

**ALAMEDA COUNTY BOARD OF SUPERVISORS
MINUTE ORDER**

The following action was taken by the Alameda County Board of Supervisors on 01/26/2021

Approved as Recommended Other

Unanimous Chan: Haubert: Miley: Valle: Carson: - 5

Vote Key: N=No; A=Abstain; X=Excused

Documents accompanying this matter:

Documents to be signed by Agency/Purchasing Agent:

File No. 30574
Item No. 26

Copies sent to:

Patty Sandoval, Office of the Superintendent, Fremont Unified School District, 4210 Technology Drive, Fremont, CA 94538

Special Notes:



I certify that the foregoing is a correct copy of a Minute Order adopted by the Board of Supervisors, Alameda County, State of California.

ATTEST:
Clerk of the Board
Board of Supervisors

By: P. Brady
Deputy



**FREMONT UNIFIED
SCHOOL DISTRICT**

26
4210 Technology Drive
P.O. Box 5008
Fremont, CA 94538
(510) 657-2350
www.fremont.k12.ca.us

VIA EMAIL AND US MAIL

January 5, 2021

Cheryl Perkins
Clerk of the Board
Alameda County Board of Supervisors
1221 Oak Street, Suite 536
Oakland, CA 94612

Dear Cheryl Perkins,

This letter is in response to the 2020 Biennial Notice and Review of the Fremont Unified School District (FUSD) Conflict of Interest Code.

At its November 12 and December 16, 2020, Board of Education meetings, district staff reviewed the current conflict of interest code which was last revised by the Board in 2016. Working with counsel, District staff identified several amendments to the conflict of interest code. These amendments include making the disclosure requirements consistent for Board members, the Superintendent, the Associate Superintendent, the Assistant Superintendent, and the Director of Purchasing. These amendments also eliminate the disclosure requirement for positions which no longer exist or which do not exercise independent contracting authority. Finally, the amendments also include the addition of an "incorporation" statement at the beginning of the Policy which incorporates the Fair Political Practices Commission's recommended conflict of interest code provisions.

I am enclosing copies of the requested documents for placement at an upcoming Alameda County Board of Supervisors Board meeting and cordially request your approval.

If there are any questions or concerns, please feel free to contact me.

Sincerely yours,

M. Patty Sandoval
Administrative Assistant to the Superintendent
& Board of Education

Board of Education
Larry Sweeney
Dianne Jones
Vivek Prasad
Yajing Zhang
Desrie Campbell

Superintendent
CJ Cammack
(510) 659-2542

Associate Superintendent
Marcus Battle
(510) 659-2572

Assistant Superintendent, Instruction
Leticia Salinas
(510) 659-2583

Assistant Superintendent, Human Resources
Raúl M. Zamora, Ed.D.
(510) 659-2556

- COPY -

2020 Local Agency Biennial Notice

Name of Agency: Fremont Unified School District

Mailing Address: 4210 Technology Drive, Fremont, CA 94538

Contact Person: CJ Cammack / Patty Sandoval Phone No. 510-659-2542

Email: msandoval@fusdk12.net Alternate Email: ccammack@fusdk12.net

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.


Signature of Chief Executive Officer

10/8/2020
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, 2020**, or by the date specified by your agency, if earlier, to:

(PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE)

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

Complete Conflict of Interest Code



Book	Board Policies
Section	9000 Bylaws of the Board
Title	Conflict of Interest
Code	9270
Status	Active
Adopted	August 9, 2000
Last Revised	March 23, 2016

Bylaws of the Board

Conflict of Interest

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. In accordance with law, Board members and designated employees shall disclose any conflict of interest and, as necessary, shall abstain from participating in the decision.

No employee of the district may use their position for personal financial gain. Under California law, there exists a conflict of interest when an employee, consultant, or Board member has financial interest in a decision or action which the employee is expected to make as part of their role in Fremont Unified School District. To avoid a conflict of interest the person shall disclose the interest to a supervisor in writing and disqualify themselves from any participation in the decision. Participating in a decision includes taking part in discussion, advising on, making recommendations or otherwise influencing or attempting to influence other decision-makers on matters where an individual has a financial interest.

All employees and Board members must comply with the requirements of Government Code Sections 87200-87313. The California Supreme Court has ruled that it is an individual public servant's *personal responsibility* to ensure that they avoid participating in any governmental decision-making involving their financial interests.

Each Board member and designated employee shall file an annual statement of investments, interest in real property, and income if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by a decision made or participated in by the designated employee by virtue of the position.

Conflict of interest Statements shall be filed as of April 1 of each calendar year.

