

# ALAMEDA COUNTY BOARD OF SUPERVISORS

## \*\* MINUTE ORDER \*\*

*The following was action taken by the Board of Supervisors on July 14, 2009*

Approved as Recommended  Other

Unanimous  Carson  Haggerty  Miley  Steele  Lai-Bitker  - 5  
Vote Key: N=No; A=Abstain; X=Excused

### Documents accompanying this matter:

- Resolution(s) \_\_\_\_\_
- Ordinance(s) \_\_\_\_\_
- Contract(s): \_\_\_\_\_

File No. 23912  
Item No. 68

### Copies sent to:

Gabriela Juarez, Eden Area ROP, 26316 Hesperian Blvd., Hayward, CA 94545

### 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:

Crystal Hishida Graff, Clerk of the Board  
Board of Supervisors

By: \_\_\_\_\_  
Deputy



**Eden Area  
Regional Occupational Program**

26316 Hesperian Blvd • Hayward, CA 94545 • (510) 293-2970 • (510) 293-8225 Fax • [www.edenrop.org](http://www.edenrop.org)

**Irene Fujii, Ed. D**  
Superintendent

June 22, 2009

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

To Whom It May Concern:

The Eden Area Regional Occupational Program's Conflict of Interest Code Policy was approved on October 2, 2008 by our Governing Board. The Eden Area ROP is seeking approval by the County Clerk Board of Supervisors' code reviewing body. If you have any questions please feel free to contact me (510) 293-2971.

Sincerely,

Gabriela Juarez  
Administrative Assistant to the Superintendent

Enclosures:

Policy 9270: Conflict of Interest Code  
Minutes of the Regular Meeting of the Rop Governing Board October 2, 2008

# **EDEN AREA REGIONAL OCCUPATIONAL PROGRAM**

**Policy 9270**  
(Page 1 of 7)

## **CONFLICT OF INTEREST CODE**

### **Adoption of the Code**

#### **SECTION 1 Definitions:**

The definitions contained in article 2 of chapter 7 of the Political Reform Act of 1974 (Government Code sections 81000 et seq.), regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. sections 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this Amended Conflicts of Interest Code (hereinafter "Code").

#### **SECTION 2 Purpose:**

Pursuant to the provisions of Government Code Sections 87300 et seq. The Eden Area Regional Occupational Governing Board of Alameda County hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974. The provisions of this Code are additional to Government Code Section 87100 and other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions of said Act and regulations adopted pursuant thereto are incorporation herein and this Code shall be interpreted in a manner consistent therewith.

#### **SECTION 3 Designated Positions:**

The positions listed on Exhibit "A" are designated positions. Officers and employees holding those positions are designated employees and are deemed to make, or participate in the making of decisions which may foreseeably have a material effect on a financial interest of the designated employee. Each designated employee shall file an annual statement disclosing that employee's interests in investments, business positions, interests in real property, and income designated as reportable by the Political Reform Act of 1974. Those interests shall be reportable only if the business entity in which the investment and or business position is held, the interests in real property or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.

#### **SECTION 4 Place and Time of Filing:**

# EDEN AREA REGIONAL OCCUPATIONAL PROGRAM

Policy 9270

(Page 2 of 7)

