

COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS

2008 CONFLICT OF INTEREST CODE 7 PM 2 16
BIENNIAL REVIEW REPLY FORM

THOMAS J. PASTUSZKA
CLERK OF THE BOARD

Contact Person: Jean Hartley Telephone Number: 760-432-2128

Name of Agency: Escondido Union School District

Mailing Address 2310 Aldergrove Avenue, Escondido, CA 92029

This agency has reviewed its conflict of interest code and has determined that:

Amendments are necessary: (Attach Amended Code)
(Check all that applies)

- Include new positions (including consultants) which must be designated
- Revise the titles of existing positions
- Delete titles of positions that have been abolished
- Delete positions that manage public investments
- Revise disclosure categories
- Other _____

No amendments are necessary. Our agency's code accurately designates all positions which make or participate in the making of governmental decisions; the disclosure assigned to those positions accurately requires the disclosure of all investments, business positions, interests in real property and sources of income which may foresee-ably be affected materially by the decision made by those designated positions; and the code includes all other provisions required by Government Code Section 87302.

Signature of Chief Executive Officer: Guia Hanson Date: 8/21/08

You must complete this report regardless of how recently your code was approved or amended. **Please return this report no later than August 31, 2008 to:**

**Clerk of the Board of Supervisors
(Conflict of Interest Code)
1600 Pacific Highway, Room 402
San Diego, CA 92101**

Approved and/or authorized by the Board
of Supervisors of the County of San Diego
Date: 8/28/08 Minute Order No. 4
THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors
By: Handwritten Signature
Deputy Clerk

CONFLICT OF INTEREST

Incompatible Activities

Members of the Board of Education 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 be comprised of the terms of 2CCR 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.

Upon direction by the code-reviewing body, the board shall review the district's conflict of interest code in even-numbered years. If no change in the code is required, the district shall submit by October 1 a written statement to that effect to the code-reviewing body. If a change in the code is necessitated by changed circumstances, the district shall submit an amended code to the code-reviewing body. (Government Code 87306.5)

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

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

If a board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required. (2 CCR 18700)

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)

CONFLICT OF INTEREST (continued)

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 his/her 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 his/her 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 he/she is a member, on the same terms and conditions as if he or she 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 his/her 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 the district if his/her spouse's employment or officeholding has existed for at least one year prior to his/her election or appointment
5. That of a nonsalaried 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 noncompensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the nonprofit board or to which the school board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records

CONFLICT OF INTEREST (continued)

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 such interest is disclosed to the board at the time of consideration of the contract, and provided further that such interest is noted in its official records
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 ten 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 his/her 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 if he/she has 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)

A board member may enter into a contract if the rule of necessity or legally required participation applies as defined in Government Code 87101.

Even if there is no prohibited or remote interest, 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)

CONFLICT OF INTEREST (continued)

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 unless the individual is widowed or divorced.

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

CONFLICT OF INTEREST (continued)

APPENDIX

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

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

Board of Education members
Superintendent of Schools
Assistant/Deputy Superintendent
Director of Purchasing and Distribution

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

Legal Reference: (see next page)

CONFLICT OF INTEREST (continued)

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
- 35230 Compensation for board members in districts under 70 ADA

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
- 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

CODE OF REGULATIONS, TITLE 2

- 18110-18997 Regulations of the Fair Political Practices Commission
- 18702.5 Public identification of a conflict of interest for Section 87200 filers

COURT DECISIONS

- Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th. 655
- Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

ATTORNEY GENERAL OPINIONS

- 86 Ops.Cal.Atty.Gen 138 (2003)
- 85 Ops.Cal.Atty.Gen 60 (2002)
- 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

Fair Political Practices Commission: <http://www.fppc.ca.gov>