Incompatible Activities

Governing Board 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 comprise of the terms of California Code of Regulations, Title 2, Section 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.

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

The Board shall review the appropriate district conflict of interest code in even-numbered years and send the code reviewing body either an amended code or, by October 1 of that year, a statement to the effect that no change is necessary. (Government Code 87306.5)

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)

Designated employees of the district, including Board members, shall adhere to the financial disclosure requirements of the district's conflict of interest code adopted pursuant to the provisions of Government Code 87300.

Upon receiving the statements of employees designated in Category 1 of the district's Appendix, the Superintendent or designee shall make and retain copies in the district office.

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

Financial Interest

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

A Board member shall not be considered to be financially interested in a contract if their 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 their 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 they are a member, on the same terms and conditions as if they 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 their 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 a public agency if their spouse's employment or office holding has existed for at least one year prior to their election or appointment
5. That of a non-salaried 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 non-compensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the Board or to which the Board has 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 the interest is disclosed to the Board at the time of consideration of the contract, and provided further that the interest is noted in its official record
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 their 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 they have 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)

If a 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 and made part of the Board's official minutes. In the case of a designated employee, this announcement shall be made in writing and submitted to the Board. (2 CCR 18700)

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/registered domestic partner, unless the individual is widowed or divorced.

Gifts

Board members and designated employees shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law, if the employee would be required to report the receipt of income or gifts from that source on their statement of economic interests. (Government Code 89503 & **2CCR18730**)

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 above limitations 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 any designated employees who manage public investments 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, if the employee would be required to report the receipt of income or gifts from that source on their statement of economic interests. (Government Code 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

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

It has been determined that persons occupying the following positions manage public investments and shall file a full statement of economic interests pursuant to Government Code 87200:

Associate Superintendent

1. Persons occupying the following positions are designated employees in **Category 1**:
 Superintendent
 Director of Purchasing

Designated persons in this category must report:

- 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. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
- 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. Persons occupying the following positions are designated employees in **Category 2**:

Members of the Board of Education
 Assistant Superintendent
 Director
 Assistant Director
 Maintenance and Operations Director
 Principal
 Assistant Principal
 Chief Technology Officer
 Program Coordinator
 Program Manager
 Project Specialist
 Supervisor
 Consultants on Investments, Finance, Bonds, Real Property, School Construction, and Legal Matters

Designated persons in this category must report investments or business positions in or income from sources which:

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
- b. 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 their entire school.

3. 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 any of several specified governmental decisions or serves in a staff capacity with the district, performing the same or substantially 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. Consultants are individuals who decide whether to: (2 CCR 18700)

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the district to enter into, modify or renew a contract that requires district approval
- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- f. Grant district approval to a plan, design, report, study or similar item
- g. Adopt or grant district approval of district policies, standards or guidelines

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

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"
82033 Definition of "interest in real property"
82034 Definition of "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 Travel payments, advances and reimbursements
91000-91015 Enforcement

CODE OF REGULATIONS, TITLE 2

18100-18730 Regulations of the Fair Political Practices Commission

COURT DECISIONS

Kunec v. Brea Redevelopment Agency (1997) 55 Cal.App. 4th 511

ATTORNEY GENERAL OPINIONS

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

FPPC: <http://www.fppc.ca.gov>

Policy Adopted: August 9, 2000

Policy Revised: March 23, 2016

**Conflict of Interest Code Strikeout/
Underscore Version Showing
Amendments**

Conflict of Interest

DRAFT BP 9270

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. In accordance with law, Board members and designated employees shall disclose any conflict of interest and, as necessary, shall abstain from participating in the decision.

No employee of the district may use their position for personal financial gain. Under California law, there exists a conflict of interest when an employee, consultant, or Board member has financial interest in a decision or action which the employee is expected to make as part of their role in Fremont Unified School District. To avoid a conflict of interest the person shall disclose the interest to a supervisor in writing and disqualify themselves from any participation in the decision. Participating in a decision includes taking part in discussion, advising on, making recommendations or otherwise influencing or attempting to influence other decision-makers on matters where an individual has a financial interest.

All employees and Board members must comply with the requirements of Government Code Sections 87200-87313. The California Supreme Court has ruled that it is an individual public servant's *personal responsibility* to ensure that they avoid participating in any governmental decision-making involving their financial interests.

Incompatible Activities

Governing Board 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 Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This policy and the attached Appendix, designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the Fremont Unified School District.

