

**Bylaw 9270: Conflict Of Interest**

Status: DRAFT

Original Adopted Date: 10/16/2007 | Last Revised Date: 06/13/2023 | Last Reviewed Date: 06/13/2023

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 **"District Official," defined as a** Board member, district employee, or other person in a ~~position~~ **position in the district's conflict of interest code**, shall participate in the making of any decision for the district when the decision will or may be affected by the ~~Board member's, district employee's, or other designated persons~~ **District Official's** financial, family, or other personal interest or consideration. Even if a prohibited conflict of interest does not exist, **as defined by law**.

**Additionally**, a Board member shall abstain from voting on personnel matters that uniquely affect the Board member's relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which the Board member's 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.

**Conflict of Interest Code**

The Board shall adopt ~~for the district~~ a conflict of interest code **for the district** that incorporates the provisions of 2 CCR 18730 by reference, ~~specifies~~ **delineates** the district's designated positions **District Officials**, 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~~ **sits** 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, **District Officials** or changes to the duties assigned to existing positions, amendments, or revisions of **District Officials**, the amended code **Board** shall **amend the code, which shall then** 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 under the Political Reform Act**

A district official, including a Board member, designated employee, or other person in a designated position **A District Official** shall not make, participate in making, or in any way use or attempt to use an official position to influence a governmental decision in which the district official **District Official** knows or has reason to know that there is 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 district official, the district official's **District Official's** immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18707)

A district official **District Official** makes a governmental decision when, **acting** within the authority of the office or position, the district official **District Official** authorizes or directs any action on a matter, votes or provides

information or opinion on it, contacts or appears before another district official ~~other District Officials~~ for the purpose of affecting the decision, or takes any other action specified in 2 CCR 18704.

However, a district official shall participate ~~District Official is not prohibited from participating~~ in the making of a contract in which the district official ~~District Official~~ has a financial interest if such participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

### **Conflict of Interest from Campaign Contributions**

To avoid improper influence over ~~Prior to~~ the Board's decision-making involving the issuance of a license, permit, or other entitlements for use, including a contract, district officers, which includes Board members or agency heads, shall comply with Government Code 84308, including the following: (Government Code 84308)

1. A district officer is prohibited from accepting, soliciting, or directing ~~rendering~~ a contribution of more than \$250 from any party or participant to ~~decision in~~ a proceeding ~~before the district~~ involving a **contract, license, permit, or other entitlement for use, including as defined by Government Code 84308, a contract, or from that person's agent, while the proceeding is pending before the Board and for 12 months following the date a final decision is rendered in the proceeding, if the Board member knows or has reason to know that the party or participant has a financial interest in the Board's decision.**
2. Any district officer ~~whose campaign committee~~ received a contribution of more than \$250 ~~500~~ from **any party or participant to the proceeding, or from an agent of such** a party or participant, in the proceeding ~~prior 12 months, and the party who made such a contribution~~, shall **both publicly** disclose that fact on the record of the proceeding ~~prior to the Board rendering a decision in the proceeding. If the district officer~~. **Additionally, if a Board member willfully or knowingly received the contribution a contribution to the Board member's campaign committee of more than \$500 from any party or participant to such a proceeding, or from an agent of a party or participant, in the prior 12 months, and knows or has reason to know that the participant has a financial interest in the Board's district's decision, the district officer Board member shall not make, participate in making, or in any way attempt to use the Board member's official position to influence the Board's district's decision.**
3. A district officer who receives **in the proceeding. However,** a contribution that would otherwise require disqualification as described in Item #2 above ~~Board member~~ may **make, participate in making, or attempt to use** the proceeding ~~Board member's official position to influence the decision~~ if the contribution is returned within 30 days ~~from after the time decision was made or after the district officer Board member~~ knows or should have known about the contribution and the proceeding
4. A district officer who unknowingly accepts, solicits, or directs a contribution of more than \$250 during the 12 months after the date of the Board's final, **whichever is later.**

