

COUNTY OF SAN DIEGO

2014 SEP 16 PM 1 02
2014 CONFLICT OF INTEREST CODE
BIENNIAL REVIEW REPLY FORM

CLERK OF THE BOARD OF SUPERVISORS
Contact Person: Joan Schultz Telephone Number: 760-753-6491 x5541

Name of Agency: San Dieguito Union High School District

Mailing Address: 710 Encinitas Blvd., Encinitas, CA 92024

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

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

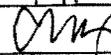
- Include new positions (including consultants) which must be designated
- Revise the titles of existing positions
- Delete titles of positions that have been abolished
- Delete positions that manage public investments
- Revise disclosure categories
- Other _____

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: 09/10/14

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	

San Dieguito

COUNTY OF SAN DIEGO

2014 SEP 16 PM 1:03

Board of Trustees
Joyce Dalessandro
Barbara Groth
Beth Hergesheimer
Amy Herman
John Salazar

Superintendent
Rick Schmitt

Union High School District

710 Encinitas Boulevard, Encinitas, CA 92024
Telephone (760) 753-6491
www.sduhsd.net

CLERK OF THE BOARD
OF SUPERVISORS

Office of the Superintendent
Fax (760) 943-3508

September 11, 2014

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

RE: Conflict of Interest Code Biennial Review Amendment Required

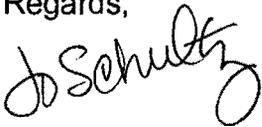
To whom it may concern:

Please find enclosed the Biennial Review Reply Form indicating that an amendment is required to the District's Conflict of Interest Code. The San Dieguito Union High School District Board of Trustees amended its Conflict of Interest board policy twice since the last biennial review, on February 20 and August 21, 2014. A redlined version of board policy #9270, "Conflict of Interest" is attached identifying insertions in red and deletions in blue strikethrough. This amended policy identifies the revisions to positions as designated employees required to report in Categories 1 and 2.

Also attached is the *final version* of the board policy #9270, for posting on your website. This will replace the 2010 version currently posted.

Please submit the proposed amendments to the Board of Supervisors for approval. If you should have any questions, please feel free to contact me at (760) 753-6491 x5541.

Regards,



Joann Schultz
Executive Assistant to the Superintendent

Attachments: Biennial Review Reply Form
Redlined version, Board Policy #9270, "Conflict of Interest"
Final version, Board Policy #9270, "Conflict of Interest"

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 adopt a bylaw that specifies the terms of the conflict of interest code, 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 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. (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 statement and the date of leaving office or district employment. (Government Code 87302, 87500)

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)

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. (Government Code 1090; *Klistoff v. Superior Court*, (2007) 157 Cal. App. 4th 469)

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. (Government Code 1091.5)

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. (Government Code 1091)

Even if there is not a prohibited conflict of 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. (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.

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. (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)

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation except as described in Government Code 89506.

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

HONORARIA

Board members and designated employees shall not accept any honorarium, which is defined as any

payment made in consideration for any speech given, article published, or attendance at any public or private gathering, in accordance with law. (Government Codes 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.

**APPENDIX
DESIGNATED POSITIONS / DISCLOSURE CATEGORIES**

It has been determined that persons occupying the following positions manage public investments and shall file a full statement of economic interests pursuant to Government Code 87200:

Governing Board Members
Superintendent of Schools
Associate Superintendents

1. Persons occupying the following positions are designated employees in Category 1:
 - Purchasing Director
 - ~~Finance Director~~ Chief Financial Officer
 - ~~Executive Director of Operations~~ Chief Facilities Officer
 - ~~Director of Planning and Financial Management~~ Director of Planning Services
 - Director of Technology Project Management
 - Director of Maintenance, Operations & Transportation
 - Construction Projects Manager-I & II
 - Facilities Construction Planner
 - Purchasing Buyer
 - Contracts Analyst
 - Construction Contracts Analyst

Designated persons in this category must report:

- 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. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
 - b. Investments or business positions in or income from sources which:
 - (1) Are engaged in the acquisition or disposal of real property within the District,
 - (2) 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
 - (3) Manufacture or sell supplies, books, machinery or equipment of the type used by the District.
2. Persons occupying the following positions are designated employees in Category 2:
 - Director
 - Principal
 - Assistant Principal
 - Executive Director
 - Program Coordinator
 - Project Specialist

Supervisor
Independent Citizens' Oversight Committee (ICOC) Member

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

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
 - b. Manufacture or sell supplies, books, machinery or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school. 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.
3. A consultant is an individual who, pursuant to a contract with the District, makes a governmental decision whether to:
(2 CCR 18701)
- a. Approve a rate, rule or regulation.
 - b. Adopt or enforce a law.
 - c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement.
 - d. Authorize the District to enter into, modify or renew a contract that requires District approval.
 - e. Grant District approval to a contract or contract specifications which require District approval and in which the District is a party.
 - f. Grant District approval to a plan, design, report, study or similar item.
 - g. 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. (2 CCR 18701)

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

GOVERNMENT CODE

1090 - 1098	Prohibitions Applicable to Specified Officers
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82011	Code Reviewing Body
82019	Definition of Designated Employee
82028	Definition of Gifts
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CODE OF REGULATIONS, TITLE 2

18110 - 18997	Regulations of the Fair Political Practices Commission
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COURT DECISIONS

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th. 655
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69 Ops.Cal.Atty.Gen. 255 (1986)
68 Ops.Cal.Atty.Gen. 171 (1985)
65 Ops.Cal.Atty.Gen. 606 (1982)

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