

ALAMEDA COUNTY BOARD OF SUPERVISORS MINUTE ORDER

The following action was taken by the Alameda County Board of Supervisors on 02/07/2017

Approved as Recommended ☒

Other ☐

Unanimous ☐ Chan: ☐ Haggerty: ☐ Miley: ☒ Valle: ☐ Carson: ☐ - 4 ☐

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

Documents accompanying this matter:

Documents to be signed by Agency/Purchasing Agent:

File No. 29894

Item No. 43.1

Copies sent to:

Roseanne Pryor, Pleasanton Unified School District, 4665 Bernal Avenue, Pleasanton, CA 94566

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: _____

Deputy



December 9, 2016

Alameda County Board of Supervisors
1221 Oak Street, Room 536
Oakland, CA 94612

Dear Board of Supervisors,

The Pleasanton Unified School District's Conflict of Interest Code Board Policy was reviewed and approved by the Board of Trustees on Tuesday, October 25, 2016, during a Regular Board Meeting.

There were minor language changes under Disclosure Categories (page 9 of 10) under the Designated Positions.

I'm requesting that our amended Board Policy 9270 Conflict of Interest be approved at the next Board of Supervisors' Board Meeting.

If you are in need of further information, please do not hesitate to contact me or my Administrative Assistant, Roseanne Pryor at (925) 426-4333.

Sincerely

A handwritten signature in black ink, appearing to read "Rick Rubino", is written over a horizontal line.

Rick Rubino
Superintendent

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.

(cf. 9005 - Governance Standards)

The Board shall adopt a resolution that specifies the terms of the district's conflict of interest code, the district's designated positions, and the disclosure categories required for each position.

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.

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. (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 statement and the date of leaving office or district employment. (Government Code 87302, 87500)

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

Conflict of Interest under the Political Reform Act

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

CONFLICT OF INTEREST (continued)

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)

Conflict of Interest under Government Code 1090

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest, the district is barred from entering into the contract. (Government Code 1090; Klistoff v. Superior Court, (2007) 157 Cal.App. 4th 469)

A Board member shall not be considered to be financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5. One such noninterest is when a Board member's spouse/registered domestic partner has been a district employee for at least one year prior to the Board member's election or appointment. (Government Code 1091.5)

A Board member shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091 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. (Government Code 1091)

Even if there is not a prohibited conflict of interest, 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.

CONFLICT OF INTEREST (continued)

The term *honorarium* does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade, or profession unless the sole or predominant activity of the business, trade, or profession is making speeches
2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes

Legal Reference:

EDUCATION CODE

1006 *Qualifications for holding office*

35107 *School district employees*

35230-35240 *Corrupt practices, especially:*

35233 *Prohibitions applicable to members of governing boards*

41000-41003 *Moneys received by school districts*

FAMILY CODE

297.5 *Rights, protections, and benefits of registered domestic partners*

GOVERNMENT CODE

1090-1099 *Prohibitions applicable to specified officers*

1125-1129 *Incompatible activities*

81000-91014 *Political Reform Act of 1974, especially:*

82011 *Code reviewing body*

87100-87103.6 *General prohibitions*

87200-87210 *Disclosure*

87300-87313 *Conflict of interest code*

87500 *Statements of economic interests*

89501-89503 *Honoraria and gifts*

91000-91014 *Enforcement*

PENAL CODE

85-88 *Bribes*

CODE OF REGULATIONS, TITLE 2

18110-18997 *Regulations of the Fair Political Practices Commission, especially:*

18702.5 *Public identification of a conflict of interest for Section 87200 filers*

COURT DECISIONS

Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655

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

Legal References continued: (see next page)

CONFLICT OF INTEREST

**RESOLUTION ADOPTING A
CONFLICT OF INTEREST CODE**

WHEREAS, the Political Reform Act, Government Code 87300-87313, requires each public agency in California to adopt a conflict of interest code; and

WHEREAS, the Governing Board of the Pleasanton Unified School District has previously adopted a local conflict of interest code; and

WHEREAS, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to the district's conflict of interest code; and

WHEREAS, a regulation adopted by the Fair Political Practices Commission, 2 CCR 18730, provides that incorporation by reference of the terms of that regulation, along with an agency-specific appendix designating positions and disclosure categories shall constitute the adoption and amendment of a conflict of interest code in conformance with Government Code 87300 and 87306; and

WHEREAS, the Pleasanton Unified School District has recently reviewed its positions, and the duties of each position, and has determined that no changes to the current conflict of interest code are necessary; and

WHEREAS, any earlier resolutions, bylaws, and/or appendices containing the district's conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

NOW THEREFORE BE IT RESOLVED that the Pleasanton Unified School District Governing Board adopts the following Conflict of Interest Code including its Appendix of Designated Employees and Disclosure Categories.

PASSED AND ADOPTED THIS _____ day of _____, _____ at a meeting, by the following vote:

AYES: _____ NOES: _____ ABSENT: _____

CONFLICT OF INTEREST (continued)

2. **Category 2:** A person designated Category 2 shall disclose:
- a. Investments or business positions in or income from sources which are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs.
 - b. Investments or business positions in or income from sources which manufacture or sell supplies, books, machinery, or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.
3. **Full Disclosure:** Because it has been determined that the district's Board members and/or Superintendent "manage public investments," they and other persons designated for "full disclosure" shall disclose, in accordance with Government Code 87200:
- a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.
 - b. Investments, business positions, and sources of income, including gifts, loans, and travel payments.

Designated Positions

<u>Designated Positions</u>	<u>Disclosure Category</u>
Governing Board Members	1
Superintendent of Schools	1
Deputy Superintendent	1
Assistant Superintendent	1
Senior Director	2
Director	2
Assistant Director	2
Principal	2
Vice Principal	2
Coordinator	2
Project Specialist	2

Board Bylaws

BB 9270(a)

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(cf. 9005 - Governance Standards)

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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)

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CONFLICT OF INTEREST (continued)

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(*cf.* 3430 - *Investing*)

Conflict of Interest under Government Code 1090

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest, the district is barred from entering into the contract. (Government Code 1090; Klistoff v. Superior Court, (2007) 157 Cal.App. 4th 469)

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CONFLICT OF INTEREST (continued)

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PASSED AND ADOPTED THIS _____ day of _____, _____ at a meeting, by the following vote:

AYES: _____ NOES: _____ ABSENT: _____

CONFLICT OF INTEREST (continued)

2. **Category 2:** A person designated Category 2 shall disclose:
 - a. Investments or business positions in or income from sources which are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs.
 - b. Investments or business positions in or income from sources which manufacture or sell supplies, books, machinery, or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.
3. **Full Disclosure:** Because it has been determined that the district's Board members and/or Superintendent "manage public investments," they and other persons designated for "full disclosure" shall disclose, in accordance with Government Code 87200:
 - a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.
 - b. Investments, business positions, and sources of income, including gifts, loans, and travel payments.

Designated Positions

<u>Designated Positions</u>	<u>Disclosure Category</u>
Governing Board Members	1
Superintendent of Schools	1
<u>Deputy Superintendent</u>	<u>1</u>
Assistant/Associate Superintendent	1
Purchasing Agent	1
<u>Senior Director</u>	<u>2</u>
Director	2
<u>Assistant Director</u>	<u>2</u>
Principal	2
Assistant <u>Vice</u> Principal	2
Maintenance and Operations Director	2
Program Coordinator	2
Project Specialist	2
Supervisor	2
Dean of Students	2