

**CONFLICT OF INTEREST**

**Incompatible Activities**

Governing Board members 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. (Government Code 1126)

**Conflict of Interest Code**

El Rancho Unified School District hereby incorporates by reference FPPC Regulation 18730 (2 CA Code of Regulations, Section 18730) and any amendments to it adopted by the Fair Political Practices Commission, together with district attachments specifying designated positions and the specific types of disclosure statements required for each position.

Upon direction by the Los Angeles County Board of Supervisors, 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. If a change in the code is necessitated by changed circumstances, the district shall submit an amended code to the Los Angeles County Board of Supervisors. (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 shall be submitted to the Los Angeles County Board of Supervisors within 90 days. (Government Code 87306)

When reviewing and preparing conflict of interest codes, the district shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required. (2 CCR 18700)

Statements of economic interests submitted to the district by designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction. (Government Code 81008)

**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)

**CONFLICT OF INTEREST** (continued)

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 he/she is a member, on the same terms and conditions as if he or 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 the district if his/her spouse's employment or officeholding 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 nonprofit board or to which the school Board has legal obligation to give particular consideration, 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 government 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.

## **CONFLICT OF INTEREST (continued)**

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.

### **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)

**CONFLICT OF INTEREST (continued)**

**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.

Legal Reference:

EDUCATION CODE  
 1006 Qualifications for holding office  
 35107 School district employees  
 35230-35240 Corrupt practices  
 35233 Prohibitions applicable to members of governing boards  
 35239 Compensation for board members in districts under 70 ADA  
 GOVERNMENT CODE  
 1090-1098 Prohibitions applicable to specified officers  
 1125-1129 Incompatible activities  
 81000-91015 Political Reform Act of 1974, especially:  
 82011 Code reviewing body  
 82019 Definition of designated employee  
 82028 Definition of gifts  
 82030 Definition of income  
 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

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  
 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  
 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)  
 Management Resources:  
 WEB SITES  
 Fair Political Practices Commission:  
<http://www.fppc.ca.gov>

**Conflict of Interest Code  
of the  
El Rancho Unified School District**

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**Incorporation of FPPC Regulation 18730 (2 California Code of  
Regulations, Section 18730) by Reference**

The Political Reform Act (Government Code Section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730), which contains the terms of a standard conflict of interest code. After public notice and hearing, it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated into the conflict of interest code of this agency by reference. This regulation and the attached Appendices (or Exhibits) designating officials and employees and establishing economic disclosure categories shall constitute the conflict of interest code of this agency.

**Place of Filing of Statements of Economic Interests**

All officials and employees required to submit a statement of economic interests shall file their statements with the agency head, or his or her designee. The agency shall make and retain a copy of all statements filed by its Board Members, Governing Board Members, Alternate Board Members, as appropriate, and its agency head (Agency/Department Head, Executive Officer or Chief Executive Officer, Superintendent, or Director), and forward the originals of such statement to the Executive Office of the Board of Supervisors of Los Angeles County.

The agency shall retain the originals of statements for all other Designated Positions named in the agency's conflict of interest code. All retained statements, original or copied, shall be available for public inspection and reproduction (Gov. Code Section 81008).

## 2 California Code of Regulations, Section 18730 Provisions of Conflict of Interest Codes

- (a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code section 87300 or the amendment of a conflict of interest code within the meaning of Government Code section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code section 87100, and to other state or local laws pertaining to conflicts of interest.
- (b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:
- (1) Section 1. Definitions. The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.
  - (2) Section 2. Designated Employees. The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.
  - (3) Section 3. Disclosure Categories. This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code sections 87200, et seq. In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:
    - (A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;
    - (B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code section 87200; and
    - (C) The filing officer is the same for both agencies.<sup>1</sup> Such persons are covered by this code for disqualification purposes only. With respect to all other

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<sup>1</sup> Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix.

It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

- (4) Section 4. Statements of Economic Interests: Place of Filing. The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.<sup>2</sup>
- (5) Section 5. Statements of Economic Interests: Time of Filing.
  - (A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.
  - (B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.
  - (C) Annual Statements. All designated employees shall file statements no later than April 1.
  - (D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.
- (5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office. Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.
  - (A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:
    - 1. File a written resignation with the appointing power; and
    - 2. File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment

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<sup>2</sup> See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

