

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. Accordingly, no Board member, district employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by the Board member's, district employee's, or other designated persons financial, family, or other personal interest or consideration.

Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect the Board member's relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which the Board member's relative belongs. Relative means an adult who is related to the Board member by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. (Education Code 35107)

A relationship within the third degree includes an individual's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced.

The Board shall adopt for the district a conflict of interest code that incorporates the provisions of 2 CCR 18730 by reference, specifies the district's designated positions, and provides the disclosure categories required for each position. The conflict of interest code shall be submitted to the district's code reviewing body for approval, in accordance with Government Code 87303 and within the deadline for submission established by the code reviewing body. (Government Code 87303)

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code and submit any changes to the code reviewing body or, if no change is required, the Board shall submit a written statement to that effect. (Government Code 87306.5)

When a change in the district's conflict of interest code is necessitated due to changed circumstances, such as the creation of new designated positions, changes to the duties assigned to existing positions, amendments, or

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revisions, the amended code shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. (Government Code 87306)

When reviewing and preparing the district's conflict of interest code, the Superintendent or designee shall provide officers, employees, consultants, and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the district's conflict of interest code. A Board member who leaves office or a designated employee who leaves district employment shall, within 30 days, file a revised statement covering the period of time between the closing date of the last required statement and the date of leaving office or district employment. (Government Code 87302, 87302.6)

Conflict of Interest under the Political Reform Act

A district official, including a Board member, designated employee, or other person in a designated position shall not make, participate in making, or in any way use or attempt to use an official position to influence a governmental decision in which the district official knows or has reason to know that there is a disqualifying conflict of interest. A disqualifying conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect," which is distinguishable from the effect on the public generally, on the district official, the district official's immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18707)

A district official makes a governmental decision when, within the authority of the office or position, the district official authorizes or directs any action on a matter, votes or provides information or opinion on it, contacts or appears before another district official for the purpose of affecting the decision, or takes any other action specified in 2 CCR 18704.

However, a district official shall participate in the making of a contract in which the district official has a financial interest if such participation is required by the rule of necessity or legally required participation pursuant

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to Government Code 87101 and 2 CCR 18705.

Conflict of Interest from Campaign Contributions

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

1. A district 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 Board and for 12 months following the date a final decision is rendered in the proceeding, if the Board member knows or has reason to know that the party or participant has a financial interest in the Board's decision.
2. Any district 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 Board rendering a decision in the proceeding. If the district officer willfully or knowingly received the contribution and knows or has reason to know that the participant has a financial interest in the Board's decision, the district officer shall not make, participate in making, or in any way attempt to use the official position to influence the Board's decision.
3. A district 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 district officer knows or should have known about the contribution and the proceeding.
4. A district officer who unknowingly accepts, solicits, or directs a contribution of more than \$250 during the 12 months after the date of the Board's final decision on the proceeding may cure the violation by returning the contribution, or the portion exceeding \$250, within

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14 days of accepting, soliciting, or directing the contribution, provided the district officer did not knowingly or willfully accept, solicit, or direct the prohibited contribution. The district 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

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest in a contract made by the Board, the contract is void. (Government Code 1090)

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

In addition, a Board member shall not be considered to be financially interested in a contract in which the interest is a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest in being reimbursed for actual and necessary expenses incurred in the performance of official duties, in the employment of a spouse/registered domestic partner who has been a district employee for at least one year prior to the Board member's election or appointment, or in any other applicable circumstance specified in Government Code 1091.5.

Common Law Doctrine Against Conflict of Interest

A Board member shall abstain from any official action in which the Board

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member's private or personal interest may conflict with official duties.

Incompatible Offices and Activities

Board members shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of the district. (Government Code 1099, 1126)

Gifts

Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitation on gifts does not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays, and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

In addition, the limitation on gifts does not apply to informational materials such as books, reports, pamphlets, calendars, and periodicals. (Government Code 82028)

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation, except when: (Government Code 89506)

1. The travel is in connection with a speech given by a Board member or designated employee, provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.
2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

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Gifts of travel exempted from the gift limitation, as described in Items #1 and 2 above, shall nevertheless be reportable on the recipient's Statement of Economic Interest/Form 700 as required by law.

A gift of travel does not include travel provided by the district for Board members and designated employees. (Government Code 89506)

Honoraria

Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Government Code 89501, 89502)

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

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

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State

2 CCR 18110-18997
2 CCR 18438.1-18438.8
2 CCR 18700-18760
2 CCR 18722-18740
2 CCR 18753-18756
Ed. Code 1006

Description

[Regulations of the Fair Political Practices Commission](#)
[Campaign contribution-based conflicts of interest](#)
[Conflicts of Interest](#)
[Disclosure of interests](#)
[Conflict of interest codes](#)
[Prohibition against school district employees serving on county board of education](#)

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Ed. Code 35107
Ed. Code 35230-35240
Ed. Code 35233
Ed. Code 41000-41003
Ed. Code 41015
Fam. Code 297.5

