



BYLAWS

BOARD POLICY – CONFLICT OF INTEREST

BP 9270

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 education office (CEO) and the public. In accordance with law, County Board members, and all SBCEO employees designated by law, 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, CEO 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 their official position to influence a governmental decision in which they know or have reason to know that they have 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 their office or position, they vote on a matter, appoint a person, obligate or commit the County Board to any course of action, or vote 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 they 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 their 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 they have 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 their 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

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the County Superintendent of Schools or designee to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Management Resources

Attorney General Opinion	92 Ops.Cal.Atty.Gen. 26 (2009)
Attorney General Opinion	92 Ops.Cal.Atty.Gen. 19 (2009)
Attorney General Opinion	89 Ops.Cal.Atty.Gen. 217 (2006)
Attorney General Opinion	86 Ops.Cal.Atty.Gen. 138(2003)
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Attorney General Opinion	82 Ops.Cal.Atty.Gen. 83 (1999)
Attorney General Opinion	81 Ops.Cal.Atty.Gen. 327 (1998)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 320 (1997)
Attorney General Opinion	69 Ops.Cal.Atty.Gen. 255 (1986)
Attorney General Opinion	68 Ops.Cal.Atty.Gen. 171 (1985)
Attorney General Opinion	65 Ops.Cal.Atty.Gen. 606 (1982)
Attorney General Opinion	63 Ops.Cal.Atty.Gen. 868 (1980)
Court Decision	Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655
Court Decision	McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)
Court Decision	Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511
Court Decision	Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469
Court Decision	Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261
CSBA Publication	Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010
Fair Political Practices Commission Publication	Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005
Institute For Local Government Publication	Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009
Institute for Local Government Publication	Understanding the Basics of Public Service Ethics: Transparency Laws, 2009
Website	Institute for Local Government
Website	Fair Political Practices Commission
Website	CSBA

State

2 CCR 18110-18997	Regulations of the Fair Political Practices Commission
2 CCR 18700-18760	Conflicts of Interest
2 CCR 18722-18740	Disclosure of interests
2 CCR 18753-18756	Conflict of interest codes
Ed. Code 1006	Prohibition against school district employees serving on county board of education
Ed. Code 35107	School district employees
Ed. Code 35230-35240	Corrupt practices
Ed. Code 35233	Prohibitions applicable to members of governing boards

Ed. Code 41000-41003	Moneys received by school districts
Ed. Code 41015	Investments
Fam. Code 297.5	Rights, protections, and benefits of registered domestic partners
Gov. Code 1090-1099	Prohibitions applicable to specified officers
Gov. Code 1125-1129	Incompatible activities
Gov. Code 81000-91014	Political Reform Act of 1974
Gov. Code 82011	Code reviewing body
Gov. Code 82019	Definition, designated employee
Gov. Code 82028	Definition, gift
Gov. Code 82030	Definition, income
Gov. Code 82033	Definition, interest in real property
Gov. Code 82034	Definition, investment
Gov. Code 87100-87103.6	General prohibitions
Gov. Code 87200-87210	Disclosure
Gov. Code 87300-87313	Conflict of interest code
Gov. Code 87500	Statement of economic interests
Gov. Code 89501-89503	Honoraria and gifts
Gov. Code 89506	Ethics; travel
Gov. Code 91000-91014	Enforcement
Pen. Code 85-88	Bribes
Rev. & Tax Code 203	Taxable and exempt property - colleges

ADOPTED BY COUNTY BOARD: February 3, 1977

REVISED: July 5, 1984, March 7, 1985, December 5, 1985, December 4, 1986, 3, 1987, May 2, 1991, January 2, 1992, December 3, 1992, December 1, 1993, December 1, 1994, December 7, 1995, November 7, 1996, December 3, 1998, March 2, 2000, November 2, 2000, January 3, 2002, November 6, 2003, November 4, 2004, January 5, 2006, December 7, 2006, December 6, 2007, December 4, 2008, January 7, 2010, December 2, 2010, February 2, 2012, March 7, 2013, December 12, 2013, December 11, 2014, February 2, 2017, February 2, 2023



BOARD BYLAW

EXHIBIT – CONFLICT OF INTEREST

BP 9270

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 Santa Barbara 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 Santa Barbara County Board of Education adopts the following Conflict of Interest Code including its Appendix of Designated Positions and Disclosure Categories.

PASSED AND ADOPTED THIS _____ day of _____, _____ at a meeting, by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

Attest:

Secretary/President

Conflict of Interest Code of the Santa Barbara 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.

3. Category 3 Full Disclosure: Because it has been determined that the SBCEO's Board members and/or County Superintendent "manage public investments," they and other persons designated for "full disclosure" shall disclose, in accordance with Government Code 87200:
 - a. 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 SBCEO.
 - b. Investments, business positions, and sources of income, including gifts, loans, and travel payments.

Designated Positions

Designated Position	Disclosure Category
Members, County Board of Education	3
Members, Personnel Commission	1
County Superintendent of Schools	3
Deputy Superintendent	3

Associate Superintendents	3
Legal Counsel	1
Consultants to the County Board	2
Administrator	3
Advisor	3
Controller	3
Coordinator	3
Director	3
Manager	3

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)

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the SBCEO to enter into, modify, or renew a contract that requires SBCEO approval
5. Grant SBCEO approval to a contract that requires SBCEO approval and in which the SBCEO is a party, or to the specifications for such a contract
6. Grant SBCEO approval to a plan, design, report, study, or similar item
7. Adopt or grant SBCEO approval of SBCEO policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the SBCEO, serves in a staff capacity with the SBCEO and in that capacity participates in making a governmental decision as defined in 2 CCR 18704, subsections (a) and (b), or performs the same or substantially all the same duties for the SBCEO that would otherwise be performed by an individual holding a position specified in the SBCEO's conflict of interest code. (2 CCR 18700.3)

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Website	Fair Political Practices Commission

APPROVED BY BOARD OF SUPERVISORS: August 6, 1984, March 25, 1985, January 21, 1986, January 12, 1987, February 1, 1988, June 25, 1991, January 28, 1992, January 5, 1993, January 4, 1994, January 24, 1995, January 16, 1996, January 21, 1997, February 9, 1999, April 4, 2000, January 2, 2001, February 19, 2002, March 2, 2004, January 18, 2005, February 28, 2006, February 6, 2007, February 26, 2008, February 17, 2009, March 2, 2010, February 1, 2011, June 18, 2013, February 10, 2015, April 11, 2017, PENDING