

CONFLICT OF INTEREST

The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs. Relative means an adult who is related to the Board member by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. (Education Code 35107)

A relationship within the third degree includes an individual's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced.

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

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

When a change in the district's conflict of interest code is necessitated due to changed circumstances, such as the creation of new designated positions, changes to the duties assigned to existing positions, amendments, or revisions, the amended code shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. (Government Code 87306)

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

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 required statement and the date of leaving office or district employment. (Government Code 87302, 87302.6)

CONFLICT OF INTEREST (continued)**Conflict of Interest under the Political Reform Act**

A Board member, designated employee, or other person in a designated position shall not make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a disqualifying conflict of interest. A disqualifying conflict of interest exists if the decision will have a “reasonably foreseeable material financial effect,” which is distinguishable from the effect on the public generally, on the Board member, designated employee, or other person in a designated position, his/her immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18707)

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

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

Conflict of Interest under Government Code 1090 – Financial Interest in a Contract

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has a financial interest in a contract made by the Board, the contract is void. (Government Code 1090)

A Board member shall not be considered to be financially interested in a contract in which he/she has only a “remote interest,” as specified in Government Code 1091, if the interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member or district official to enter into the contract. (Government Code 1091)

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

CONFLICT OF INTEREST (continued)

Common Law Doctrine Against Conflict of Interest

A Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

Incompatible Offices and Activities

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

Gifts

Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitation on gifts does not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

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

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

1. The travel is in connection with a speech given by a Board member or designated employee, provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.
2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

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

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

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 conference, convention, meeting, social event, meal, or like gathering. (Government Code 89501, 89502)

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

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

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References**Description**

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|-------------------------|---|
| 2 CCR 18110-18997 | Regulations of the Fair Political Practices Commission |
| 2 CCR 18700-18760 | Conflicts of Interest |
| 2 CCR 18722-18740 | Disclosure of Interests |
| 2 CCR 18753-18756 | Conflict of interest codes |
| Ed. Code 1006 | Qualifications for holding office, county board of education |
| Ed. Code 35107 | School district employees |
| Ed. Code 35230-35240 | Corrupt practices |
| Ed. Code 35233 | Prohibitions applicable to members of governing boards |
| Ed. Code 41000-41003 | Moneys received by school districts |
| Ed. Code 41015 | Investments |
| Fam. Code 297.5 | Rights, protections, and benefits of registered domestic partners |
| Gov. Code 1090-1099 | Prohibitions applicable to specified officers |
| Gov. Code 1125-1129 | Incompatible activities |
| Gov. Code 81000-91014 | Political Reform Act of 1974 |
| Gov. Code 82011 | Code reviewing body |
| Gov. Code 82019 | Definition, designated employee |
| Gov. Code 82028 | Definition, gift |
| Gov. Code 82030 | Definition, income |
| Gov. Code 82033 | Definition, interest in real property |
| Gov. Code 82034 | Definition, investment |
| Gov. Code 87100-87103.6 | General prohibitions |
| Gov. Code 87200-87210 | Disclosure |
| Gov. Code 87300-87313 | Conflict of interest code |
| Gov. Code 87500 | Statement of economic interests |
| Gov. Code 89501-89503 | Honoraria and gifts |
| Gov. Code 89506 | Ethics; travel |

CONFLICT OF INTEREST (continued)

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|-----------------------|--|
| Gov. Code 91000-91014 | Enforcement |
| Pen. Code 85-88 | Bribes |
| Rev. & Tax Code 203 | Taxable and exempt property – colleges |

Management Resources References

| | <u>Description</u> |
|-------------------------------------|--|
| Attorney General Opinion | 63 Ops.Cal.Atty.Gen. 868 (1980) |
| Attorney General Opinion | 65 Ops.Cal.Atty.Gen. 606 (1982) |
| Attorney General Opinion | 68 Ops.Cal.Atty.Gen. 171 (1985) |
| Attorney General Opinion | 69 Ops.Cal.Atty.Gen. 255 (1986) |
| Attorney General Opinion | 80 Ops.Cal.Atty.Gen. 320 (1997) |
| Attorney General Opinion | 81 Ops.Cal.Atty.Gen. 327 (1998) |
| Attorney General Opinion | 82 Ops.Cal.Atty.Gen. 83 (1999) |
| Attorney General Opinion | 85 Ops.Cal.Atty.Gen. 60 (2002) |
| Attorney General Opinion | 86 Ops.Cal.Atty.Gen. 138 (2003) |
| Attorney General Opinion | 89 Ops.Cal.Atty.Gen. 217 (2006) |
| Attorney General Opinion | 92 Ops.Cal.Atty.Gen. 19 (2009) |
| Attorney General Opinion | 92 Ops.Cal.Atty.Gen. 26 (2009) |
| Court Decision | Davis v. Fresno Unified School District (2015) 237 Cal.App.4 th 261 |
| Court Decision | Klistoff v. Superior Court, (2007) 157 Cal.App.4 th 469 |
| Court Decision | Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4 th 511 |
| Court Decision | McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16. No. B262850) |
| Court Decision | Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4 th 655 |
| CSBA Publication | Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010 |
| Fair Political Practices Commission | Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005 |
| Institute For Local Government | Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009 |
| Institute for Local Government | Understanding the Basics of Public Service Ethics; Transparency Laws, 2009 |
| Website | Institute for Local Government |
| Website | Fair Political Practices Commission |
| Website | CSBA |