**All Board members and the Superintendent are prohibited from accepting, soliciting, or directing a contribution of more than \$500 to a candidate or ballot measure campaign committee from any party or participant to a proceeding before the district involving a contract, license, permit, or other entitlement for use, as defined by Government Code 84308, or from an agent of a party or participant, while the proceeding is pending before the district and for 12 months following the date the district renders a final decision in the proceeding, if the Board member or Superintendent knows or has reason to know that the participant has a financial interest in the district's decision on the proceeding may cure the violation by returning the contribution. However, if a Board member or the Superintendent does accept, solicit, or direct such a contribution during those 12 months but did not do so knowingly or willingly, the Board member or the Superintendent may cure the violation by ensuring that the contribution, or the portion exceeding \$250,500, is returned within 1430 days of accepting, soliciting, or directing the contribution, provided the district officer did not knowingly or willfully accept, solicit, or direct the prohibited contribution. The district officer Board member or Superintendent shall maintain records of curing the violation. (Government Code 84308)**

**For a Board member or the Superintendent, a proceeding becomes "pending" when an item involving the contract, license, permit, or other entitlement for use, as defined by Government Code 84308, is placed on a Board agenda for discussion or decision or when it is reasonably foreseeable that the proceeding will come before the district for a decision. For a party or participant, and the agent of a party of participant, a proceeding becomes "pending" when an application is filed with the district, or, if the proceeding process does not require an application, when the proceeding is before the district for a decision or other action. (Government Code 84308)**

The provisions in Government Code 84308 as specified ~~The contributions disclosure requirements and restrictions~~ above do not apply to **contracts that are required to be competitively bid**, labor contracts, ~~competitively bid~~

contracts, and personal employment contracts. ~~(Government Code 84308, contracts valued under \$50,000, contracts where no party receives financial compensation, or contracts with another governmental agency. (Government Code 84308)~~

### **Form 700**

**Each District Official 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. An individual who ceases to be a District Official 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 the individual ceased to be a District Official. (Government Code 87302)**

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

Any Board member, **district employee, or district consultant** who manages public investments pursuant to, **as defined by** Government Code 87200, and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, do all of the following: (Government Code 87105; 2 CCR 18707)

1. Publicly identify each financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.
2. Not discuss or vote on the matter, or otherwise act in violation of Government Code 87100

The ~~For a~~ Board member, ~~the Board member~~ shall not be counted toward achieving a quorum while the item is discussed.

However, the Board member may speak on the issue during the time that the general public speaks on it and may leave the dais to speak from the same area as members of the public. The Board member may listen to the public discussion and deliberations of the matter with members of the public.

3. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, ~~unless~~

**However, the Board member, district employee, or district consultant who manages public investments, as defined by Government Code 87200, may speak on the issue during the time that the general public speaks on it. Additionally, for a Board member, if the matter has been placed on the portion of the agenda reserved for uncontested matters.**

If the item is on the consent calendar, the Board member shall either make a motion to remove **abstain from voting on the consent calendar or, if the Board removes** the item from the consent calendar ~~or~~, the Board member shall abstain from voting on the consent calendar ~~item~~. In any event, the Board member shall refrain from discussing or voting on the item. However, the Board member is not required to leave the room during consideration of the consent calendar.

4. If the ~~Board's~~ decision is made during closed session, disclose the interest orally during the open session preceding the closed session.

This disclosure shall be limited to a declaration that the recusal is because of a conflict of interest pursuant to Government Code 87100. The Board member, **district employee, or district consultant who manages public investments, as defined by Government Code 87200**, shall not be present when the item is considered in closed session and shall not knowingly obtain or review a recording or any other nonpublic information regarding the Board's decision.

