



# SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 10.1e

**Meeting Date:** November 19, 2020

**Subject:** Approve Revision of Board Bylaw 9270: Conflict of Interest

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (\_\_\_\_\_)
- Conference/Action
- Action
- Public Hearing

**Division:** Legal Services

**Recommendation:** Approve revision to Board Bylaw 9270: Conflict of Interest.

**Background/Rationale:** The Political Reform Act requires every local government agency to review and revise if necessary, its conflict-of-interest bylaw biennially. As required, by October 1, 2020, the District submitted to the County Board of Supervisors a notice indicating that an amendment to the Bylaw is necessary. Previous updates to Board Bylaw 9270 have occurred in 2018, and in every even year previous thereto.

On October 15, 2020, the Board approved updates to Board Bylaw 9270 based on the model bylaw 9270 provided by CSBA's Gamut service. Thereafter, the County Clerk of the Board Office (COB) indicated an additional update needed to be made to include language not included in the CSBA Gamut model bylaw; specifically, that Board members and designated employees are required to file their Statement of Economic Interest/Form 700 electronically with the Sacramento County COB.

**Financial Considerations:** None

**Documents Attached:**

1. BB 9270 Red Lined
2. 2020 Biennial Notice

<p><b>Estimated Time of Presentation:</b> N/A <b>Submitted by:</b> Raoul Bozio, In House Counsel <b>Approved by:</b> Jorge A. Aguilar, Superintendent</p>
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# Sacramento City USD

## Board Bylaw

### Conflict Of Interest

BB 9270

#### Board Bylaws

The Governing 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. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

(cf. 9005 - Governance Standards)

Even if a prohibited conflict of interest does not exist, 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. (Education Code 35107)

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.

The Board shall adopt for the district a conflict of interest code that incorporates the provisions of 2 CCR 18730 by reference, specifies the district's designated positions, and provides the disclosure categories required for each position. The conflict of interest code shall be submitted to the district's code reviewing body for approval, in accordance with Government Code 87303 and within the deadline for submission established by the code reviewing body. (Government Code 87303)

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code and submit any changes to the code reviewing body or, if no change is required, the Board shall submit a written statement to that effect. (Government Code 87306.5)

When a change in the district's 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 after the changed circumstances necessitating the amendments have become apparent. (Government Code 87306)

When reviewing and preparing the district's 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. (Government Code 87311)

(cf. 9320 - Meetings and Notices)

Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 electronically with the Sacramento County Clerk of the Board Office (COB) in accordance with the disclosure categories specified in the district's conflict of interest code. Other designated employees will file internally within the District. A Board member who leaves office or a designated employee who leaves district employment 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 or district employment. (Government Code 87302, 87302.6) A newly elected or appointed Board member or a newly hired employee in a designated position shall, within 30 days, file an Assuming Office statement covering the 12 months prior to the date the assuming office or position date. The statements of Board members and the Superintendent shall be available through the Sacramento County Clerk of the Board Office for public inspection and reproduction. (Government Code 81008)

Upon receiving the statements from other designated employees, the District shall make and retain copies.

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

#### Conflict of Interest under the Political Reform Act

A Board member, designated employee, or other person in a designated position 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 disqualifying conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect," which is distinguishable from the effect on the public generally, on the Board member, designated employee, or other person in a designated position, his/her immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18707)

A Board member, designated employee, or other person in a designated position makes a governmental decision when he/she, acting within the authority of his/her office or position, authorizes or directs any action on a matter, votes or provides information or opinion on it, contacts or appears before a district official for the purpose of affecting the decision, or takes any other action specified in 2 CCR 18704.

However, a Board member shall participate in the making of a contract in which he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

#### Additional Requirements for Boards that Manage Public Investments

Any 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 18707)

1. 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.
2. 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 and may leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion and deliberations of the matter with members of the public.

3. 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.

4. 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.

(cf. 3430 - Investing)

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

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

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, 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 in a contract made by the Board, the contract is void. (Government Code 1090)

A Board member shall not be considered to be financially interested in a contract in which he/she has only a "remote interest," as specified in Government Code 1091, if the 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 or district official to enter into the contract. (Government Code 1091)

In addition, a Board member shall not be considered to be financially interested in a contract in which his/her interest is a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest in being reimbursed for his/her actual and necessary expenses incurred in the performance of his/her official duties, in the employment of his/her spouse/registered domestic partner who has been a district employee for at least one year prior to the Board member's election or appointment, or in any other applicable circumstance specified in Government Code 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.

