to changed circumstances, such as the hiring of a new consultant in a position that is not already designated in the conflict of interest code or a change to an existing consultant's scope of work in a manner that changes the consultant's position to a designated position, the amended code shall be submitted to the code reviewing body within 90 days. (Government Code 87306)

When reviewing and preparing the conflict of interest code, the County Board shall provide members of the community, the County Superintendent of Schools, COE staff, and consultants of the County Board adequate notice and a fair opportunity to present their views. (Government Code 87311)

County Board members shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the conflict of interest code. A County Board member who leaves office 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 of leaving office. (Government Code

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)

87302,87302.6)

Statements of economic interests submitted by County Board members pursuant to the conflict of interest code shall be available for public inspection and reproduction. (Government Code 81008)

Conflict of Interest under the Political Reform Act

A Board member or designated employee 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 conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the Board member's or designated employee's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the Board member's or designated employee's participation is legally required. (Government Code 87100,87101, 87103; 2 CCR 18700-18709)

A Board member or designated employee makes a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or commits the district to any course of action, or enters into any contractual agreement on behalf of the district. (2 CCR 18702.1)

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)

A Board member who manages public investments pursuant to 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 18702.5)

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.

Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. The Board member shall not be counted toward achieving a quorum while the item is discussed.

However, the Board member may speak on the issue during the time that the general public speaks on it

Conflict of Interest under the Political Reform Act

A County Board member 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 conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the County Board member's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the County Board member's participation is legally required. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

A County Board member is involved in making a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or commits the County Board to any course of action, or votes to enter into or approve any contractual agreement on behalf of the County Board. (2 CCR 18704)

A County Board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the County Board shall abstain from voting on the matter. Although he/she may remain on the dais, if they do choose to stay their presence shall not be counted towards achieving a quorum for that matter. A County Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the County Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue. (2 CCR 18700)

and may leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion of the matter with members of the public.

Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

If the item is on the consent calendar, the Board member must recuse himself/herself from discussing or voting on that matter, but the Board member is not required to leave the room during consideration of the consent calendar.

If the Board's decision is made during closed session, disclose his/her interest orally during the open session preceding the closed session. This disclosure shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 87100. He/she 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 Board's decision.

Conflict of Interest under Government Code 1090

Board members, employees, or County Office of Education consultants shall not be financially interested in any contract made by the Board on behalf of the county office, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest, the County Office is barred from entering into the contract. (Government Code 1090; Klistoff v. Superior Court, (2007) 157 Cal.App. 4th 469)

A Board member shall not be considered to be financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5. One such noninterest is when a Board member's spouse/registered domestic partner has been a district employee for at least one year prior to the Board member's election or appointment. (Government Code 1091.5)

A Board member shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091 and 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. (Government Code 1091)

Common Law Doctrine Against Conflict of Interest

Conflict of Interest under Government Code 1090 - Financial Interest in a Contract

County Board members shall not be financially interested in any contract made by the County Board and shall not be included in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids for such contracts. If a County Board member has such a financial interest, the County Board is barred from entering into the contract. (Government Code 1090; Klistoff v. Superior Court, (2007) 157 Cal.App. 4th 469)

A County Board member shall not be considered to be financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5.

A County Board member shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091 and if the remote interest is disclosed during a County Board meeting and noted in the official County Board minutes. The affected County Board member shall not vote or debate on the matter or attempt to influence any other County Board member's vote. (Government Code 1091)

To avoid the appearance of impropriety, County Board members may decide not to participate in any discussion or action involving contracts where his/her interest is a "noninterest" or "remote interest" as described in Education Code 1091 and 1091.5.

Common Law Doctrine Against Conflict of Interest

A Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

Rule of Necessity or Legally Required Participation

On a case-by-case basis and upon advice of legal counsel, a Board member with a financial interest in a contract may participate in the making of the contract if the rule of necessity or legally required participation applies pursuant to Government Code 87101 and 2 CCR 18708.

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)

Gifts

County Board members 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.

A gift of travel does not include travel provided by the County Board for its members. (Government Code 89506)

Honoraria

A County Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

County Board members shall abstain from voting on personnel matters that uniquely affect relatives. Relative means an adult who is related to the County Board member by blood, affinity, or adoptive relationship within the third degree.

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

Rule of Necessity or Legally Required Participation

On a case-by-case basis and upon advice of legal counsel, a County Board member with a financial interest in a contract may participate in the making of the contract if the rule of necessity or legally required participation applies pursuant to Government Code 87101 and 2 CCR 18705.

Incompatible Offices and Activities

County 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 County Board member's duties as an officer of the COE. (Government Code 1099, 1126)

Gifts

County Board members may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitation on gifts does 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 current gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the County Board for its members. (Government Code 89506)

Honoraria

County Board members 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)

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.

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

APPENDIX

Disclosure Categories

Every County Board member shall report his/her:

Interests in real property located entirely or partly within county boundaries, or within two miles of county boundaries or of any land owned or used by the County Office. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.

Investments or business positions in or income from sources which:

1. Are engaged in the acquisition or disposal of real property within the County
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 County Board and/or County Office
3. Manufacture or sell supplies, books, machinery or equipment of the type used by the County Board and/or County Office

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
41000-41003 Moneys received by school districts

County Board members 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 COE for donation into the general fund without being claimed as a deduction from income for tax purposes

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office
35230-35240 Corrupt practices, especially:
FAMILY CODE
297.5 Rights, protections, and benefits of registered domestic partners
GOVERNMENT CODE

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

81000-91014 Political Reform Act of 1974, especially:

82011 Code reviewing body

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

PENAL CODE

85-88 Bribes

CODE OF REGULATIONS, TITLE 2

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

18702.5 Public identification of a conflict of interest for Section 87200 filers

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

92 Ops.Cal.Atty.Gen. 26 (2009)

92 Ops.Cal.Atty.Gen. 19 (2009)

89 Ops.Cal.Atty.Gen. 217 (2006)

86 Ops.Cal.Atty.Gen. 138(2003)

85 Ops.Cal.Atty.Gen. 60 (2002)

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)

63 Ops.Cal.Atty.Gen. 868 (1980)

Management Resources:

CSBA PUBLICATIONS

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

1090-1099 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

81000-91014 Political Reform Act of 1974, especially:

82003 Agency definition

82011 Code reviewing body

82019 Definition, designated employee

82028 Definition, gift

82030 Definition, income

82033 Definition, interest in real property

82034 Definition, investment

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

PENAL CODE

85-88 Bribes

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

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65 Ops.Cal.Atty.Gen. 606 (1982)

63 Ops.Cal.Atty.Gen. 868 (1980)

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009

Understanding the Basics of Public Service Ethics: Transparency Laws, 2009

WEB SITES

CSBA: <http://www.csba.org>

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

Institute of Local Government: <http://www.ca-ilg.org>

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Management Resources:

CSBA PUBLICATIONS

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

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