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

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

### **Remote Interest Exception to Government Code 1090**

A Board member shall not be considered to be financially interested in a contract in which there is 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)

### **Noninterest Exception to Government Code 1090**

In addition, a Board member **A District Official** shall not be considered to be financially interested in a contract in which if the interest is a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest in being reimbursed **reimbursement** for actual and necessary expenses incurred in the performance of official duties, in the employment of a 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 "**noninterest**" specified in Government Code 1091.5.

### **Common Law Doctrine Against Conflict of Interest**

A Board member **A District Official** shall abstain from any official action in which the Board member's **District Official's** private or personal interest may conflict with official duties **pursuant to the common law doctrine against conflict of interest.**

### **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 **District Officials** may accept gifts only under the conditions and limitations specified in **law including, but not limited to,** 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 **conditions and limitations,** except when: (Government Code 89506)

1. The travel is in connection with a speech given by a Board member or designated employee **District Official,** 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. **District Officials.** (Government Code 89506)

### **Honoraria**

Board members and designated employees **District Officials** 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

### **Advice**

**Any District Official, who, in good faith, believes that they may be subject to the requirements of this Bylaw and has questions, is unclear, or is unsure regarding the application of the requirements of this Bylaw to any particular instance or situation, may seek advice from the district's legal counsel with the permission of the Superintendent, Board President, or majority of the Board.**

### **Training**

**Unless a Board member's term expires prior to January 1, 2026, each Board member shall complete ethics training in accordance with Government Code 53234-53235.2 by January 1, 2026, and at least once every two years thereafter as specified in Board Bylaw 9240 - Board Training.**

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**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.

<b>State</b>	<b>Description</b>
2 CCR 18110-18997	Regulations of the Fair Political Practices Commission
2 CCR 18438.1-18438.8	<a href="#">Campaign contribution-based conflicts of interest</a>
2 CCR 18700-18760	Conflicts of Interest
2 CCR 18722-18740	<a href="#">Disclosure of interests</a>
2 CCR 18753-18756	<a href="#">Conflict of interest codes</a>
2 CCR 18940.2	Gift limit amount
Ed. Code 1006	<a href="#">Prohibition against school district employees serving on county board of education</a>
Ed. Code 35107	<a href="#">School district employees</a>
Ed. Code 35230-35240	<a href="#">Corrupt practices</a>
Ed. Code 35233	<a href="#">Prohibitions applicable to members of governing boards</a>
Ed. Code 41000-41003	<a href="#">Moneys received by school districts</a>
Ed. Code 41015	<a href="#">Investments</a>
Fam. Code 297.5	<a href="#">Rights, protections, and benefits of registered domestic partners</a>
Gov. Code 1090-1099	<a href="#">Prohibitions applicable to specified officers</a>
Gov. Code 1125-1129	<a href="#">Incompatible activities</a>
Gov. Code 53234-53235.2	<a href="#">Ethics training</a>
Gov. Code 81000-91014	<a href="#">Political Reform Act</a>
Gov. Code 82011	<a href="#">Code reviewing body</a>
Gov. Code 82019	<a href="#">Definition; designated employee</a>

**State**

Gov. Code 82028

Gov. Code 82030

Gov. Code 82033

Gov. Code 82034

Gov. Code 84308

Gov. Code 87100-87505

Gov. Code 89501-89503

Gov. Code 89506

Gov. Code 91000-91014

Pen. Code 85-88

Pub. Cont. Code 6102

Rev. &amp; Tax Code 203

**Description**[Definition; gift](#)[Definition; income](#)[Definition; interest in real property](#)[Definition; investment](#)[Campaign Disclosure](#)

Political Reform Act; conflict of interest

[Honoraria and gifts](#)[Ethics; travel](#)[Enforcement](#)[Bribes](#)[Bribery of public official; voidable contract](#)[Taxable and exempt property - colleges](#)**Management Resources**

