

COUNTY OF SAN DIEGO

2014 SEP 16 PM 1 33

**2014 CONFLICT OF INTEREST CODE  
BIENNIAL REVIEW REPLY FORM**

CLERK OF THE BOARD  
Contact Person: Judy Queenan Telephone Number: 619-5600 Ext. 5609

Name of Agency: Lemon Grove School District

Mailing Address: 8025 Lincoln Street, Lemon Grove, CA 91945

This agency has reviewed its conflict of interest code and has determined that:

**Amendments are necessary:** (Attach Amended Code)  
(Check all that applies)

- Include new positions (including consultants) which must be designated
- Revise the titles of existing positions
- Delete titles of positions that have been abolished
- Delete positions that manage public investments
- Revise disclosure categories
- Other \_\_\_\_\_

**No amendments are necessary.** Our agency's code accurately designates all positions which make or participate in the making of governmental decisions; the disclosure assigned to those positions accurately requires the disclosure of all investments, business positions, interests in real property and sources of income which may foresee-ably be affected materially by the decision made by those designated positions; and the code includes all other provisions required by Government Code Section 87302.

Signature of Chief Executive Officer:  Date: 9/15/14

You must complete this report regardless of how recently your code was approved or amended. **Please return this report no later than October 1, 2014 to:**

**Clerk of the Board of Supervisors  
(Conflict of Interest Code)  
1600 Pacific Highway, Room 402  
San Diego, CA 92101**

Approved and/or authorized by the Board of Supervisors of the County of San Diego.	
Meeting Date: <u>12/2/14</u>	Minute Order No. <u>23</u>
By: <u></u>	Date: <u>12/2/14</u>
Deputy Clerk of the Board Supervisors	

RESOLUTION 14-15-02  
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 Lemon Grove 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 Lemon Grove School District has recently reviewed its positions, and the duties of each position, and has determined that 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 Lemon Grove School District Governing Board adopts the following Conflict of Interest Code including its Appendix of Designated Employees and Disclosure Categories.

PASSED AND ADOPTED THIS 12<sup>th</sup> day of August, 2014, at a meeting, by the following vote:

AYES: Bass, Brown, Dexter, Loschen  
NOES: None  
ABSENT: Shaw

Attest:



Secretary

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. 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.

The Board shall specify the terms of the district's conflict of interest code, the district's designated positions, and the disclosure categories required for each position.

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.

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.

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

Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the district's conflict of interest code. A Board member who leaves office or a designated employee who leaves district employment shall, within 30 days, file a revised statement covering the period of time between the closing date of the last statement and the date of leaving office or district employment.

Conflict of Interest Under the Political Reform Act

A Board member or designated employee 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 conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the Board member's or designated employee's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the Board member's or designated employee's participation is legally required.

A Board member or designated employee makes a governmental decision when, acting within the authority of his/her office of position, he/she votes on a matter, appoints a person, obligates or commits the district to any course of action, or enters into any contractual agreement on behalf of the district.

A Board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the Board shall abstain from voting on the matter. A board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue.

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

A Board member who manages public investments pursuant to Government Code 87200 and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

1. Publicly identify the financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.
2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. 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. He/she may listen to the public discussion 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 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 must recuse himself/herself from discussing or voting on that matter, but 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 his/her interest orally during the open session preceding the closed session. This disclosure shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 87100. He/she shall not be present when the item is considered in closed session ~~or~~ 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

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 such a financial interest, the district is barred from entering into the contract.

A Board member shall not be considered to be financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5. One such noninterest is when a Board member's spouse/registered domestic partner has been a district employee for at least one year prior to the Board member's election or appointment.

A Board member shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091 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.

Even if there is not a prohibited or remote interest, 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.

A relationship within the third degree includes the 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.

#### 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.

#### Rule of Necessity or Legally Required Participation

On a case-by-case basis and upon advice of legal counsel, a Board member with a financial interest in a contract may participate in the making of the contract if the rule of necessity or legally required participation applies pursuant to Government Code 87101 and 2 CCR 18708.

#### 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.

#### 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 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.

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitations 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.

#### 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.

The term honorarium does not include:

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  
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 Disclosures  
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  
18702.5 Public identification of a conflict of Interest for Section 87200 filers

##### COURT DECISIONS

Klistoff v. Superior Court, (2007) 157 Cal.App.4<sup>th</sup> 469  
Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4<sup>th</sup> 655  
Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4<sup>th</sup> 511

Adopted: 10/11/83

Revised: 12/13/94, 1/10/95, 12/8/98, 6/22/99, 8/27/02, 2/10/04, 6/8/04

Reviewed: 2/14/06

Revised: 6/13/06, 8/14/12

Reviewed: 8/12/14

Conflict of Interest

---

Disclosure Categories

1. Category 1: A person designated Category 1 shall disclose:
  - a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries or of any land owned or used by the district.
  - b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the district or manufacture or sell supplies, books, machinery, or equipment of the type used by the district
2. Category 2: A person designated Category 2 shall disclose:
  - a. Investments or business positions in or income from sources which are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs
  - b. Investments or business positions in or income from sources which manufacture or sell supplies, books, machinery, or equipment of the type used by the department which the designated person manages or directs. For the purpose of this category, a principal's department is his/her entire school.

Designated Positions

Persons occupying the following positions are designated employees in Category 1:

Governing Board Members  
District Superintendent  
Deputy Superintendent  
Director, Educational Services  
Director, Human Resources  
Director, Student Services  
Director, Technology and Network

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

Supervisor, Facilities, Maintenance, Operations and Transportation  
Purchasing Specialist

Disclosures for Consultants

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

Conflict of Interest – Page 2

---

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to:

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke a permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the district to enter into, modify, or renew a contract that requires district approval
5. Grant district approval to a contract that requires district approval and in which the district is a party, or to the specifications for such a contract
6. Grant district approval to a plan, design, report, study, or similar item
7. Adopt or grant district approval of district policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict of interest code.

Issued: 7/9/02

Reviewed: 2/14/06

Revised: 6/13/06, 7/8/08, 7/13/10, 8/14/12, 8/12/14