#### 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 the district. (Government Code 1099, 1126)

(cf. 4136/4236/4336 - Nonschool Employment)

#### 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. (Government Code 89503)

In addition, the limitation on gifts does not apply to informational materials such as books, reports, pamphlets, calendars, and periodicals. (Government Code 82028)

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation, except when: (Government Code 89506)

1. The travel is in connection with a speech given by a Board member or designated employee, provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.

2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Gifts of travel exempted from the gift limitation, as described in items #1 and 2 above, shall nevertheless be reportable on the recipient's Statement of Economic Interest/Form 700 as required by law.

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

#### Honoraria

Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Government Code 89501, 89502)

The term honorarium does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade, or profession, unless the sole or predominant activity of the business, trade, or profession is making speeches
2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes

#### DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

##### Category 1

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

Members of the Board of Education  
Superintendent  
Deputy Superintendent  
Chief Academic Officer  
Chief Business Officer  
Chief Communications Officer  
Chief Human Resources Officer  
Chief Continuous Improvement and Accountability Officer  
Chief Information Officer

Designated persons in this category must report:

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

b. Investments or business positions in or income from sources which:

(1) Are engaged in the acquisition or disposal of real property within the district;

(2) Are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district; or

(3) Manufacture or sell supplies, books, machinery or equipment of the type used by the district.

## Category 2

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

### Deputy Superintendent's Office

Assistant Superintendent Student Support Services  
Director, Student Support & Health Services  
Director, Enrollment and Attendance Center  
Director, Student Services and Alternative Education  
Director, Youth Development  
Director, Behavior and Re-Entry  
In-House Counsel  
Safe Schools Director

### Academic Office

Instructional Assistant Superintendent  
Assistant Superintendent, Curriculum and Instruction  
Director, Social & Emotional Learning  
Director, Child Development  
Director, Multilingual Education  
Director, Multi-Tiered Systems of Support  
Director, Adult Education  
Director, Career Readiness and Specialty Programs

Assistant Superintendent, Special Education, Innovation and Learning  
Director, Special Education Local Plan Area (SELPA)  
Administrator, Teaching and Learning

## Business Services

Assistant Superintendent, Facility Support Services  
Director, Nutrition  
Director, Distribution Services  
Director, Capital Projects, Facilities and Resource Management  
Director, Facilities Management and Operations  
Director, Accounting Services  
Director, Budget and Fiscal Services  
Director, Compensation and Benefits  
Manager, Purchasing  
Human Resource Services

Director, Employee Relations  
Director, Human Resource Services (Departments)  
Director, Human Resource Services (Elementary)  
Director, Human Resource Services (Secondary)

## Continuous Improvement and Accountability

Director, Strategy and Innovation  
Director, Innovative Schools  
Director, State and Federal  
Director, Guidance and Counseling  
Director, Master Schedule

## Technology Services

Director, Student and Data Systems  
Communications  
Manager, Communications Office

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

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs; or
- b. Manufacture or sell supplies, books, machinery or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

## Consultants



Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis, as recommended by General Counsel to the Superintendent and the Board of Trustees. The determination shall be written 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 district, makes a governmental decision whether to: (2 CCR 18701)

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the district to enter into, modify or renew a contract that requires district approval
- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- f. Grant district approval to a plan, design, report, study or similar item
- g. Adopt or grant district approval of district policies, standards or guidelines

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

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office

35107 School district employees

35230-35240 Corrupt practices, especially:

35233 Prohibitions applicable to members of governing boards

41000-41003 Moneys received by school districts

41015 Investments

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

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

89506 Ethics; travel

91000-91014 Enforcement

#### PENAL CODE

85-88 Bribes

#### REVENUE AND TAXATION CODE

203 Taxable and exempt property - colleges

#### CODE OF REGULATIONS, TITLE 2

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

18700-18707 General prohibitions

18722-18740 Disclosure of interests

18753-18756 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 SACRAMENTO CITY UNIFIED SCHOOL DISTRICT**

adopted: November 16, 1998                      Sacramento, California

revised: April 2, 2001

revised: March 3, 2005

revised: November 6, 2008

revised: December 10, 2009

revised: November 4, 2010

revised: December 20, 2012

revised: December 18, 2014

revised: December 8, 2016

revised: October, 2018

revised: November 26, 2018

revised: TBD

Clerk of the Board of Supervisors  
Florence H. Evans



Board of Supervisors  
Phil Sema – District 1  
Patrick Kennedy – District 2  
Susan Peters – District 3  
Sue Frost – District 4  
Don Nottoli – District 5

**County of Sacramento**

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June 30, 2020

Raoul Bozio, Filing Official  
Sacramento City Unified School District  
5735 47th Avenue  
Sacramento, CA 95824

Subject: 2020 Biennial Notice for Conflict of Interest Codes

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions. Please review your conflict of interest code and complete this form by checking the applicable boxes below.

