

**2010 CONFLICT OF INTEREST CODE
BIENNIAL REVIEW REPLY FORM**

COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS
2010 AUG 24 PM 12 26

THOMAS J. PASTUSZKA
BOARD
OF SUPERVISORS

Contact Person: Deanne Vicedo

Telephone Number: (619) 407-4970

Name of Agency: Sweetwater Union High School District

Mailing Address 1130 Fifth Avenue, Chula Vista, CA 91911

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: Jesús M. Hernandez Date: 8/20/10

You must complete this report regardless of how recently your code was approved or amended. **Please return this report no later than August 31, 2010 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
Date 10/19/10 Minute Order No. 4
THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors
Thomas J. Pastuszka
Clerk

CONFLICT OF INTEREST

Incompatible Activities

Board of Trustees members shall not engage in any employment or activity 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 1126)

Conflict of Interest Code

The district's conflict of interest code shall be comprised of the terms of 2CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a district attachment specifying designated positions and the specific types of disclosure statements required for each position.

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code in even-numbered years. If no change in the code is required, the district shall submit by October 1 a written statement to that effect to the code reviewing body. If a change in the code is necessitated by changed circumstances, the district shall submit an amended code to the code reviewing body. (Government Code 87306.5)

When a change in the district's conflict of interest code is necessitated by changed circumstances, such as the creation of new designated positions, amendments or revisions, the changed code shall be submitted to the code reviewing body within 90 days. (Government Code 87306)

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

If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required. (2 CCR 18700)

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)

Financial Interest

Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as Board members or designated employees. (Government Code 1090)

CONFLICT OF INTEREST (continued)

A Board member shall not be considered to be financially interested in a contract if his/her interest includes, but is not limited to, any of the following: (Government Code 1091.5)

1. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty
2. That of a recipient of public services generally provided by the public body or Board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the Board
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091
4. That of a spouse of an officer or employee of the district if his/her spouse's employment or officeholding has existed for at least one year prior to his/her election or appointment
5. That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records
6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the nonprofit Board or to which the school Board has a legal obligation to give particular consideration, and provided further that such interest is noted in its official records
7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that such interest is noted in its official records
8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive

CONFLICT OF INTEREST (continued)

remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm

In addition, a Board member or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. (Government Code 1091.5)

A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract 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. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

A Board member may enter into a contract if the rule of necessity or legally required participation applies as defined in Government Code 87101.

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person 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 the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

Disqualification for Board Members Who 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:

CONFLICT OF INTEREST (continued)

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. (Government Code 87105)
2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. This Board member shall not be counted toward achieving a quorum while the item is discussed. (Government Code 87105; 2 CCR 18702.5)
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. (Government Code 87105)

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 the consent calendar. (2 CCR 18702.5)

(cf. 3430 - Investing)

The Board member may speak on the issue during the time that the general public speaks on the issue. The Board member shall recuse himself/herself from voting on the matter and 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. (Government Code 87105; 2 CCR 18702.5)

If the Board's decision is made during closed session, the public identification may be made orally during the open session before the Board goes into closed session and shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 87100. The Board member shall not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the Board's decision. (2 CCR 18702.5)

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 limitations 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. (Government Code 89503)

CONFLICT OF INTEREST (continued)

Gifts of travel and related lodging and subsistence shall be subject to the prevailing 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 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

CONFLICT OF INTEREST (continued)

APPENDIX A
DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

DESIGNATED POSITIONS	DISCLOSURE CATEGORY
Accounting Assistant	1, 3
Accounting Manager	1, 3
ASB Accounting Technician	1, 3
Assistant Director of Planning	1, 3
Assistant Director of Information Technology	1, 3
Assistant Principals	1, 3
Assistant Principal - Adult Ed. Fee-Based Programs	1, 3
Assistant Principals Student Activities	1, 3
Assistant Superintendent of Facilities and Operations	1, 2, 3, 4
Assistant Superintendent of Human Resources	1, 2, 3, 4
Associated Student Body Advisors	1, 3
Benefits Supervisor	1, 3
Board of Trustees Members	1, 2, 3, 4
Buyer	1, 3
Carpentry Shop Supervisor	1, 3
Chief Financial Officer	1, 2, 3, 4
Clerk of the Board/Executive Assistant to the Board	1, 3
Coordinator of Academic Support	1, 3
Coordinator of Athletics	1, 3
Coordinator of Attendance and Student Welfare	1, 3
Consultants ¹	1, 3
Custodial Supervisor	1, 3
Director of Adult Education	1, 3
Director of Alternative Education	1, 3
Director of Career Technical Education	1, 3
Director of Categorical Programs	1, 3
Director of Language Acquisition/State and Federal Programs	1, 3
Director of Educational Technology	1, 3
Director of Financial Services	1, 3
Director of Food Services	1, 3
Director of Grants and Communications	1, 3