## CONFLICT OF INTEREST CODE

- a. All designated employees required to submit a statement of financial interests shall file the original with the Superintendent's Secretary of the Eden Area ROP.
- b. The Superintendent Secretary shall make and retain a copy and forward the original to the ROP's Code Reviewing Body, the Alameda County Board of Supervisors.
- c. A designated employee required to submit a statement of financial interest shall submit an initial statement disclosing all reportable investments, business positions, but not income, within 30 days after the effective date of this Code. Thereafter, each person already in a position when it is designated by a future amendment to this Code as designated employee position, shall file an initial statement within (30) days after the effective date of the amendment.
- d. Civil service employees appointed, promoted or transferred to designated positions shall file initial statements within 30 days after date of employment.
- e. All other employees appointed, promoted or transferred to designated positions shall file initial statements not less than 10 days before assuming office (or if subject to confirmation, 10 days before being confirmed), unless an earlier assumption of office is required by emergency circumstances, in which case the statement shall be filed within 30 days thereafter.
- f. Annual statements shall be filed by all designated employees no later than April 1st of each year. Such statements shall cover the period of the preceding calendar year and shall include income from the preceding calendar year as well as investments, business positions and interests in real property.
- g. A designated employee required to file a statement of financial interest with any other agency which is in the same territorial jurisdiction may comply with the provisions of this Code by filing a duplicative copy of the statement filed with the other agency in lieu of an entirely separate document.
- h. All persons who leave designated employee positions shall file statements of economic interests within 30 days after leaving office.
- i. Persons who resign within 30 days of initial appointment are not deemed to have assumed office or left office, provided that they did not make or participate in the making of, or use their position to influence any decision and did not receive or become entitled to receive any form of payment as a result of their appointment. Such persons shall not file either an assuming or leaving office statement.
  1. Any person who resigns a position within 30 days of initial appointment *shall* do both of the following:
    - file a written resignation with the appointing power;
    - file a written statement with the filing officer declaring under penalty of perjury that during the period between appointment

# EDEN AREA REGIONAL OCCUPATIONAL PROGRAM

Policy 9270  
(Page 3 of 7)

## CONFLICT OF INTEREST CODE

and resignation, he or she did not make, participate in making or use appointed to the position.

### **SECTION 5 Period Covered by Statements of Economic Interests:**

Disclosure statements shall be made on forms supplied by the Clerk of the Alameda County Board of Supervisors, and shall include investments, interests in real property, business positions, and income received during the following time periods:

- a. **Initial Statements:** Initial Statements shall disclose any reportable investments, interests in real property, business positions, and income received 12 months prior to the effective date.
- b. **Assuming Office Statements:** Assuming Office Statements shall disclose any reportable investments, interests in real property, business positions, and income received 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.
- c. **Annual Statements:** Annual Statements shall disclose any reportable investments, interests in real property, business positions, and income received the previous calendar year.
- d. **Leaving Office Statements:** Leaving Office Statements shall disclose any reportable investments, interests in real property, business positions, and income received during the period between the closing date of the last statement filed and the date of leaving office.

### **SECTION 6 Contents of Disclosure Statements:**

Disclosure statements shall be made on forms supplied by the Clerk of the Alameda County Board of Supervisors, and shall contain the following information:

- a. **Contents of Investment and Real Property Reports:** When an investment, or an interest in real property is required to be reported, the statement shall contain:
  1. A statement of the nature of the investment or interest;
  2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
  3. The address or other precise location of the real property;
  4. A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten

# EDEN AREA REGIONAL OCCUPATIONAL PROGRAM

Policy 9270

(Page 4 of 7)

## CONFLICT OF INTEREST CODE

thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000). This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer.

- b. **Contents of Personal Income Reports:** When personal income is required to be reported, the statement shall contain:
1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any of each source;
  2. A statement whether the aggregate value of income from each source was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000); and whether it was greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
  3. A description of the consideration, if any, for which the income was received
  4. In the case of a gift, the name and address of the donor, the amount of other description of the gift, and the date on which the gift was received.
  5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.
- c. **Contents of Business Entity Income Reports:** When income of a business entity, including income of a sole proprietorship, is required to be reported<sup>1</sup>, the statement shall contain:
1. The name, address, and a general description of the business activity of the business entity;
  2. The name of every person from whom the business entity was received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000)the position to influence any decision of the agency, or receive, or become entitled to receive, any form of payment by virtue of being.
- d. **Contents of Business Positions Reports:** When business positions are required to be reported, designated employees shall list the name of each business entity not specified above in which they are a director, officer, partner,

---

<sup>1</sup> **Reportable Business Entity Income Disclosure.** Income of a business entity is reportable only if the direct indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or great interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

# **EDEN AREA REGIONAL OCCUPATIONAL PROGRAM**

**Policy 9270**

(Page 5 of 7)

## **CONFLICT OF INTEREST CODE**

trustee, employee or in which they hold any position of management. In the case of an annual or leaving office statement, if an investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

### **SECTION 7 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 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 ROP for Board members and designated employees. (Government Code 89506)

### **SECTION 8 Honoraria:**

Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, in accordance with law. (Government Code 89501, 89502)

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 ROP for donation into the general fund without being claimed as a deduction from income for tax purpose.

