SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

Agenda Item 10.2

Meeting Date: November 17, 2016

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

- ☐ Information Item Only
- ☐ Approval on Consent Agenda
- ☐ Conference (for discussion only)
- ☒ Conference/First Reading (Action Anticipated: December 8, 2016)
- ☐ Conference/Action
- ☐ Action
- ☐ Public Hearing

Division: Legal Services

Recommendation: Adopt revision to Appendix of 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, 2016, the District submitted to the County Board of Supervisors a notice indicating that an amendment to the Bylaw's Appendix is necessary. After a review of Board Bylaw 9270, it is apparent that updates to the Appendix are needed in order to align it with the District's changes to positions and overall organizational structure. Previous updates to Board Bylaw 9270 have occurred in 2014, and in every even year previous thereto.

Financial Considerations: N/A

LCAP Goal(s): Operational Excellence

Documents Attached:
1. Executive Summary
2. Red-lined version of BB 9270 with Appendix
3. Clean version BB 9270 with Appendix.

Estimated Time of Presentation: 5 mins
Submitted by: Raoul Bozio, Legal Services Manager
Approved by: José L. Banda, Superintendent

Board of Education Executive Summary

Department Name: Legal Services

Agenda Title: Revision to Appendix of Board Bylaw 9270, Conflict of Interest

Date of Board Meeting: November 17, 2014

I. OVERVIEW / HISTORY: 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, 2016, the District submitted to the County Board of Supervisors a notice indicating that an amendment to the Bylaw's Appendix is necessary. After a review of Board Bylaw 9270, it is apparent that updates to the Appendix are needed in order to align it with the District's changes to positions and overall organizational structure. Previous updates to Board Bylaw 9270 have occurred in 2014, and in every even year previous thereto.

II. DRIVING GOVERNANCE: The Political Reform Act, Government Code Section 81000 *et seq*., requires every local government agency to review and update its conflict-of-interest code biennially.

III. BUDGET: No measurable impact.

IV. GOALS, OBJECTIVES, AND MEASURES: The goal of this action is to ensure compliance with the Political Reform Act's requirements that public agency decision makers disclose any potential conflicts of interest. In light of the District's Departmental re-organization and new positions that have been created over the previous two years, only an amendment to the appendix is necessary in order to ensure that required employees comply with the annual, as well as taking and leaving office, disclosure requirements of potential conflict of interests. Completing this revision will maintain the District as a transparent entity that is in compliance with California public entity laws.

V. MAJOR INITIATIVES

Operational Excellence

VI. RESULTS

N/A

VII. LESSONS LEARNED / NEXT STEPS

N/A

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. 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.

Conflict-of-Interest Code

The district's conflict-of-interest code shall be comprised of the terms of the 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with an Appendix specifying designated positions and the specific types of disclosure category required for each position.

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

When a change in the district's conflict-of-interest code is necessitated by changed circumstances, such as the creation of new designated positions, amendments or revisions, the changed code shall be submitted to the code reviewing body within 90 days. (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 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 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) 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. These statements shall be available for public inspection and reproduction. (Government Code 81008)

Upon receiving the statements from designated employees, the district shall make and retain copies and shall forward the originals to the appropriate county agency.

Financial Interest

Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as Board members or designated employees. (Government Code 1090)

A Board member shall not be considered to be financially interested in a contract if his/her interest includes, but is not limited to, any of the following: (Government Code 1091.5)

1. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty

2. That of a recipient of public services generally provided by the public body or board of which s/he is a member, on the same terms and conditions as if he/she were not a member of the Board

3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091

4. That of a spouse of an officer or employee of a public agency if his/her spouse's employment or office holding has existed for at least one year prior to his/her election or appointment

5. That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records

6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the district and its Board and provided further that such interest is noted in its official records

7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the

governmental entity that employs the officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that such interest is noted in its official records

8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm

In addition, a Board member or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. (Government Code 1091.5)

A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract 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. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

A Board member may enter into a contract if the rule of necessity or legally required participation applies as defined in Government Code 87101.

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person 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 the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

Disqualification for Board Members Who Manage Public Investments

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:

1. Publicly identify the 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. (Government Code 87105)

2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. This Board member shall not be counted toward achieving a quorum while the item is discussed. (Government Code 87105; 2 CCR Section 18702.5)

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. (Government Code 87105)

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 the consent calendar. (2 CCR Section 18702.5)

A Board member who has recused himself/herself from participating in a matter may speak on the matter during the time that the general public speaks on the matter. The Board member shall recuse himself/herself from voting on the matter and 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. (Government Code 87105; 2 CCR 18702.5)

If the Board's decision is made during closed session, the public identification may be made orally during the open session before the Board goes into closed session and shall be limited to a declaration that his/her recusal is because of a conflict-of-interest pursuant to Government Code 87100. The Board member shall not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the Board's decision. (2 CCR 18702.5)

(cf. 3430 - Investing)

Incompatible Activities

Board members or employees shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the district or with the employee's position in the district. (Government Code 1099, 1126)

(cf. 4136/4236/4336 – Non-school 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 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 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 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 district for donation into the general fund without being claimed as a deduction from income for tax purposes

APPENDIX

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 of Schools~~
Chief Operations Officer
~~Chief of Staff~~
Chief Strategy 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

- ~~Deputy Superintendent~~
- Area Assistant Superintendent
- ~~Area~~ Assistant Superintendent of Equity
- ~~Assistant Superintendent, Facility Support Services~~
- Director, Integrated Support Services
- Director, Enrollment Center
- ~~Director, Planning, Construction and Operations~~
- Director, Student Hearing and Placement
- Director, Strategy and Innovation Office
- Director Innovative Schools
- Director, Youth Development
- Director, Behavior and Re-Entry
- Director, Social and Emotional Learning
- Manager, Legal Services