- (6) Section 6. Contents of and Period Covered by Statements of Economic Interests.
- (A) Contents of Initial Statements. Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.
  - (B) Contents of Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.
  - (C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later.
  - (D) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.
- (7) Section 7. Manner of Reporting. Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:
- (A) Investments and Real Property Disclosure. When an investment or an interest in real property<sup>3</sup> is required to be reported,<sup>4</sup> the statement shall contain the following:
    - 1. A statement of the nature of the investment or interest;
    - 2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
    - 3. The address or other precise location of the real property;
    - 4. A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred

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<sup>3</sup> For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>4</sup> Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.



thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) Personal Income Disclosure. When personal income is required to be reported,<sup>5</sup> the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,<sup>6</sup> the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

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<sup>5</sup> A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

<sup>6</sup> Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official. Subdivisions (a), (b), and (c) of Government Code section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

(8.1) Section 8.1 Prohibition on Receipt of Gifts in Excess of \$320.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$320 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has

been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

- (D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control.

This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

- (E) This section shall not apply to the following:
1. Loans made to the campaign committee of an elected officer or candidate for elective office.
  2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
  3. Loans from a person, which in the aggregate, do not exceed five hundred dollars (\$500) at any given time.
  4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

- (A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

- (B) This section shall not apply to the following types of loans:
1. Loans made to the campaign committee of the elected officer.
  2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first

cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
  - a. The date the loan was made.
  - b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.
  - c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this title.
3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification. No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable

from its effect on the public generally, on the official or a member of his or her immediate family or on:

- (A) Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;
  - (B) Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;
  - (C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;
  - (D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
  - (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$320 or more provided to; received by, or promised to the designated employee within 12 months prior to the time when the decision is made.
- (9.3) Section 9.3. Legally Required Participation. No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.
- (9.5) Section 9.5. Disqualification of State Officers and Employees. In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:
- (A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
  - (B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.
- (10) Section 10. Disclosure of Disqualifying Interest. When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.
- (11) Section 11. Assistance of the Commission and Counsel. Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code section 83114 or from the attorney for his or her agency, provided that

nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

- (12) Section 12. Violations. This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code sections 81000 - 91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.

Note: Authority cited: Section 83112, Government Code

Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

## Disclosure Categories

### CATEGORY 1:

Persons in this category shall disclose all interests in real property within the jurisdiction. Real property shall be deemed to be within the jurisdiction if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the agency.

Persons are not required to disclose property used primarily as their residence or for personal recreational purposes.

### CATEGORY 2:

Persons in this category shall disclose all investments and business positions.

The Political Reform Act defines investment as follows:

“Investment” means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest, if the business entity or any parent, subsidiary or otherwise related business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value equals or exceeds one thousand dollars (\$1,000). The term “investment” does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or a common trust fund which is created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency. Investments of an individual include pro rata share of investments of any business entity mutual fund or trust in which the individual or spouse owns directly, indirectly or beneficially, a 10 percent interest of greater.

According to the Political Reform Act, a business position is a position of director, officer, partner, trustee, employee, or any position of management in any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

### CATEGORY 3:

Persons in this category shall disclose all income and business positions.

The political Reform Act defines income as follows:

“Income” means a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including a gift of food or beverage, loan forgiveness or payment of indebtedness received by filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10 percent interest or greater.

**Disclosure Categories** (continued)

**CATEGORY 4:**

Persons in this category shall disclose all business positions, investments in, or income (including gifts and loans) received from business entities that manufacture, provide or sell service and/or supplies of a type utilized by the agency and associated with the job assignment of designated positions assigned this disclosure category.

**CATEGORY 5:**

Individuals who perform under contract the duties of any designated position shall be required to file Statements of Economic Interest disclosing reportable interest in the categories assigned to that designated position.

In addition, individuals who, under contract, participate in decisions which affect financial interests by providing information advice, recommendation or counsel to the agency which could affect financial interest shall be required to file Statements of Economic Interests, unless they fall within the political Reform Act's exceptions to the definition of consultant. The level of disclosure shall be as determined by the executive officer (or head) of the agency.



## Designated Positions and Disclosure Requirements

<u>Designated Position</u>	<u>Disclosure Category</u>
1. Governing Board Member	1, 2, 3
2. Superintendent	1, 2, 3
3. Assistant Superintendent(s)	4
4. Assistant Superintendent, Human Resources, Business & Support	2, 3
5. Chief Business Officer	2, 3
6. Director, Special & Alternative Education	4
7. Director, Food Services	4
8. Director, Purchasing and Warehousing	2, 3
9. Director, Information Technology	4
10. Director of Maintenance & Operations	4
11. Assistant Director, Maintenance and Operations	4
12. Consultant	5

**Approved by the Los Angeles County Board of Supervisors September 8, 2004.**

(rev. 6/14/07)