

BYLAWS OF THE BOARD

SUBJECT: Conflict of Interest

The County Board of Education (County Board) desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the County Office of Education (County Office) and the public. In accordance with law, County Board members shall disclose any conflict of interest and, as necessary, shall abstain from participating in any decisions or discussions that could affect or be effected by those interests, especially, as prohibited by Government Code 1090, those interests related to contracts. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

The County Board shall adopt a resolution that specifies the terms of its conflict of interest code, designates any consultant positions required to complete conflict of interest reporting, and establishes disclosure categories required for each position. The conflict of interest code must be approved by the appropriate code reviewing body. Upon request by the code reviewing body, the County Board shall review the conflict of interest code and submit any changes to the code reviewing body.

Conflict of Interest Code

The County Office'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 an attachment (Exhibit A) specifying designated positions and the specific types of disclosure statements required for each position.

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

When a change in the County Office's conflict of interest code is necessitated by changing 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 County Office shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

County Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the conflict of interest code. A County Board member who leaves office 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. (Government Code 87302, 87302.6)

Riverside County Office
Board Bylaw 9270 Conflict of Interest

If a County Board member or designated employee determines that they have a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting on that decision unless their participation is legally required. (2CCR 18700)

Statements of economic interests submitted to the County Superintendent of Schools (County Superintendent) by designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction. (Government Code 81008)

Place and Time of Filing

- A. All designated employees required to submit a statement of financial interests shall file the original with the County Superintendent.
- B. The County Superintendent shall make and retain a copy and forward the original to the Clerk of the Board of Supervisors of the County of Riverside.
- C. A designated employee required to submit a statement of financial interest shall submit an initial statement within 30 days after the effective date of this Code.
- D. All employees appointed, promoted or transferred to designated positions shall file initial statements not less than 10 days before assuming office, unless an earlier assumption of office is required by emergency circumstances, in which case the statement shall be filed within 30 days thereafter.
- E. Annual statements shall be filed by all designated employees during the month of February disclosing reportable investments in business entities, interests in real property and income held or received in the period between the closing date of the employee's previously filed statement and January 31.
- F. Each person who leaves a designated position for a position not specified in Exhibit "A" shall file a leaving office statement within 30 days after leaving.
- G. A designated employee required to file a statement of financial interest with any other agency, which has the same territorial jurisdiction, may comply with the provisions of this Code by filing a duplicate copy of the statement filed with the other agency, in lieu of an entirely separate document.

Conflict of Interest under the Political Reform Act

A County Board member shall not make, participate in making, or in any way use or attempt to use the official position to influence a governmental decision in which the County Board member knows or has reason to know that there is a disqualifying conflict of interest. A conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the County Board member's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the County Board member's participation is legally required. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

Riverside County Office
Board Bylaw 9270 Conflict of Interest

A County Board member is involved in making a governmental decision when, acting within the authority of the office or position, votes on a matter, appoints a person, obligates or commits the County Board to any course of action, or votes to enter into or approve any contractual agreement on behalf of the County Board. (2 CCR 18704)

A County Board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the County Board shall abstain from voting on the matter. Although the County Board member may remain on the dais, if the County Board member chooses to stay the County Board member's presence shall not be counted towards achieving a quorum for that matter. A County Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the County Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue. (2 CCR 18700)

Conflict of Interest from Campaign Contributions

To avoid improper influence over the County Board's decision-making involving the issuance of a license, permit, or other entitlements for use, including a contract, County Office officers, which includes County Board members or agency heads, shall comply with Government Code 84308, including the following: (Government Code 84308)

1. A County Office officer is prohibited from accepting, soliciting, or directing a contribution of more than \$250 from any party or participant to a proceeding involving a license, permit, or other entitlement for use, including a contract, or from that person's agent, while the proceeding is pending before the County Board and for 12 months following the date a final decision is rendered in the proceeding, if the County Board member knows or has reason to know that the party or participant has a financial interest in the County Board's decision.
2. Any County Office officer who received a contribution of more than \$250 from a party or participant in the preceding 12 months shall disclose that fact on the record of the proceeding prior to the County Board rendering a decision in the proceeding. If the County Office officer willfully or knowingly received the contribution and knows or has reason to know that the participant has a financial interest in the County Board's decision, the County Office officer shall not make, participate in making, or in any way attempt to use the official position to influence the County Board's decision.
3. A County Office officer who receives a contribution that would otherwise require disqualification as described in Item #2 above may participate in the proceeding if the contribution is returned within 30 days from the time the County Office officer knows or should have known about the contribution and the proceeding.
4. A County Office officer who unknowingly accepts, solicits, or directs a contribution of more than \$250 during the 12 months after the date of the County Board's final decision on the proceeding may cure the violation by returning the contribution, or the portion exceeding \$250, within 14 days of accepting, soliciting, or directing the contribution, provided the County Office officer did not knowingly or willfully accept, solicit, or

