

Board Bylaw 9270: Conflict Of Interest

Status: ADOPTED

Original Adopted Date: 06/01/2016 | **Last Reviewed Date:** 06/01/2016

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
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Exhibit 9270-E(1): Conflict Of Interest

Status: ADOPTED

Original Adopted Date: 06/01/2016 | Last Reviewed Date: 06/01/2016

RESOLUTION ADOPTING A CONFLICT OF INTEREST CODE

WHEREAS, the Political Reform Act, Government Code 87300-87313, requires each public agency in California to adopt a conflict of interest code; and

WHEREAS, the [redacted] County Board of Education has previously adopted a local conflict of interest code; and

WHEREAS, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to the County Board's conflict of interest code; and

WHEREAS, a regulation adopted by the Fair Political Practices Commission, 2 CCR 18730, provides that incorporation by reference of the terms of that regulation, along with an agency-specific appendix designating positions and disclosure categories shall constitute the adoption and amendment of a conflict of interest code in conformance with Government Code 87300 and 87306; and

WHEREAS, the County Board has recently reviewed its positions, and the duties of each position, and has determined that (changes/no changes) to the current conflict of interest code are necessary; and

WHEREAS, any earlier resolutions, bylaws, and/or appendices containing the County Board's conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

NOW THEREFORE BE IT RESOLVED that the [redacted] County Board of Education adopts the following Conflict of Interest Code including its Appendix of Designated Positions and Disclosure Categories.

PASSED AND ADOPTED THIS [redacted] day of [redacted], [redacted] at a meeting, by the following vote:

AYES:_____ NOES:_____ ABSENT:_____

Attest:

Secretary/President

Conflict of Interest Code of the [redacted] County Board of Education

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the County Board of Education's conflict of interest code.

County Board members and all other individuals in designated positions shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the appropriate code reviewing body. The County Board shall make the statements available for public review and inspection.

APPENDIX

Disclosure Categories

1. Category 1: A person designated Category 1 shall disclose:

- a. Interests in real property located entirely or partly within county boundaries, or within two miles of the county boundaries, or of any land owned or used by the County Board.
- b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the county, 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, or manufacture or sell supplies, books, machinery, or equipment of the type used by the County Board.

2. Category 2: A person designated Category 2 shall disclose:

- a. Investments or business positions in or income from sources which are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs.
- b. Investments or business positions in or income from sources which manufacture or sell supplies, books, machinery, or equipment of the type used by the department which the designated person manages or directs.

Designated Positions

| Designated Position | Disclosure Category |
|---------------------------------|----------------------------|
| County Board Members | 1 |
| Consultants to the County Board | 2 |

Disclosures for Consultants

Consultants who are hired pursuant to Education Code 1042 may be designated individuals who are required to disclose financial interests as determined on a case-by-case basis. The determination shall be in writing and 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 County Board, makes a governmental decision pursuant to 2 CCR 18700.3.

Board Bylaw 9500: County Superintendent's Remuneration

Status: ADOPTED

Original Adopted Date: 03/01/2021 | **Last Reviewed Date:** 03/01/2021

The County Board of Education believes that the County Superintendent of Schools renders essential services that promote the success of students and of the educational programs of the county office of education and should be fairly compensated for such service. In accordance with law, the County Board shall fix the salary of the County Superintendent and may adopt a remuneration package that includes, but is not limited to, salary, allowances, health and welfare benefits, and other benefits as appropriate.

The County Board may determine the County Superintendent's salary at any point during the term of employment. However, any decreases in salary shall only be considered in consultation with legal counsel.

The County Superintendent shall not increase the County Superintendent's own salary, financial remuneration, benefits, or pension without bringing the matter to the attention of the County Board for its discussion and approval. (Education Code 1209)

OPTION 1: (County offices of education with elected superintendents)

Any discussion and/or action taken on the County Superintendent's remuneration, including, but not limited to, salary, financial remuneration, benefits, or pension, shall take place in open session at a regularly scheduled meeting of the County Board, which shall not be held during a special meeting. (Education Code 1209; Government Code 54956)

OPTION 2: (County offices of education with appointed superintendents)

Any discussion and/or final action taken on the County Superintendent's remuneration, including, but not limited to, salary, financial remuneration, benefits, or pension, shall take place in open session at a regularly scheduled meeting of the County Board, which shall not be held during a special meeting. However, the County Board may meet in closed session with its designated representative(s) who are involved in negotiations regarding the County Superintendent's salary or benefits to review the County Board's position or instruct its designated representative(s). (Education Code 1209; Government Code 53262, 54956, 54957)

During the open meeting at which the County Board will take final action on the County Superintendent's salary or fringe benefits, the County Board shall, prior to taking action, orally report a summary of the recommended action. (Government Code 54953)

Any action taken on the County Superintendent's remuneration shall be reflected in the County Board's minutes. (Government Code 53262)

The County Superintendent shall receive reimbursement for actual and necessary traveling expenses. (Education Code 1200, 1201)

BYLAWS

POLICY -- CONFLICT OF INTEREST

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The Political Reform Act, Government Code Sections 81000 *et. seq.*, requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and 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 terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and along with the attached Appendices "A" and "B" in which employees and officials are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the Santa Barbara County Education Office.

Pursuant to Section 4 of the standard Code, designated employees and officials shall file statements of economic interest with the Santa Barbara County Education Office. Upon receipt of the statements of the County Superintendent of Schools and members of the County Board of Education, the County Education Office shall make and retain a copy and forward the originals of these statements to the Elections Division of the Santa Barbara County Clerk/Recorder. Statements for all other designated employees will be retained by the County Education Office.