~~The district's conflict of interest code shall comprise of the terms of California Code of Regulations, Title 2, Section 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.~~

Conflict of Interest

DRAFT BP 9270

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

The Board shall review the appropriate district conflict of interest code in even-numbered years and send the code reviewing body either an amended code or, by October 1 of that year, a statement to the effect that no change is necessary. (Government Code 87306.5)

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)

Designated employees of the district, including Board members, shall adhere to the financial disclosure requirements of the district's conflict of interest code adopted pursuant to the provisions of Government Code 87300.

Upon receiving the statements of employees designated in Category 1 of the district's Appendix, the Superintendent or designee shall make and retain copies in the district office.

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

Financial Interest

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

A Board member shall not be considered to be financially interested in a contract if their 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 their 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 they are a member, on the same terms and conditions as if they 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 their

Conflict of Interest

DRAFT BP 9270

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 a public agency if their spouse's employment or office holding has existed for at least one year prior to their election or appointment
5. That of a non-salaried 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 non-compensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the Board or to which the Board has 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 the interest is disclosed to the Board at the time of consideration of the contract, and provided further that the interest is noted in its official record
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 their 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 they have 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)

If a 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 and

Conflict of Interest

DRAFT BP 9270

made part of the Board's official minutes. In the case of a designated employee, this announcement shall be made in writing and submitted to the Board. (2 CCR 18700)

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/registered domestic partner, unless the individual is widowed or divorced.

Gifts

Board members and designated employees shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law, if the employee would be required to report the receipt of income or gifts from that source on their statement of economic interests. (Government Code 89503 & **2CCR18730**)

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 above limitations 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 ~~any~~ designated employees who manage public investments 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, if the employee would be required to report the receipt of income or gifts from that source on their statement of economic interests. (Government Code 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

Conflict of Interest

DRAFT BP 9270

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

APPENDIX

FREMONT UNIFIED SCHOOL DISTRICT

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 below.

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

~~Each Board member and designated employee shall file an annual statement of investments, interest in real property, and income if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by a decision made or participated in by the designated employee by virtue of the position.~~

~~Conflict of interest Statements shall be filed as of April 1 of each calendar year.~~

~~It has been determined that persons occupying the following positions manage public investments and shall file a full statement of economic interests pursuant to Government Code 87200:~~

~~Associate Superintendent~~

1. Persons occupying the following positions are designated **employees** in **Category 1**:

Members of the Board of Education

Superintendent

Associate Superintendent

Assistant Superintendent

Director of Purchasing

Designated persons in this category must report:

- 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. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
- 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

Conflict of Interest

DRAFT BP 9270

- 3) Manufacture or sell supplies, books, machinery or equipment of the type used by the district
2. Persons occupying the following positions are designated employees in **Category 2**:

~~Members of the Board of Education~~

~~Assistant Superintendent~~

Director

Assistant Director

~~Maintenance and Operations Director~~

Principal

~~Assistant Principal~~

Chief Technology Officer

~~Program Coordinator~~

Preschool Program Manager

~~Project Specialist~~

Supervisor

Consultants on Investments, Finance, Bonds, Real Property, School Construction, and Legal Matters

Designated persons in this category must report investments or business positions in or income from sources which:

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
 - b. 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~~ their entire school.
3. 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 any of several specified governmental decisions or serves in a staff capacity with the district, performing the same or substantially 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. Consultants are individuals who decide whether to: (2 CCR 18700)

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law

Conflict of Interest

DRAFT BP 9270

- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the district to enter into, modify or renew a contract that requires district approval
- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- f. Grant district approval to a plan, design, report, study or similar item
- g. Adopt or grant district approval of district policies, standards or guidelines

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

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"
82033 Definition of "interest in real property"
82034 Definition of "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 Travel payments, advances and reimbursements
91000-91015 Enforcement

CODE OF REGULATIONS, TITLE 2

18100-18730 Regulations of the Fair Political Practices Commission

COURT DECISIONS

Kunec v. Brea Redevelopment Agency (1997) 55 Cal.App. 4th 511

ATTORNEY GENERAL OPINIONS

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)

Conflict of Interest

DRAFT BP 9270

65 Ops.Cal.Atty.Gen. 606 (1982)

Management Resources:

WEB SITES

FPPC: <http://www.fppc.ca.gov>

Policy Adopted: August 9, 2000

Policy Revised: March 23, 2016

December 16, 2020

Legend

Removed

Regulatory Language (from Fair Political Practices Commission)

Added by FUSD

**Copies of Agenda Voting/Motion
Approval of Code from the Noticed
Meetings**



Agenda Item Details

Meeting	Nov 12, 2020 - Regular Meeting of the Board of Education - Virtual
Category	15. REGULAR AGENDA ITEMS
Subject	15.5 Approve the First Reading of Amended Board Policy 9270, Conflict of Interest
Access	Public
Type	Action
Recommended Action	Approve the First Reading of Amended Board Policy 9270, Conflict of Interest.

