

COUNTY OF SAN DIEGO

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CLERK OF THE BOARD
OF SUPERVISORS

Conflict Of Interest

Board Bylaws

The Board of Trustees 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 Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

Even if a prohibited conflict of interest does not exist, 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.

The Board shall adopt for the district a conflict of interest code that incorporates the provisions of 2 CCR 18730 by reference, specifies the district's designated positions, and provides the disclosure categories required for each position. The conflict of interest code shall be submitted to the district 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 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, 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 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

Approved and/or authorized by the Board of Supervisors of the County of San Diego.	
Meeting Date: 12/11/2018	Minute Order No. 41
By: <i>[Signature]</i>	Date: 12/11/2018
Deputy Clerk of the Board Supervisors	

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 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 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 Board member's or designated employee or other person in a designated position, his/her immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18707)

A Board member, or designated employee, or other person in a designated position makes a governmental decision when he/she, acting within the authority of his/her office or position, authorized or directs any action on a matter, votes or provides information or opinion on it, contacts or appears before a district official for the purpose of affecting the decision, or takes any other action specified in 2 CCR 18704.

However, a Board member shall participate in the making of a contract in which he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87010 and 2 CCR 18705.

Additional Requirements for Boards that Manage Public Investments

Any 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: (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. 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 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 in a contract made by the Board, the contract is void. (Government Code 1090)

A Board member shall not be considered to be financially interested in a contract if he/she has only a "remote interest," as defined 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)

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

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.

Incompatible Offices and Activities

Members of the Board of Trustees 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 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)

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 except when: (Government Code 89506)

1. The travel is in connection with a speech given by a Board member or designated employee 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. (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 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

*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***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 FALLBROOK UNION HIGH SCHOOL DISTRICT

Adopted: May 9, 1995 Fallbrook, California

Revised: July 12, 2010

Revised: December 13, 2010

Reviewed: September 12, 2011

Reviewed: July 14, 2014

Revised: October 8, 2018

Conflict of Interest Code of the Fallbrook Union High 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.

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

DESIGNATED POSITION/DISCLOSURE CATERGORIES

1. Category 1: A person designated in 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:
 - 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. Category 2: A person designated in 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.
3. Full Disclosure: Because it has been determined that the district's Board members and/or Superintendent "manage public investments," they and other persons designated for "full disclosure" shall disclose, in accordance with Government Code 87200:

- 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, business positions, and sources of income, including gifts, loans, and travel payments.

Designated Position Disclosure Category

Board Members	1
Superintendent	1
Assistant Superintendent	1
Chief Business Officer	1
Purchasing/Finance Technician	1
Director Finance	2
Director Food Services	2
Director Information Systems	2
Director Maintenance, Operations, Transportation	2
Director Special Education & Student Services	2
Confidential Employees	2
Principals	2
Assistant Principals	2
Activities Director	2
Athletic Director	2
Executive Assistant to the Superintendent	2
ELL Coordinator	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 governmental decisions whether to: (2 CCR 18700.3)

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 187004, subsections (a) and (b), 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 18700.3)