Gov. Code 1090-1099
Gov. Code 1125-1129
Gov. Code 52334-53235.2
Gov. Code 81000-91014
Gov. Code 82011
Gov. Code 82019
Gov. Code 82028
Gov. Code 82030
Gov. Code 82033
Gov. Code 82034
Gov. Code 84308
Gov. Code 87100-87103.6
Gov. Code 87200-87210
Gov. Code 87300-87313
Gov. Code 87500
Gov. Code 89501-89503
Gov. Code 89506
Gov. Code 91000-91014
Pen. Code 85-88
Public Contract Code 6102
Rev. & Tax Code 203

Management Resources

Attorney General Opinion
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School district employees
Corrupt practices
Prohibitions applicable to members of governing boards
Moneys received by school districts
Investments
Rights, protections, and benefits of registered domestic partners
Prohibitions applicable to specified officers
Incompatible activities
Ethics training
Political Reform Act of 1974
Code reviewing body
[*Definition; designated employee*](#)
Definition; gift
Definition; income
Definition; interest in real property
Definition; investment
Campaign disclosure
General prohibitions
Disclosure
[*Conflict of interest code*](#)
Statement of economic interests
Honoraria and gifts
Ethics; travel
Enforcement
Bribes
Awarding of contracts
Taxable and exempt property - colleges

Description

105 Ops.Cal.Atty.Gen.69 (2022)
63 Ops.Cal.Atty.Gen. 868 (1980)
65 Ops.Cal.Atty.Gen. 606 (1982)
68 Ops.Cal.Atty.Gen. 171 (1985)
69 Ops.Cal.Atty.Gen. 255 (1986)
80 Ops.Cal.Atty.Gen. 320 (1997)
81 Ops.Cal.Atty.Gen. 327 (1998)
82 Ops.Cal.Atty.Gen. 83 (1999)
85 Ops.Cal.Atty.Gen. 60 (2002)
86 Ops.Cal.Atty.Gen. 138(2003)
89 Ops.Cal.Atty.Gen. 217 (2006)
92 Ops.Cal.Atty.Gen. 19 (2009)
92 Ops.Cal.Atty.Gen. 26 (2009)

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<i>Court Decision</i>	<i>Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261</i>
<i>Court Decision</i>	<i>Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469</i>
<i>Court Decision</i>	<i>Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511</i>
<i>Court Decision</i>	<i>McGee v. Balfour Beatty Construction, LLC, et al. (2016) 247 Cal. App. 4th 235</i>
<i>Court Decision</i>	<i>Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655</i>
<i>CSBA Publication</i>	<i>Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010</i>
<i>Fair Political Practices Commission Publication</i>	<i>Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005</i>
<i>Institute For Local Government Publication</i>	<i>Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009</i>
<i>Institute for Local Government Publication</i>	<i>Understanding the Basics of Public Service Ethics: Transparency Laws, 2009</i>
<i>Website</i>	<u>CSBA District and County Office of Education Legal Services</u>
<i>Website</i>	<u>Institute for Local Government</u>
<i>Website</i>	<u>Fair Political Practices Commission</u>
<i>Website</i>	<u>CSBA</u>

Cross References

Policy	Description
1340	<u>Access To District Records</u>
1340	<u>Access To District Records</u>
1700	<u>Relations Between Private Industry And The Schools</u>
3230	<u>Federal Grant Funds</u>
3230	<u>Federal Grant Funds</u>
3300	<u>Expenditures And Purchases</u>
3311	<u>Bids</u>
3311	<u>Bids</u>
3430	<u>Investing</u>
3430	<u>Investing</u>
3470	<u>Debt Issuance And Management</u>
3600	<u>Consultants</u>
4112.8	<u>Employment Of Relatives</u>
4117.2	<u>Resignation</u>
4136	<u>Nonschool Employment</u>
4212.8	<u>Employment Of Relatives</u>
4217.2	<u>Resignation</u>

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4236	<u>Nonschool Employment</u>
4312.8	<u>Employment Of Relatives</u>
4317.2	<u>Resignation</u>
4336	<u>Nonschool Employment</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1	<u>Selection And Evaluation Of Instructional Materials</u>
6161.1-E(1)	<u>Selection And Evaluation Of Instructional Materials</u>
7140	<u>Architectural And Engineering Services</u>
7140	<u>Architectural And Engineering Services</u>
7214	<u>General Obligation Bonds</u>
7214	<u>General Obligation Bonds</u>
9000	<u>Role Of The Board</u>
9005	<u>Governance Standards</u>
9140	<u>Board Representatives</u>
9200	<u>Limits Of Board Member Authority</u>
9220	<u>Governing Board Elections</u>
9222	<u>Resignation</u>
9230	<u>Orientation</u>
9320	<u>Meetings And Notices</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>
9323	<u>Meeting Conduct</u>

Bylaw

PASADENA UNIFIED SCHOOL DISTRICT

Adopted: March 26, 1996

Pasadena, California

Revised: 11/12/96; 3/12/13; 6/30/16; 5/25/23