

Bylaws of the Board

COUNTY OF SAN DIEGO

2021 APR 30 AM 8:07

BB 9270(a)

CONFLICT OF INTEREST

CLERK OF THE BOARD
OF SUPERVISORS

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 2 CCR 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)

In accordance with 2 CFR 200.318(c), appropriate disciplinary action will be applied for violation of the conflict of interest code by officers, employees, or agents of the district.

Financial Interest

Approved and/or authorized by the
Board of Supervisors of the County of San Diego.
Meeting Date: 10/29/2021 Minute Order No 05
By: *[Signature]* Date: 7/12/2021
Deputy Clerk of the Board Supervisors

CONFLICT OF INTEREST (continued)

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)

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 (in the same classification or position) 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

CONFLICT OF INTEREST (continued)

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 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)

The Board may enter into a contract otherwise prohibited under Government Code section 1090 if permitted by law to acquire an essential supply or service or where a public officer must participate to carry out essential duties, as established by case law.

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 (continued)

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. (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

A gift is any payment or other benefit provided to an official that confers a personal benefit for which the official does not provide goods or services of equal or greater value. Gifts include meals and entertainment, valued at fair market rates. Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

CONFLICT OF INTEREST (continued)

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;

Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;

Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating the adjusted annual gift limit set forth in Section 18940.2 of Title 2 of the California Code of Regulations, received by, or promised to, the designated employee within 12 months prior to the time when the decision is made.

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)

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)

CONFLICT OF INTEREST (continued)

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

Design-Build Projects

The District's guidelines for a standard organizational conflict-of-interest policy, consistent with applicable law, regarding Design-Build projects are as follows: (Education Code 17250.20(b))

1. Any professional services provider or other consultant retained by the District to provide services related to a Design-Build project may have an actual or apparent conflict of interest within the meaning of this Board Policy. If such professional services provider or other consultant does have an actual or apparent conflict of interest within the meaning of this Board Policy, that professional services provider or consultant is precluded from participating as part of the design-build entity with which the District contracts for a Design-Build project. This prohibition applies, without limitation, to the architect(s), engineer(s), or other professional firms retained to develop the Design-Build project's:
 - a. design character;
 - b. basic scope and needs;
 - c. preliminary plans;
 - d. specifications; or
 - e. estimated cost.
2. The prohibition in paragraph 1 also applies to the District's Program Manager and Construction Manager, or other professional service provider or consultant, if it provides services in connection with a Design-Build project sufficient to cause a conflict of interest.
3. Any individual who participates in providing the services referenced in paragraphs 1 or 2, and who has a conflict of interest as understood within this Board Policy, is precluded from participating as part of the Design-Build Entity with which the District contracts for the Design-Build project, even if the employer would not otherwise be precluded from participation.

CONFLICT OF INTEREST (continued)

4. Any Design-Build Entity member that employs a former District employee or Board member who engaged in any of the planning, arrangements, or any part of the decision-making process related to the Design-Build project while employed or engaged in any capacity by the District has an actual or apparent conflict of interest within the meaning of this Board Policy precluding the Design-Build Entity from contracting with the District for the Design-Build project.
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CONFLICT OF INTEREST (continued)