Academic Office

- Assistant Superintendent, Curriculum and Instruction
- Director, Child Development
- Director, Multilingual Literacy
- Director, Special Education
- ~~Director, High School Reform Initiatives~~

Formatted: Indent: Left: 0.25"

Formatted: Normal, Space After: 0 pt, Line spacing: single

- Director, State and Federal Programs
- Director, Adult Education
- Director, College/Career Readiness
- Director, Teacher and Leadership Development

~~Schools Office~~

- ~~Director Assessment, Research and Evaluation Education~~
- ~~Director, Youth Development~~

Business Services

- ~~Assistant Superintendent, Information Education Technology~~
  ~~Chief Information Officer, Technology Services~~
- Director, Accounting Services
- Director, Budget Services
- ~~Director, Risk Management~~
- Director, ~~Benefits & Compensation~~Compensation and Benefits
- Manager, Purchasing ~~and Warehouse~~

Human Resource Services

- Assistant Superintendent, Labor Relations
- ~~Assistant Superintendent, Human Resource and Employee Compensation Services~~
- Director, Employee Relations
- Director, Human Resource Services
- ~~Director, Human Resource Services~~

Operations

- Director, Facilities Maintenance and Resource Management ~~Facilities and Maintenance~~
- Director, Facilities and Management Operations
- Director, Distribution Services
- Director, Nutrition Services

Strategy and Innovation

- Director, Strategy and Innovation
- Director, Innovative~~ion~~ Schools

Formatted: Indent: Left: 0.25"

Formatted: Indent: Left: 0.5"

Formatted: Indent: Left: 0.25"

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
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

~~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~~
~~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~~
~~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

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. 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.

Conflict-of-Interest Code

The district's conflict-of-interest code shall be comprised of the terms of the 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with an Appendix specifying designated positions and the specific types of disclosure category required for each position.

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

When a change in the district's conflict-of-interest code is necessitated by changed circumstances, such as the creation of new designated positions, amendments or revisions, the changed code shall be submitted to the code reviewing body within 90 days. (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 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 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) 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. These statements shall be available for public inspection and reproduction. (Government Code 81008)

Upon receiving the statements from designated employees, the district shall make and retain copies and shall forward the originals to the appropriate county agency.

Financial Interest

Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as Board members or designated employees. (Government Code 1090)

A Board member shall not be considered to be financially interested in a contract if his/her interest includes, but is not limited to, any of the following: (Government Code 1091.5)

1. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty

2. That of a recipient of public services generally provided by the public body or board of which s/he is a member, on the same terms and conditions as if he/she were not a member of the Board

3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091

4. That of a spouse of an officer or employee of a public agency if his/her spouse's employment or office holding has existed for at least one year prior to his/her election or appointment

5. That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records

6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the district and its Board and provided further that such interest is noted in its official records

7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the

governmental entity that employs the officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that such interest is noted in its official records

8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm

In addition, a Board member or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. (Government Code 1091.5)

A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract 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. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

A Board member may enter into a contract if the rule of necessity or legally required participation applies as defined in Government Code 87101.

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person 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 the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

Disqualification for Board Members Who Manage Public Investments

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:

1. Publicly identify the 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. (Government Code 87105)

2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. This Board member shall not be counted toward achieving a quorum while the item is discussed. (Government Code 87105; 2 CCR Section 18702.5)

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. (Government Code 87105)

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 the consent calendar. (2 CCR Section 18702.5)

A Board member who has recused himself/herself from participating in a matter may speak on the matter during the time that the general public speaks on the matter. The Board member shall recuse himself/herself from voting on the matter and 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. (Government Code 87105; 2 CCR 18702.5)

If the Board's decision is made during closed session, the public identification may be made orally during the open session before the Board goes into closed session and shall be limited to a declaration that his/her recusal is because of a conflict-of-interest pursuant to Government Code 87100. The Board member shall not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the Board's decision. (2 CCR 18702.5)

(cf. 3430 - Investing)

Incompatible Activities

Board members or employees shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the district or with the employee's position in the district. (Government Code 1099, 1126)

(cf. 4136/4236/4336 – Non-school 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 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 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 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 district for donation into the general fund without being claimed as a deduction from income for tax purposes

APPENDIX

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

<u>Category 1</u>

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 Operations Officer
Chief Strategy 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.

<u>Category 2</u>

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

Deputy Superintendent's Office

-
- Area Assistant Superintendent
- Assistant Superintendent of Equity
- Director, Integrated Support Services
- Director, Enrollment Center
- Director, Student Hearing and Placement
- Director, Strategy and Innovation Office
- Director Innovative Schools
- Director, Youth Development
- Director, Behavior and Re-Entry
- Director, Social and Emotional Learning
- Manager, Legal Services

Academic Office

- Assistant Superintendent, Curriculum and Instruction
- Director, Child Development
- Director, Multilingual Literacy
- Director, Special Education
- Director, State and Federal Programs
- Director, Adult Education
- Director, College/Career Readiness
- Director, Teacher and Leadership Development

Business Services

- Director, Accounting Services
- Director, Budget Services
- Director, Compensation and Benefits
- Manager, Purchasing

Human Resource Services

- Assistant Superintendent, Labor Relations
- Director, Employee Relations
- Director, Human Resource Services
-

Operations

- Director, Facilities Maintenance and Resource Management
- Director, Facilities and Management Operations
- Director, Distribution Services
- Director, Nutrition Services

Strategy and Innovation

- Director, Strategy and Innovation
- Director, Innovative Schools

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
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 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