### **SECTION 9 Disqualification:**

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any government decision which he or she knows or has reason to know will have a reasonably foreseeable material

# **EDEN AREA REGIONAL OCCUPATIONAL PROGRAM**

**Policy 9270**

(Page 6 of 7)

## **CONFLICT OF INTEREST CODE**

financial effect, distinguishable from its effect on the public generally, on the designated employee or a member of his or her immediate family or on:

- a. Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;
- b. Any real property in which the Designated Employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;
- c. Any source of income (other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status) aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;
- d. Any business entity in which the Designated Employee is director, officer, partner, trustee, employee, or holds any position of management; or

Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$390 or more in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

### **SECTION 10 Manner of Disqualification:**

When a designated employee determines that he or she should not make a government decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by a disclosure of the disqualifying interest. In the case of a voting body, this determination and disclosure shall be made a part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

### **SECTION 11 Violations:**

This Code has the force and the effect of law. Designated employees violating any provision of this code are subject to administrative, criminal and civil sanctions provide din the Political Reform Act, Government Code sections 81000 – 91015. In addition, a decision to relation to which a violation of the disqualification provision of this Code or



# EDEN AREA REGIONAL OCCUPATIONAL PROGRAM

Policy 9270  
(Page 7 of 7)

## CONFLICT OF INTEREST CODE

of Government section 87100 or 87450 had occurred may be set aside as void pursuant to Government Code section 91003.

### **SECTION 12 Interpretation with Other Laws:**

The financial disclosure and disqualification requirements of this code are in addition to all other disclosures required by applicable state and federal law.

#### **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 et seq. Regulations of the Fair Political Practices Commission  
68 Ops.Cal.Atty.Gen. 171 (1985)  
65 Ops.Cal.Atty.Gen. 606 (198

**Governing Board Policy Approved: October 2, 2008**

# EDEN AREA REGIONAL OCCUPATIONAL PROGRAM

Exhibit A

## CONFLICT OF INTEREST CODE: DESIGNATED POSITIONS GOVERNED BY THE CONFLICT OF INTEREST CODE

Designated Employees' Title or Function	Disclosure Categories Assigned
Governing Board Members	Full Disclosure
Superintendent	Full Disclosure
Director	2,3,4
Business Manager	2,3,4
Coordinator, Student Services	2,3
Coordinator, Off-Site Programs	2,3
Teachers as appropriate	3

<sup>2</sup> Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadcast disclosure category in this Code subject to the following limitation:

The Superintendent may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Superintendent's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

# EDEN AREA REGIONAL OCCUPATIONAL PROGRAM

Exhibit B

## CONFLICT OF INTEREST CODE: DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of Investments, business entities, sources of income, *including gifts, loans and travel payments* or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

### **Category 1:**

A designated employee assigned to Category 1 is required to disclose investments which may foreseeably be materially affected by any decision made or participated in by the designated employee.

### **Category 2:**

A designated employee assigned to Category 2 is required to disclose interest in real property which may be materially affected by any decision made or participated in by the designated employee.

### **Category 3:**

A designated employee assigned to Category 3 is required to disclose income which may be materially affected by any decision made or participated in by the designated employee.

### **Category 4:**

A designated employee assigned to Category 4 is required to disclose any business entity in which the designated employee is a director, officer, partner, trustee, or holds any position of management which may be materially affected by any decision made or participated in by the designated employee.