

August 22, 2024

Clerk of the Board

# 2024 Local Agency Biennial Notice

Name of Agency: Conejo Valley Unified School District

Mailing Address: 1400 E. Janss Road, Thousand Oaks, CA 9162-2198

Contact Person: Evelyn Cortina-Loupe Phone No. 805-498-4557, X7403

Email: ecortina-loupe@conejouisd.org Alternate Email: sfehlman@conejouisd.org

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency’s code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that *(check one BOX)*:

An amendment is required. The following amendments are necessary:

*(Check all that apply.)*

- Include new positions
- Revise disclosure categories
- Revise the titles of existing positions
- Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- Other *(describe)* \_\_\_\_\_

The code is currently under review by the code reviewing body.

No amendment is required. (If your code is over five years old, amendments may be necessary.)

**Verification (to be completed if no amendment is required)**

*This agency’s code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.*

**Mark McLaughlin** Digitally signed by Mark McLaughlin  
Date: 2024.08.23 08:44:04 -07'00'

**08/23/2024**

*Signature of Chief Executive Officer*

*Date*

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 1, 2024**, or by the date specified by your agency, if earlier, to: **E-Mail to: [form700clerk@ventura.org](mailto:form700clerk@ventura.org)**

or  
**Mail to: Clerk of the Board of Supervisors  
800 S. Victoria Avenue, L# 1920  
Ventura, CA 93009-1920**

**PLEASE DO NOT RETURN THIS FORM TO THE FPPC.**

**Redlined**  
**Conflict of Interest Code**

SEP 06 2022

Clerk of the Board

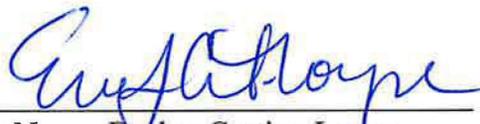
**CONFLICT OF INTEREST CODE  
Conejo Valley Unified School District**

The Political Reform Act, Government Code section 81000 et seq., requires local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code Regs., § 18730) which contains the terms of a standard Conflict of Interest Code, which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings.

The terms of California Code of Regulations, Title 2, Section 18730, and any amendment to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference as the Conflict of Interest Code for the Conejo Valley Unified School District, and along with the attached Exhibit A, which designates positions requiring disclosure and Exhibit B, which sets forth disclosure categories for each designated position, constitute the Conflict of Interest Code of the Conejo Valley Unified School District. Persons holding positions designated in Exhibit A shall file Form 700 Statements of Economic Interests with the Filing Officer specified for that position in Exhibit A.

**IN PREPARING THE FORM 700, DESIGNATED FILERS NEED ONLY DISCLOSE THOSE FINANCIAL INTERESTS FALLING WITHIN THE DISCLOSURE CATEGORIES DESIGNATED FOR THAT FILER'S POSITION AS STATED IN EXHIBITS A AND B.**

**APPROVED AND ADOPTED** this 16th day of August, 2022:

By:   
Print Name: Evelyn Cortina-Loupe  
Title: Confidential Secretary – H.R.

**BOARD BYLAW 9270E – CONFLICT OF INTEREST**

**EXHIBIT A - DESIGNATED POSITIONS AND FILING OFFICERS**

<b># of POSITIONS</b>	<b>POSITION TITLE</b>	<b>DISCLOSURE CATEGORIES (Board Bylaws)</b>	<b>FILING OFFICER (Designate County Clerk of Board {COB} or Local Agency's Clerk [AC])</b>
5	Members of the Board of Education	1	County Clerk of Board
1	Superintendent of Schools	1	County Clerk of Board
1	Deputy Superintendent, Business Services	1	Local Agency's Clerk
1	Assistant Superintendent, Instructional Services	1	Local Agency's Clerk
1	Assistant Superintendent, Human Resources	1	Local Agency's Clerk
1	Assistant Superintendent, Student Services	1	Local Agency's Clerk
1	Director, Planning & Construction	3, 4, 6	Local Agency's Clerk
1	Director, Child Nutrition	4, 6	Local Agency's Clerk
1	Director, Classified Human Resources	4, 6	Local Agency's Clerk
1	Director, Elementary Education	4, 6	Local Agency's Clerk
1	Director, Fiscal Services	4, 6	Local Agency's Clerk
1	Director, High School & Assessment	4, 6	Local Agency's Clerk
	<b>Director, High School Education</b>		
1	Director, Maintenance & Operations	4, 6	Local Agency's Clerk
1	Director, Middle School & Professional Learning	4, 6	Local Agency's Clerk
	<b>Director, Middle School Education</b>		
2	Director, Special Education	4, 6	Local Agency's Clerk
1	Director, Student Support Services	4, 6	Local Agency's Clerk
1	Director, Technology Services	4, 6	Local Agency's Clerk
1	Director, Purchasing	4, 6	Local Agency's Clerk
1	Director, Safety and Risk Management	4, 6	Local Agency's Clerk
1	Director, Child Development	4, 6	Local Agency's Clerk
1	Director, Multilingual Learners & Equity	4, 6	Local Agency's Clerk
	<b>Director, Multilingual Learners</b>		
<b>1</b>	<b>Director, Mental Health &amp; Wellness Services</b>	<b>4, 6</b>	<b>Local Agency's Clerk</b>
1	Assistant Director, Educational Technology & Student Performance	4, 6	Local Agency's Clerk