Public Content

Background

The Political Reform Act prohibits a public official from using their official position to influence a governmental decision in which they have a financial interest. Every state and local agency must adopt a conflict of interest code that identifies all officials and employees within the agency who make governmental decisions based on the positions they hold. The individuals in the designed positions must disclose their financial interests as specified in the agency's conflict of interest code.

Board Policy 9270, Conflict of Interest, includes the District's Conflict of Interest Code. The Code designates District officials and employees who are required to file Form 700s/Statements of Economic Interest and identifies the types of financial interests they must disclose.

Local agencies are required to review their conflict of interest codes in even-numbered years and make any necessary amendments at that time.

Current Status


District staff has reviewed the current conflict of interest code which was last revised by the Board in 2016. Working with counsel, District staff identified several amendments to the conflict of interest code. These amendments include making the disclosure requirements consistent for Board members, the Superintendent, the Associate Superintendent, the Assistant Superintendent, and the Director of Purchasing. These amendments also eliminate the disclosure requirement for positions which no longer exist or which do not exercise independent contracting authority. Finally, the amendments also include the addition of an "incorporation" statement at the beginning of the Policy which incorporates the Fair Political Practices Commission's recommended conflict of interest code provisions.

The Board is asked to approve the First Reading of amended Board Policy 9270, Conflict of Interest.

Policy Implications

This action amends Board Policy 9270 and the District's Conflict of Interest Code.

Prepared by: CJ Cammack

 9270ConflictofInterest (2020 Rev)_964658_1(SF)_1st Read.pdf (248 KB)

Administrative Content

Executive Content

Motion & Voting

Approve the First Reading of Amended Board Policy 9270, Conflict of Interest.

Motion by Ann Crosbie, second by Larry Sweeney.

Final Resolution: Motion Carries

Yea: Michele Berke, Desrie Campbell, Ann Crosbie, Larry Sweeney, Dianne Jones



Agenda Item Details

Meeting	Dec 16, 2020 - Regular Meeting of the Board of Education - Virtual
Category	11. CONSENT CALENDAR - BOARD OF EDUCATION
Subject	11.1 Approve the Second Reading of Amended Board Policy 9270, Conflict of Interest
Access	Public
Type	Action (Consent)
Recommended Action	Approve the Second Reading of Amended Board Policy 9270, Conflict of Interest.

Public Content

Background

The Political Reform Act prohibits a public official from using their official position to influence a governmental decision in which they have a financial interest. Every state and local agency must adopt a conflict of interest code that identifies all officials and employees within the agency who make governmental decisions based on the positions they hold. The individuals in the designed positions must disclose their financial interests as specified in the agency's conflict of interest code.

Board Policy 9270, Conflict of Interest, includes the District's Conflict of Interest Code. The Code designates District officials and employees who are required to file Form 700s/Statements of Economic Interest and identifies the types of financial interests they must disclose.

Local agencies are required to review their conflict of interest codes in even-numbered years and make any necessary amendments at that time.

At its November 12 Board of Education meeting, district staff reviewed the current conflict of interest code which was last revised by the Board in 2016. Working with counsel, District staff identified several amendments to the conflict of interest code. These amendments include making the disclosure requirements consistent for Board members, the Superintendent, the Associate Superintendent, the Assistant Superintendent, and the Director of Purchasing. These amendments also eliminate the disclosure requirement for positions which no longer exist or which do not exercise independent contracting authority. Finally, the amendments also include the addition of an "incorporation" statement at the beginning of the Policy which incorporates the Fair Political Practices Commission's recommended conflict of interest code provisions.

Current Status

On November 12, 2020, the Board of Trustees (Board) voted to approve the First Reading of amended Board Policy 9270, Conflict of Interest, with no additional changes.

Staff requests the Board approve the Second Reading of amended Board Policy 9270, Conflict of Interest, to reflect current laws and practices.

Policy Implications

This action amends Board Policy 9270 and the District's Conflict of Interest Code.

Prepared by: CJ Cammack

9270ConflictofInterest (2020 Rev) _964658_1(SF)_Second Read.DOC.pdf (132 KB)

Administrative Content

Executive Content

Motion & Voting

Take action to approve the Consent Calendar

Motion by Desrie Campbell, second by Vivek Prasad.

Final Resolution: Motion Carries

Yea: Rachel Zhang, Vivek Prasad, Desrie Campbell, Larry Sweeney, Dianne Jones