

## **BYLAWS OF THE BOARD**

### **Conflict of Interest**

The County Board of Education (Board) desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the San Joaquin County Office of Education (SJCOE) 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.

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

Upon direction by the code reviewing body, the Board shall review the SJCOE conflict of interest code and submit any changes to the code reviewing body.

When a change in the SJCOE conflict of interest code is necessitated due to changed circumstances, such as the creation of new designated positions, changes to the duties assigned to existing positions, amendments, or revisions, the amended code shall be submitted to the code reviewing body within 90 days.

When reviewing and preparing the SJCOE conflict of interest code, the Superintendent or designee shall provide officers, employees, consultants, and members of the community adequate notice and a fair opportunity to present their views.

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

### **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.

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 SJCOE to any course of action, or enters into any contractual agreement on behalf of SJCOE.

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.

### **Conflict of Interest under Government Code 1090**

Board members, employees, or SJCOE consultants shall not be financially interested in any contract made on behalf of SJCOE, 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, SJCOE is barred from entering into the contract.

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 SJCOE employee for at least one year prior to the Board member's election or appointment.

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.

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

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.

### **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.

### **Incompatible Offices and Activities**

Board members shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of SJCOE.

### **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 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.

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 SJCOE for Board members and designated employees.

### **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.

The term honorarium does not include:

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 SJCOE for donation into the general fund without being claimed as a deduction from income for tax purposes.

*cf:* 3430 Investing  
4117.2/4217.2/4317.2 Resignation  
9220 County Board of Education Elections  
9222 Resignations  
9320 Meetings and Notices

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

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

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