1	Assistant Director, Diversity, Equity & Inclusion	4, 6	Local Agency's Clerk
27	Principals	4, 6	Local Agency's Clerk
1	General Services Supervisor	4, 6	Local Agency's Clerk
1	Custodial Services Supervisor	4, 6	Local Agency's Clerk
1	Trade Services Supervisor	4, 6	Local Agency's Clerk
1	Grounds Supervisor	4, 6	Local Agency's Clerk
1	Fiscal Services Supervisor	4, 6	Local Agency's Clerk
3	Personnel Commissioners	1	Local Agency's Clerk
<b>Consultants<sup>i</sup></b>			

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<sup>i</sup> The disclosure, if any, required of a consultant will be determined on a case-by-case basis by the head of the agency or designee. The determination of whether a consultant has disclosure requirements should be made in writing on a Fair Political Practices Commission Form 805. The determination should include a description of the consultant's duties and based upon that description, a statement of the extent, if any, of the disclosure requirements. Each Form 805 is a public record and should be retained for public inspection either in the same manner and location as the Conflict of Interest Code, or with appropriate documentation at the location where the Conflict of Interest Code is maintained, cross-referencing to the Form 805.

Revised ~~8/16/22~~ **01/18/24**

## **EXHIBIT B – DISCLOSURE CATEGORIES**

The terms *italicized* below have specific meaning under the Political Reform Act. In addition, the financial interests of a spouse, domestic partner and dependent children of the public official holding the designated position may require reporting. Consult the instructions and reference pamphlet of the Form 700 for explanation.

### **Category 1 – BROADEST DISCLOSURE**

[SEE FORM 700 SCHEDULES A-1, A-2, B, C, D and E]

- (1) All sources of *income, gifts, loans and travel payments*;
- (2) All *interests in real property*; and
- (3) All *investments and business positions in business entities*.

### **Category 2 – REAL PROPERTY**

[SEE FORM 700 SCHEDULE B]

All interests in real property, including interests in real property held by business entities and trusts in which the public official holds a business position or has an investment or other financial interest.

### **Category 3 – LAND DEVELOPMENT, CONSTRUCTION AND TRANSACTION**

[SEE FORM 700 SCHEDULES A-1, A-2, C, D and E]

All investments, business positions and sources of income, gifts, loans and travel payments, from sources which engage in land development, construction, or real property acquisition or sale.

### **Category 4 – PROCUREMENT**

[SEE FORM 700 SCHEDULES A-1, A-2, C, D and E]

All investments, business positions and sources of income, gifts, loans and travel payments, from sources which provide services, supplies, materials, machinery or equipment which the designated position procures or assists in procuring on behalf of their agency or department.

### **Category 5 – REGULATION AND PERMITTING**

[SEE FORM 700 SCHEDULES A-1, A-2, C, D and E]

All investments, business positions and sources of income, gifts, loans and travel payments, from sources which are subject to the regulatory, permitting or licensing authority of, or have an application or license pending before, the designated position's agency or department.

### **Category 6 – FUNDING**

[SEE FORM 700 SCHEDULES A-1, A-2, C, D and E]

All investments, business positions and sources of income, gifts, loans and travel payments, from sources which receive grants or other funding from or through the designated position's agency or department.



Book	Policy Manual
Section	9000 - Board Bylaws
Title	Conflict Of Interest
Code	BB9270
Status	Active

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. 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.

(cf. 9005 – Governance Standards)

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's 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)

(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 required statement and the date of leaving office or district employment. (Government Code 87302, 87302.6)

(cf. 4117.2/4217.2/4317.2 – Resignation)

(cf. 9222 – Resignation)

## Conflict of Interest under the Political Reform Act

A Board member, designated employee, or other person in a designated position 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, 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, 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, authorizes 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 87101 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 and deliberations 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 discussion 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.

