

**Conflict of Interest Code for:
San Ysidro School District**

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.

(cf. 9005 - Governance Standards)

The Board shall adopt a resolution that specifies 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. (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)

(cf. 9320 - Meetings and Notices)

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)

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

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. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

Approved and/or authorized by the Board of Supervisors of the County of San Diego.	
Meeting Date: 3/15/16	Minute Order No. 11
By: D. Lopez	Date: 3/18/16
Deputy Clerk of the Board Supervisors	

CONFLICT OF INTEREST (continued)

A Board member or designated employee makes a governmental decision when, acting within the authority of his/her office or 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. (2 CCR 18702.1)

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. He/she may remain on the dais, but his/her presence shall not be counted towards achieving a quorum for that 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. (2 CCR 18702.1)

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)

CONFLICT OF INTEREST (continued)

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)

(cf. 4136/4236/4336 - Nonschool Employment)

Prohibition Against Certain Gifts/ Limitation on Campaign Contributions to Members of and Candidates for the Board

This policy applies to all Board members, and to candidates (as contemplated in Government Code 82007) and Candidate Controlled Committees ("Committee") (as contemplated in Government Code 82016) for the Board of the San Ysidro School District. The purpose of this policy is to establish an explicit and unequivocal standard for current and future Board members, candidates, and committees to follow when considering campaign contributions and gifts while they are in service to this community as Board members or running for election to the Board. Further, this policy is intended to eliminate any potential for actual or perceived bias on the part of any Board member or candidate and to prevent corruption and the appearance of corruption by limiting the size of campaign contributions.

This policy explicitly applies to gifts of all kinds, including, but not limited to, gifts of travel (as contemplated in Government Code 89506), wedding, holiday, meals or other gifts (as contemplated in Government Code 89503) and offers of employment or any other enterprise for compensation. To the extent that any aspect of this policy exceeds the requirements in Government Code 89503 or 2 CCR 18730, this policy shall provide additional prohibitions on the acceptance of contributions. Further, this policy is intended to supplement the Board's existing Conflict of Interest Policy as contained in its Bylaws.

CONFLICT OF INTEREST (continued)

Provisions of this policy that limit campaign contributions ("Contributions") (as contemplated in Government Code 82015) apply to candidates for the Board and their committees.

For purposes of this policy, "person" shall mean an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert as contemplated in Government Code 82047.

The policy provides:

1. Board members, candidates, and committees are prohibited from accepting gifts and contributions from any employee, agent, independent contractor, representative of any person or entity that is engaged in business with the San Ysidro School District at the time the contribution is made;
2. Board members, candidates, and committees are prohibited from accepting gifts and contributions from any employee, agent, independent contractor, representative of any person or entity that, within the preceding 12 months, has submitted any proposal, whether formal or informal, verbal or in writing, to perform any business on behalf of the San Ysidro School District at the time the contribution is made;
3. Board members, candidates, and committees are prohibited from accepting gifts and contributions from any employee, agent, independent contractor, representative of any person or entity that has performed any work for compensation on behalf of the San Ysidro School District within 12 months of the time the contribution is made.
4. District employees are not prohibited from giving gifts or making contributions. Board members, candidates and committees may not solicit, directly or indirectly, a contribution from a district employee with knowledge that the person from whom the contribution is solicited is a district employee. (see California Government Code section 3205) Recipients must disclose gifts and contributions, as required under state law (Government Code section 81000 et seq.).
5. This policy, as it pertains to gifts, extends to relatives of Board members and candidates. "Relative" means an adult who is related to the member by blood or affinity within the third degree, or an individual in an adoptive relationship within the third degree. (Education Code 35107(e).) A gift given to a relative of a Board member shall be considered a gift to the Board member if evidence suggests that the donor has a purpose to influence the official (as contemplated in 2 CCR 18943)

The Board shall review this policy in even-numbered years and it shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views as to any proposed changes.

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, especially:*

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 *Disclosure*

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, especially:*

18702.5 *Public identification of a conflict of interest for Section 87200 filers*

COURT DECISIONS

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

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

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

Legal References continued: (see next page)

CONFLICT OF INTEREST (continued)

Legal Reference: (continued)

ATTORNEY GENERAL OPINIONS

- 92 Ops.Cal.Atty.Gen. 26 (2009)
- 92 Ops.Cal.Atty.Gen. 19 (2009)
- 89 Ops.Cal.Atty.Gen. 217 (2006)
- 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)
- 63 Ops.Cal.Atty.Gen. 868 (1980)

Management Resources:

CSBA PUBLICATIONS

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

FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS

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

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

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

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

WEB SITES

CSBA: <http://www.csba.org>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute of Local Government: <http://www.ca-ilg.org>

Bylaw
adopted: October 19, 1987
revised: October 30, 2014
amended: November 12, 2015

SAN YSIDRO SCHOOL DISTRICT
San Ysidro, California

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 San Ysidro 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 San Ysidro 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

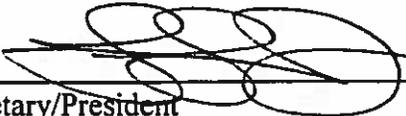
WHEREAS, any earlier resolutions, bylaws, and/or appendices containing the district's conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

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

PASSED AND ADOPTED THIS 12th day of November, 2015 at a meeting, by the following vote:

AYES: 5 NOES: 0 ABSENT: 0

Attest:



Secretary/President

CONFLICT OF INTEREST (continued)**Conflict of Interest Code of the
San Ysidro School District**

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the district's conflict of interest code.

Governing Board members and designated employees shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the district's filing officer and/or, if so required, with the district's code reviewing body. The district's filing officer shall make the statements available for public review and inspection.

APPENDIX**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 purposes of this category, a principal's department is his/her entire school.

CONFLICT OF INTEREST (continued)**Designated Positions**

<u>Designated Position</u>	<u>Disclosure Category</u>
Governing Board Members	1
Superintendent of Schools	1
Chief Operating Officer	2
Executive Director of Human Resources	2
Executive Director of Curriculum, Instruction and Innovation	2
Coordinator of Special Services	2
Principal	2
Assistant Principal	2
Director of Maintenance, Operations, Transportation and Facilities	2
Director of Special Education	2
Director of Information Management Services	2
Coordinator of Pre-school and Child Development Programs	2

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.

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18701)

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

CONFLICT OF INTEREST (continued)

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. (2 CCR 18701)