CONFLICT OF INTEREST (continued)

DESIGNATED POSITIONS	DISCLOSURE CATEGORY
Director of Human Resources	1, 3
Director of Post Secondary Initiatives	1, 3
Director of Planning and Facilities	1, 3
Director of Professional Development	1, 3
Director of Research and Evaluation	1, 3
Director of Risk Management	1, 3
Director of Special Services	1, 3
Director of Student Services	1, 3
Director of Technology Systems	1, 3
Director of Transportation	1, 3
Director of Visual and Performing Arts	1, 3
District Mail Services Supervisor	1, 3
District Committee Members ²	1, 2, 3, 4
District Superintendent	1, 2, 3, 4
Electrical Shop Supervisor	1, 3
Electronics Shop Supervisor	1, 3
Environmental and Safety Manager	1, 3
Executive Director of Curriculum and Instruction	1, 3
Executive Director of Educational Services	1, 3
Executive Director of Instructional Services – Middle and High Schools	1, 3
Facilities Accounting Supervisor	1, 3
Fleet Maintenance Supervisor	1, 3
Food Service Area Supervisor	1, 3
Food Service Supervisor	1, 3
Grants and Communications Manager	1, 3
Hazmat Safety Supervisor	1, 3
HVAC and Refrigeration Shop Supervisor	1, 3
Info Tech Network Supervisor	1, 3

¹ The Superintendent, or his/her designated officials, may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Superintendent (or his/her designated officials) determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

CONFLICT OF INTEREST (continued)

DESIGNATED POSITIONS	DISCLOSURE CATEGORY
Info Tech Support Supervisor	1, 3
Information Services Project Manager	1, 3
Information Systems Supervisor	1, 3
Internal Auditor	1, 3
Maintenance Manager	1, 3
Maintenance Planner/Coordinator	1, 3
Maintenance Shop Supervisor	1, 3
Office Supervisor	1, 3
Paint Shop Supervisor	1, 3
Payroll Manager	1, 3
Performing Arts Facility Manager	1, 3
Planning Project Manager	1, 3
Plant Operations Supervisor	1, 3
Plumbing/Heavy Equipment Supervisor	1, 3
Principals	1, 3
Program Manager	1, 3
Project Specialist	1, 3
Psychologist	1, 3
Purchasing Manager	1, 3
Senior Buyer	1, 3
Storekeeper	1, 3
Student Health Services Manager	1, 3
Student Support Services Manager	1, 3
Supervisor - Attendance/Student Welfare	1, 3
Technology Training Manager	1, 3
Transition Services Supervisor	1, 3
Transportation Supervisor	1, 3
Warehouse Supervisor - Food Services	1, 3

² Disclosure of economic interest shall be required of a District Committee Member only if the member serves as a district committee with decision-making authority, as defined in the Code of Regulations, Title 2, Section 18701.

CONFLICT OF INTEREST (continued)

APPENDIX B
DEFINITIONS OF DISCLOSURE CATEGORIES

Disclosure Category	Definition
1*	Personnel who makes decisions and/or are involved in the decision making process must report investments and/or business positions worth more than \$2,000 in business entities which have contracted with the district within the past two years or which may foreseeable in the future contract with the district to provide services, supplies, materials, machinery, or equipment.
2*	Personnel who make decisions and/or are involved in the decision making process must report interests and/or business positions worth more than \$2,000 in real property which may foreseeably in the future be developed as residential property or may be considered by the district for any school use.
3*	Personnel who make decisions and/or are involved in the decision making process must report income of \$500 or more or gifts worth \$50 or more from sources which have contracted with the district within the past two years or which may foreseeably in the future be contract with the district to provide services, supplies materials, machinery, or equipment.
4*	Personnel who make decisions and/or are involved in the decision making process must report interests and/or business positions worth more than \$2,000 in real property including business entities or trusts in which ownership interest is 10% or greater.

* Ownership of interests include those of the designated employee, his/her spouse, dependent child, business entity controlled by the designated employee (including his/her spouse, dependent child).

Legal Reference: (see next page)

CONFLICT OF INTEREST (continued)

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*
35239 *Compensation for board members in districts under 70 ADA*

GOVERNMENT CODE

1090-1098 *Prohibitions applicable to specified officers*
1125-1129 *Incompatible activities*
81000-91015 *Political Reform Act of 1974, especially:*
82011 *Code reviewing body*
82019 *Definition of designated employee*
82028 *Definition of gifts*
82030 *Definition of income*
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*

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

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th. 655
Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

ATTORNEY GENERAL OPINIONS

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)*

Management Resources:

WEB SITES

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