

Sacramento City USD Proposed Revisions

Board Bylaw

~~Conflict-Of-Interest~~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.

~~Incompatible Activities~~

~~Governing 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 1126)~~

~~Conflict of Interest~~Conflict-of-Interest Code

The district's ~~conflict of interest~~conflict-of-interest code shall be comprised of the terms of the 2

provided further that such interest is noted in its official records

6. ~~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. ~~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. ~~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

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~~conflict-of-interest and immediately prior to the consideration of the matter, do all of the following:

1. ~~1.~~—Publicly identify the financial interest that gives rise to the conflict or potential ~~conflict of interest~~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. ~~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. ~~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)

~~(cf. 3430 - Investing)~~

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~~conflict-of-interest

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 – 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 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. ~~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. ~~2.~~—Any honorarium which is not used and, within 30 days after receipt, is either

~~Director, School, Family and Community Partnerships~~

~~Director, Youth Development~~

~~Director, Integrated Support Services~~

~~Director, Health Services~~

~~Director, Capitol Asset Management Services~~

~~Director, Operations and Planning~~

~~Director, Facilities and Maintenance~~

~~Director, Distribution Services~~

~~Manager, Purchasing and Warehouse~~

Superintendent's Office

Chief of Staff

Director, 501(c)3

Academic Office

Assistant Superintendent, Curriculum and Instruction

Director, Child Development

Director, Multilingual Literacy

Director, Special Education

Director, ~~Linked Learning~~ High School Reform Initiatives

Coordinator, State and Federal Programs

Accountability Office

Family and Community Engagement

- ~~—~~ Director, Health Services
- Director, Integrated Support Services
- ~~—~~ Director, School, Family and Community Partnerships
- ~~—~~ Director, Youth Development

Human Resource Services

- ~~—~~ Director, Human Resource Services

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

- a. ~~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. ~~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.

~~3.~~ 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~~ 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. ~~a.~~ Approve a rate, rule or regulation
- b. ~~b.~~ Adopt or enforce a law
- c. ~~e.~~ Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. ~~d.~~ Authorize the district to enter into, modify or renew a contract that requires district approval
- e. ~~e.~~ Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- e.

g. ~~g.~~ Adopt or grant district approval of district policies, standards or guidelines

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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~~conflict-of-interest Codecode. (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

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, 2012