**If amendment is required check all that apply below:**

An amendment is required. The following amendments are necessary and reflected on this form as indicated below **and** reflected in the attached approved proposed code and red-line copy of the amendments:

- Includes new positions
- Revised disclosure categories
- Revised the titles of existing positions
- Deleted titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- Other (*describe*) \_\_\_\_\_
- Attached is the agency approved proposed Conflict of Interest Code
- Attached is the red-line copy of the amendments (required to attach)

**If code is under review by the code reviewing body check box below:**

- The code is currently under review by the Sacramento County Board of Supervisors (code reviewing body). Date code was submitted for review \_\_\_\_\_.

**If no amendment is required check box below:**

- No amendment is required. (Attach a copy of the code if five or more years old - amendments may be necessary).

**Verification (MUST BE COMPLETED WITH OR WITHOUT AN AMENDMENT)**

*This agency's code accurately designates all positions that make or participate in*

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*the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.*

Signature of Chief Executive Officer \_\_\_\_\_

Date 9/28/20

All agencies must complete and return this notice regardless of how recent the code was approved or amended. **Please return this notice no later than October 1, 2020, attention Clarice Thomas, Clerk of the Board Department, 700 H Street, Suite 2450, Sacramento, California 95814.**

See the Quick Reference Work Flow Sheet for an overview of the biennial process. If you have any questions, please contact Clarice Thomas at (916) 876-9702 or [Form700@saccounty.net](mailto:Form700@saccounty.net).

Sincerely,

Clarice Thomas  
Form 700 Coordinator  
County of Sacramento

Attachment: Quick Reference Work Flow Sheet (following below)

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Board of Supervisors  
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**QUICK REFERENCE WORK FLOW SHEET  
2020 BIENNIAL NOTICE – CONFLICT OF INTEREST CODE REVIEW**

**Amended code is submitted (see Steps 1 – 6)**

**Step 1:**

Complete the 2020 Biennial Notice form and check the applicable box(es) under the section "An amendment is required". Obtain the signature of the agency chief executive officer/administrator and return the form and appropriate attachments to the Form 700 Coordinator. **\*A copy of the proposed code and a copy of the red-line version must be attached.**

**Step 2:**

When the proposed amended code is received by the Form 700 Coordinator it is placed on the Board agenda as a communication received & referred item to the Clerk for processing.

**Code is currently under review by Board of Supervisors (see Steps 3 – 6)**

**Step 3:**

The proposed amended code is reviewed:

- (a) if the amendments are clear and meets FPPC standards the code moves to Step 4 and is placed on the Board agenda as a consent item for approval.
- OR -
- (b) if the amendments need further clarification or revisions it is returned to the agency for completion.

The code moves to Step 4 once the County completes the review and it meets FPPC standards.

**Step 4:**

The proposed amended code is placed on the Board agenda as a consent item for the Code Reviewing Body's review and approval (*Board of Supervisors is the code reviewing body*).

**Step 5:**

After the Board approves the proposed code, the resolution is processed by the Clerk's office. The Form 700 Coordinator will enter the changes in the eDisclosure

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## County of Sacramento

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system reflecting the amendments to the agency's code. Once the updates are completed in the system, the agency will be notified by email.

### **Step 6:**

The Form 700 Coordinator will send a copy of the executed resolution and the adopted code to the agency by email confirming the updates that were made in the system and the effective date of the approved code.

As it relates to the County's 2020 Biennial Notice process no further action is required from the agency.

### **If no amendment is required to the code**

#### **Step 1:**

Complete the 2020 Biennial Notice form and check the box "No amendment is required". Obtain the signature of the agency chief executive officer/administrator and return the form and appropriate attachments to the Form 700 Coordinator.

**See Step 2 if the code is more than five years old.**

#### **Step 2:**

If the code is more than five years old, attach a copy of the existing approved code. *\*FPPC suggests codes that are five or more years old generally have amendments.*

As it relates to the County's 2020 Biennial Notice process no further action is required from the agency.

**NON-RESPONDING AGENCIES WILL BE REPORTED TO THE  
CODE REVIEWING BODY &  
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION (FPPC)**