Riverside County Office
Board Bylaw 9270 Conflict of Interest

direct the prohibited contribution. The County Office officer shall maintain records of curing the violation.

The provisions in Government Code 84308 as specified above do not apply to labor contracts, competitively bid contracts, and personal employment contracts. (Government Code 84308)

Conflict of Interest under Government Code 1090 - Financial Interest in a Contract

County Board members shall not be financially interested in any contract made by the County Board and shall not be included in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids for such contracts. If a County Board member has such a financial interest, the County Board is barred from entering into the contract. (Government Code 1090)

A County Board member shall not be considered to be financially interested in a contract if the interest is a "noninterest" as defined in Government Code 1091.5.

A County Board member shall not be considered to be financially interested in a contract if the County Board member has only a "remote interest" in the contract as specified in Government Code 1091 and if the remote interest is disclosed during a County Board meeting and noted in the official County Board minutes. The affected County Board member shall not vote or debate on the matter or attempt to influence any other County Board member's vote. (Government Code 1091)

To avoid the appearance of impropriety, County Board members may decide not to participate in any discussion or action involving contracts where the County Board member's interest is a "noninterest" or "remote interest" as described in Education Code 1091 and 1091.5.

Common Law Doctrine Against Conflict of Interest

A County Board member shall abstain from any official action in which the County Board member's private or personal interest may conflict with official duties. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

County Board members shall abstain from voting on personnel matters that uniquely affect relatives. Relative means an adult who is related to the County Board member by blood, affinity, or adoptive relationship within the third degree.

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.

Rule of Necessity or Legally Required Participation

On a case-by-case basis and upon advice of legal counsel, a County Board member with a financial interest in a contract may participate in the making of the contract if the rule of

Riverside County Office
Board Bylaw 9270 Conflict of Interest

necessity or legally required participation applies pursuant to Government Code 87101 and 2 CCR 18705.

Incompatible Offices and Activities

County 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 County Board member's duties as an officer of the County Office. (Government Code 1099, 1126)

Gifts

County 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)

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 County Office for County Board members and designated employees. (Government Code 89506)

Honoraria

County 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 office for donation into the general fund without being claimed as a deduction from income for tax purposes.

APPENDIX

Exhibit A: Designated Positions/Disclosure Categories

Legal Reference:

2 CCR 18700 - General Prohibition Basic Rule: Guide to Conflict of Interest

2 CCR 18730 - Chapter 7, Conflicts of Interest Disclosures

Government Code

Riverside County Office
Board Bylaw 9270 Conflict of Interest

1091 - Prohibitions Applicable to Specified Officers: Conflict of Interest
1091.5 - Prohibitions Applicable to Specified Officers: Conflict of Interest
1126 - Incompatible Activities; Public Officers and Employees
81000 et seq. - Political Reform Act of 1974
82041 - Definition: Local Government Agency
82048 - Definition: Public Official
87101 - Political Reform; Lobbyists; Conflict of Interest, General Prohibition
87103 - Political Reform; Lobbyists; Conflict of Interest, General Prohibition
87300 - Agency; Adoption & Promulgation; Effect of Violation
87302 - Required Provisions
87306 - Political Reform; Lobbyists; Conflict of Interest, Conflict of Interest Code
87306.5 - Political Reform; Lobbyists; Conflict of Interest, Conflict of Interest Code
87311 - Political Reform; Lobbyists; Conflict of Interest, Conflict of Interest Code
89501 - Political Reform; Ethics; Honorarium
89502 - Political Reform; Ethics; Honorarium
89503 - Political Reform; Ethics; Honorarium
89506 - Political Reform; Ethics; Travel