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Attorney General Opinion

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

CSBA Publication

Fair Political Practices Commission Publication

Fair Political Practices Commission Publication

Institute For Local Government Publication

Institute for Local Government Publication

**Description**

105 Ops.Cal.Atty.Gen.69 (2022)

63 Ops.Cal.Atty.Gen. 868 (1980)

65 Ops.Cal.Atty.Gen. 606 (1982)

68 Ops.Cal.Atty.Gen. 171 (1985)

69 Ops.Cal.Atty.Gen. 255 (1986)

80 Ops.Cal.Atty.Gen. 320 (1997)

81 Ops.Cal.Atty.Gen. 327 (1998)

82 Ops.Cal.Atty.Gen. 83 (1999)

85 Ops.Cal.Atty.Gen. 60 (2002)

86 Ops.Cal.Atty.Gen. 138(2003)

89 Ops.Cal.Atty.Gen. 217 (2006)

92 Ops.Cal.Atty.Gen. 19 (2009)

92 Ops.Cal.Atty.Gen. 26 (2009)

Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261

Klistoff v. Superior Court (2007) 157 Cal.App.4th 469

Kunec v. Brea Redevelopment Agency (1997) 55 Cal.App.4th 511

McGee v. Balfour Beatty Construction, LLC, et al. (2016) 247 Cal. App. 4th 235

Thorpe v. Long Beach Community College District (2000) 83 Cal.App.4th 655

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

Advice Letter: A-96-314 (December 18, 1996)

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009

Understanding the Basics of Public Service Ethics: Transparency Laws, 2009

**Management Resources**

Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">Institute for Local Government</a>
Website	<a href="#">Fair Political Practices Commission</a>
Website	<a href="#">CSBA</a>

**Cross References**

	<b>Description</b>
1340	<a href="#">Access To District Records</a>
1340	<a href="#">Access To District Records</a>
1700	<a href="#">Relations Between Private Industry And The Schools</a>
3230	<a href="#">Federal Grant Funds</a>
3230	<a href="#">Federal Grant Funds</a>
3300	<a href="#">Expenditures And Purchases</a>
3311	<a href="#">Bids</a>
3311	<a href="#">Bids</a>
3400	<a href="#">Management Of District Assets/Accounts</a>
3400	<a href="#">Management Of District Assets/Accounts</a>
3430	<a href="#">Investing</a>
3430	<a href="#">Investing</a>
3470	<a href="#">Debt Issuance And Management</a>
3600	<a href="#">Consultants</a>
4112.8	<a href="#">Employment Of Relatives</a>
4117.2	<a href="#">Resignation</a>
4136	<a href="#">Nonschool Employment</a>
4212.8	<a href="#">Employment Of Relatives</a>
4217.2	<a href="#">Resignation</a>
4236	<a href="#">Nonschool Employment</a>
4312.8	<a href="#">Employment Of Relatives</a>
4317.2	<a href="#">Resignation</a>
4336	<a href="#">Nonschool Employment</a>
6161.1	<a href="#">Selection And Evaluation Of Instructional Materials</a>
6161.1	<a href="#">Selection And Evaluation Of Instructional Materials</a>
6161.1-E(1)	<a href="#">Selection And Evaluation Of Instructional Materials</a>
7140	<a href="#">Architectural And Engineering Services</a>
7140	<a href="#">Architectural And Engineering Services</a>
7214	<a href="#">General Obligation Bonds</a>
7214	<a href="#">General Obligation Bonds</a>
9000	<a href="#">Role Of The Board</a>
9005	<a href="#">Governance Standards</a>
9140	<a href="#">Board Representatives</a>
9200	<a href="#">Limits Of Board Member Authority</a>

**Cross References**

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9220-E(1)

9222

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9321-E(1)

9321-E(2)

9323

**Description**[Governing Board Elections](#)[Governing Board Elections](#)[Resignation](#)[Orientation](#)[Board Training](#)[Meetings And Notices](#)[Closed Session](#)[Closed Session](#)[Closed Session](#)[Meeting Conduct](#)