Cross References

| | <u>Description</u> |
|--------|--|
| 1340 | Access To District Records |
| 1700 | Relations Between Private Industry And The Schools |
| 3230 | Federal Grant Funds |
| 3300 | Expenditures And Purchases |
| 3311 | Bids |
| 3430 | Investing |
| 3470 | Debt Issuance And Management |
| 3600 | Consultants |
| 4112.8 | Employment Of Relatives |
| 4117.2 | Resignation |
| 4136 | Nonschool Employment |
| 4212.8 | Employment Of Relatives |
| 4217.2 | Resignation |
| 4236 | Nonschool Employment |

CONFLICT OF INTEREST (continued)

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|-------------|---|
| 4312.8 | Employment Of Relatives |
| 4317.2 | Resignation |
| 4336 | Nonschool Employment |
| 6161.1 | Selection And Evaluation Of Instructional Materials |
| 6161.1-E(1) | Selection And Evaluation Of Instructional Materials |
| 7140 | Architectural And Engineering Services |
| 7214 | General Obligation Bonds |
| 9000 | Role Of The Board |
| 9005 | Governance Standards |
| 9140 | Board Representatives |
| 9200 | Limits Of Board Member Authority |
| 9220 | Governing Board Elections |
| 9222 | Resignation |
| 9230 | Orientation |
| 9320 | Meetings And Notices |
| 9321 | Closed Session |
| 9321-E(1) | Closed Session |
| 9321-E(2) | Closed Session |
| 9323 | Meeting Conduct |

CONFLICT OF INTEREST

**RESOLUTION ADOPTING A
CONFLICT OF INTEREST CODE**

WHEREAS, the Political Reform Act, Government Code 87300-87313, requires each public agency in California to adopt a conflict of interest code; and

WHEREAS, the Governing Board of the El Rancho Unified School District has previously adopted a local conflict of interest code; and

WHEREAS, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to the district’s conflict of interest code; and

WHEREAS, a regulation adopted by the Fair Political Practices Commission, 2 CCR 18730, provides that incorporation by reference of the terms of that regulation, along with an agency-specific appendix designating positions and disclosure categories shall constitute the adoption and amendment of a conflict of interest code in conformance with Government Code 87300 and 87306; and

WHEREAS, the El Rancho Unified School District has recently reviewed its positions, and the duties of each position, and has determined that (changes/no changes) to the current conflict of interest code are necessary; and

WHEREAS, any earlier resolutions, bylaws, and/or appendices containing the district’s conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

NOW THEREFORE BE IT RESOLVED that the El Rancho Unified School District Governing Board adopts the following Conflict of Interest Code including its Appendix of Designated Employees and Disclosure Categories.

PASSED AND ADOPTED THIS _____ day of _____, _____ at a meeting, by the following vote:

AYES:_____ NOES:_____ ABSENT:_____

Attest:

Secretary/President

CONFLICT OF INTEREST

**Conflict of Interest Code
of the**

EL RANCHO UNIFIED SCHOOL DISTRICT

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 Governing Board Members, and the Superintendent, and forward the originals of such statements 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).

CONFLICT OF INTEREST (continued)

EL RANCHO UNIFIED SCHOOL DISTRICT

EXHIBIT "A"

CATEGORY 1

Persons in this category shall disclose all interest 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 a residence, such as a home or vacation cabin, used exclusively as a personal residence; however, a residence in which a person rents out a room or for which a person claims a business deduction may be reportable.

CATEGORY 2

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

CATEGORY 3

Persons in this category shall disclose all income (including gifts, loans and travel payments) and business positions.

CATEGORY 4

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

CONFLICT OF INTEREST (continued)**EL RANCHO UNIFIED SCHOOL DISTRICT****EXHIBIT "B"**

| Designated Positions | Disclosure Categories |
|--|------------------------------|
| Governing Board Member | 1, 2, 3 |
| Superintendent | 1, 2, 3 |
| Director, Elementary Education | 4 |
| Director, Secondary Education | 4 |
| Director, Human Resources | 2, 3 |
| Chief Business Officer | 1, 2, 3 |
| Director, Early Learning Program | 4 |
| Director, Special Education | 4 |
| Director, Food Services | 4 |
| Director, Purchasing and Warehousing | 1, 2, 3 |
| Director, Information Technology | 4 |
| Director of Maintenance & Operations | 4 |
| Director, Student Support Services | 4 |
| Assistant Director, Maintenance and Operations | 4 |
| Facilities Project Manager | 1, 4 |
| Consultants/New Positions* | |

CONFLICT OF INTEREST (continued)

EL RANCHO UNIFIED SCHOOL DISTRICT

EXHIBIT "B"

*Consultants/New Positions are included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitations:

The Superintendent or his or her designee may determine in writing that a particular consultant or new position, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with disclosure requirements in this section. Such written determination shall include a description of the consultant's or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Superintendent or his or her designee's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008.)

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