**APPENDIX A
DESIGNATED POSITIONS/DISCLOSURE CATEGORIES**

DESIGNATED POSITIONS	DISCLOSURE CATEGORY
Accountant	1, 3
Accounting Assistant	1, 3
Accounting Technician	1, 3
Accounting Manager	1, 3
ASB Accounting Technician	1, 3
Assistant Principals	1, 3
Assistant Principals Student Activities	1, 3
Assistant Superintendent of Leadership Development and Systems Innovation	1, 2, 3, 4
Assistant Superintendent of Teaching and Learning	1, 2, 3, 4
Associated Student Body Advisors	1, 3
Benefits Supervisor	1, 3
Board of Trustees Members	1, 2, 3, 4
Budget Analyst	1, 3
Budget Position Control Analyst	1, 3
Buyer	1, 3
Carpentry Shop Supervisor	1, 3
Chief Compliance Officer	1, 3
Chief of Educational Equity and Support Services	1, 2, 3, 4
Chief Financial Officer	1, 2, 3, 4
Chief Human Resources Officer	1, 2, 3, 4
Chief of System Improvement and Innovation	1, 2, 3, 4
Clerk of the Board/Executive Assistant to the Board	1, 3
Coordinator of Athletics	1, 3
Coordinator of Student Welfare and Attendance	1, 3
Consultants ¹	1, 3
Database and Systems Supervisor	1, 3
Debt Finance Manager	1, 3
Director of Adult Education	1, 3
Director of Alternative Education	1, 3
Director of Career Technical Education	1, 3
Director of Educational Technology and Support Services	1, 3
Director of Fiscal Services	1, 3
Director of Nutrition Services	1, 3
Director of Grants and Communications	1, 3
Contracts Manager	1, 3

CONFLICT OF INTEREST (continued)

DESIGNATED POSITIONS	DISCLOSURE CATEGORY
Digital Security and Privacy Coordinator	1, 3
Director of Career Technical Education	1, 3
Director of College and Career Readiness	1, 3
Director of Human Resources	1, 3
Director of Information Technology and Enterprise Architecture	1, 3
Director of Planning & Construction	1, 3
Director of Professional Growth	1, 3
Director of Risk Management	1, 3
Director of Special Services	1, 3
Director of State and Federal Programs	1, 3
Director of Student Support Services	1, 3
Director of Teaching and Learning	1, 3
Director of Transportation	1, 3
Director of College and Career Readiness/Visual and Performing Arts	1, 3
District Committee Members ²	1, 2, 3, 4
District Superintendent	1, 2, 3, 4
Energy Conservation Manager	1, 3
Electrical Shop Supervisor	1, 3
Electronics Shop Supervisor	1, 3
Environmental and Safety Supervisor	1, 3
Executive Director of Curriculum and Instruction	1, 3
Facilities Accounting Supervisor	1, 3
Facilities Specialist	1, 3
Family Community Services Program Coordinator	1, 3
Fleet Maintenance Supervisor	1, 3
Food Service Area Supervisor	1, 3
Food Services Manager	1, 3
Food Service Supervisor	1, 3
Gardener Grounds Supervisor	1, 3
General Counsel	1, 2, 3, 4
Grants and Communications Manager	1, 3
Human Resources Operations Manager	1, 3
Human Resources Supervisor	1, 3
HVAC and Refrigeration Shop Supervisor	1, 3
Info Tech Support Supervisor	1, 3
Information Systems Supervisor	1, 3
Internal Auditor	1, 3

CONFLICT OF INTEREST (continued)

DESIGNATED POSITIONS	DISCLOSURE CATEGORY
Maintenance Manager	1, 3
Maintenance Planner/Coordinator	1, 3
Maintenance Shop Supervisor	1, 3
Office Supervisor	1, 3
Paint Shop Supervisor	1, 3
Paralegal	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 Coordinator	1, 3
Project Specialist	1, 3
Psychologist	1, 3
Purchasing Manager	1, 3
School Improvement Officer	1, 3
Security Coordinator and Advisor	1, 3
Security Manager	1, 3
Senior Accounting Technician	1, 3
Senior Buyer	1, 3
STEAM Coordinator	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
Telecommunications Supervisor	1, 3
Transition Services Supervisor	1, 3
Transportation Supervisor	1, 3
Warehouse Supervisor - Food Services	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.

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 foreseeably 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 aggregating \$50 or more from sources which have contracted with the district within the past two years or which may foreseeably in the future 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>

Bylaw
adopted: November 17, 2008
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revised: May 23, 2016
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revised: April 19, 2021

SWEETWATER UNION HIGH SCHOOL DISTRICT
Chula Vista, California