(cf. 3430 – Investing)

(cf. 9321 – Closed Session Purposes and Agendas)

(cf. 9321.1 – Closed Session Actions and Reports)

## Conflict of Interest under Government Code 1090 – Financial Interest in a Contract

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 in which he/she has only a "remote interest," as specified 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 in 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 circumstance 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

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)

#### 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)

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  
41015 Investments

#### 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  
82019 Definition, designated employee  
82028 Definition, gift  
82030 Definition, income  
82033 Definition, interest in real property  
82034 Definition, investment  
87100-87103.6 General prohibitions  
87200-87210 Disclosure  
87300-87313 Conflict of interest code  
87500 Statements of economic interests  
89501-89503 Honoraria and gifts  
89506 Ethics; travel  
91000-91014 Enforcement

#### PENAL CODE

85-88 Bribes

#### REVENUE AND TAXATION CODE

203 Taxable and exempt property – colleges

#### CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission, especially:  
18700-18707 General prohibitions  
18722-18740 Disclosure of interests  
18753-18756 Conflict of interest codes

#### COURT DECISIONS

McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)  
Davis v. Fresno Unified School District (2015) 237 Cal.App.4<sup>th</sup> 261  
Klistoff v. Superior Court, (2007) 157 Cal.App.4<sup>th</sup> 469  
Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4<sup>th</sup> 655  
Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4<sup>th</sup> 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>

**Amended  
Conflict of Interest Code**

SEP 06 2022

Clerk of the Board

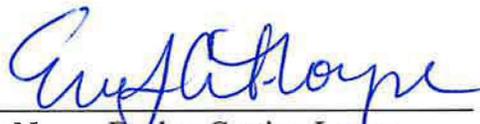
**CONFLICT OF INTEREST CODE  
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**IN PREPARING THE FORM 700, DESIGNATED FILERS NEED ONLY DISCLOSE THOSE FINANCIAL INTERESTS FALLING WITHIN THE DISCLOSURE CATEGORIES DESIGNATED FOR THAT FILER'S POSITION AS STATED IN EXHIBITS A AND B.**

**APPROVED AND ADOPTED** this 16th day of August, 2022:

By:   
Print Name: Evelyn Cortina-Loupe  
Title: Confidential Secretary – H.R.

**BOARD BYLAW 9270E – CONFLICT OF INTEREST**

**EXHIBIT A - DESIGNATED POSITIONS AND FILING OFFICERS**

<b># of POSITIONS</b>	<b>POSITION TITLE</b>	<b>DISCLOSURE CATEGORIES (Board Bylaws)</b>	<b>FILING OFFICER (Designate County Clerk of Board {COB} or Local Agency's Clerk [AC])</b>
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Revised 01/18/24

## **EXHIBIT B – DISCLOSURE CATEGORIES**

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### **Category 1 – BROADEST DISCLOSURE**

[SEE FORM 700 SCHEDULES A-1, A-2, B, C, D and E]

- (1) All sources of *income, gifts, loans and travel payments*;
- (2) All *interests in real property*; and
- (3) All *investments and business positions in business entities*.

### **Category 2 – REAL PROPERTY**

[SEE FORM 700 SCHEDULE B]

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(cf. 9005 – Governance Standards)

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's 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)

(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 required statement and the date of leaving office or district employment. (Government Code 87302, 87302.6)

(cf. 4117.2/4217.2/4317.2 – Resignation)

(cf. 9222 – Resignation)

## Conflict of Interest under the Political Reform Act

A Board member, designated employee, or other person in a designated position 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, 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, 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, authorizes 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 87101 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 and deliberations 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 discussion 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.

(cf. 3430 – Investing)

(cf. 9321 – Closed Session Purposes and Agendas)

(cf. 9321.1 – Closed Session Actions and Reports)

## Conflict of Interest under Government Code 1090 – Financial Interest in a Contract

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 in which he/she has only a "remote interest," as specified 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 in 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 circumstance 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

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)

#### 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)

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  
41015 Investments

#### 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  
82019 Definition, designated employee  
82028 Definition, gift  
82030 Definition, income  
82033 Definition, interest in real property  
82034 Definition, investment  
87100-87103.6 General prohibitions  
87200-87210 Disclosure  
87300-87313 Conflict of interest code  
87500 Statements of economic interests  
89501-89503 Honoraria and gifts  
89506 Ethics; travel  
91000-91014 Enforcement

#### PENAL CODE

85-88 Bribes

#### REVENUE AND TAXATION CODE

203 Taxable and exempt property – colleges

#### CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission, especially:  
18700-18707 General prohibitions  
18722-18740 Disclosure of interests  
18753-18756 Conflict of interest codes

#### COURT DECISIONS

McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)  
Davis v. Fresno Unified School District (2015) 237 Cal.App.4<sup>th</sup> 261  
Klistoff v. Superior Court, (2007) 157 Cal.App.4<sup>th</sup> 469  
Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4<sup>th</sup> 655  
Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4<sup>th</sup> 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>