EXHIBIT "A"
DESIGNATED POSITIONS

- I. Persons occupying the following positions are designated employees and officials, and must disclose financial interests in Categories 1 and 2 defined in Exhibit "B".

Members, County Board of Education
Members, Personnel Commission
County Superintendent of Schools
Deputy Superintendent
Assistant Superintendents
Legal Counsel

- II. Persons occupying the following positions are designated employees and must disclose financial interests defined in Category 2 of Exhibit "B".

None

- III. Persons occupying the following positions are designated employees and must disclose financial interests defined in Category 3 of Exhibit "B".

Administrator
Advisor
Controller
Coordinator
Director
Manager

- IV. Consultants are included in the list of designated positions and must disclose financial interests defined in Categories 1, 2, and 3 of Exhibit "B", subject to the following limitation:

The County Superintendent of Schools or designee may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The County Superintendent/designee's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

EXHIBIT "B"
DISCLOSURE CATEGORIES

CATEGORY 1

- A. Interests in real property which is located in whole or in part within the jurisdiction of the County Education Office if the fair market value of the interest is One Thousand Dollars (\$1,000.) or more.
- B. Investments in or income from business entities which are contractors or subcontractors which are or have been within the previous two-year period engaged in or in the foreseeable future may engage in the performance of building construction or design for the County Education Office.
- C. Investments in or income from persons or business entities engaged in the acquisition of or disposal of real property within the jurisdiction of the County Education Office.

CATEGORY 2

Investments in or income from business entities which within the last two years have contracted or in the future foreseeably may contract with the County Education Office to provide work, services, materials, machinery or equipment.

CATEGORY 3

Investments in or income from business entities which within the last two years have contracted or in the future foreseeably may contract with the County Education Office to provide work, services, materials, machinery or equipment of the type utilized by the department for which the designated employee is a manager or director.

BYLAWS

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|-----------------------------------|-------------------|
| ADOPTED BY COUNTY BOARD: | February 3, 1977 |
| REVISED: | July 5, 1984 |
| APPROVED BY BOARD OF SUPERVISORS: | August 6, 1984 |
| REVISED: | March 7, 1985 |
| APPROVED BY BOARD OF SUPERVISORS: | March 25, 1985 |
| REVISED: | December 5, 1985 |
| APPROVED BY BOARD OF SUPERVISORS: | January 21, 1986 |
| REVISED: | December 4, 1986 |
| APPROVED BY BOARD OF SUPERVISORS: | January 12, 1987 |
| REVISED: | December 3, 1987 |
| APPROVED BY BOARD OF SUPERVISORS: | February 1, 1988 |
| REVISED: | May 2, 1991 |
| APPROVED BY BOARD OF SUPERVISORS: | June 25, 1991 |
| REVISED: | January 2, 1992 |
| APPROVED BY BOARD OF SUPERVISORS: | January 28, 1992 |
| REVISED: | December 3, 1992 |
| APPROVED BY BOARD OF SUPERVISORS: | January 5, 1993 |
| REVISED: | December 1, 1993 |
| APPROVED BY BOARD OF SUPERVISORS: | January 4, 1994 |
| REVISED: | December 1, 1994 |
| APPROVED BY BOARD OF SUPERVISORS: | January 24, 1995 |
| REVISED: | December 7, 1995 |
| APPROVED BY BOARD OF SUPERVISORS: | January 16, 1996 |
| REVISED: | November 7, 1996 |
| APPROVED BY BOARD OF SUPERVISORS: | January 21, 1997 |
| REVISED: | December 3, 1998 |
| APPROVED BY BOARD OF SUPERVISORS: | February 9, 1999 |
| REVISED: | March 2, 2000 |
| APPROVED BY BOARD OF SUPERVISORS: | April 4, 2000 |
| REVISED: | November 2, 2000 |
| APPROVED BY BOARD OF SUPERVISORS: | January 2, 2001 |
| REVISED: | January 3, 2002 |
| APPROVED BY BOARD OF SUPERVISORS: | February 19, 2002 |
| REVISED: | November 6, 2003 |
| APPROVED BY BOARD OF SUPERVISORS: | March 2, 2004 |
| REVISED: | November 4, 2004 |
| APPROVED BY BOARD OF SUPERVISORS: | January 18, 2005 |
| REVISED: | January 5, 2006 |
| APPROVED BY BOARD OF SUPERVISORS: | February 28, 2006 |
| REVISED: | December 7, 2006 |
| APPROVED BY BOARD OF SUPERVISORS: | February 6, 2007 |
| REVISED: | December 6, 2007 |
| APPROVED BY BOARD OF SUPERVISORS: | February 26, 2008 |
| REVISED: | December 4, 2008 |
| APPROVED BY BOARD OF SUPERVISORS: | February 17, 2009 |
| REVISED: | January 7, 2010 |
| APPROVED BY BOARD OF SUPERVISORS: | March 2, 2010 |
| REVISED: | December 2, 2010 |
| APPROVED BY BOARD OF SUPERVISORS: | February 1, 2011 |
| REVISED: | February 2, 2012 |
| APPROVED BY BOARD OF SUPERVISORS: | |
| REVISED: | March 7, 2013 |
| APPROVED BY BOARD OF SUPERVISORS: | June 18, 2013 |
| REVISED: | December 12, 2013 |
| APPROVED BY BOARD OF SUPERVISORS: | |
| REVISED: | December 11, 2014 |

BYLAWS

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APPROVED BY BOARD OF SUPERVISORS
REVISED:

February 10, 2015
February 2, 2017