

CONFLICT OF INTEREST

Incompatible Activities

Governing Board members shall not engage in any employment, activity, or enterprise for compensation 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 Section 1126)

Common Law Doctrine Against Conflict of Interest

A Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

Conflict of Interest Code

Board members and designated employees shall adhere to the district's conflict of interest code adopted pursuant to the provisions of Government Code Section 87300.

Conflict of Interest Code for the Elk Grove Unified School District

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, and Board Bylaw 9270, are incorporated by reference and shall constitute the District's conflict of interest code.

Each person holding a "Designated Position" shown below shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the District's filing officer. The District's filing officer shall make the statements available for public review and inspection.

Board members and designated employees shall submit statements of economic interests to the district in accordance with requirements of the conflict of interest code. These statements shall be available for public inspection and reproduction. (Government Code Section 81008)

Board members and the Superintendent shall file statements with the Clerk of the Board office via the electronic filing system. The district shall make and retain copies. Statements for all other designated employees shall be retained by the district.

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 Section 87311)

CONFLICT OF INTEREST (continued)

The Board shall review the district's conflict of interest code in even-numbered years and send the code reviewing body either an amended code within 90 days after the changed circumstances necessitating the amendments have become apparent or, by October 1 of that year, a statement to the effect that no change is necessary. (Government Code Sections 87302, 87303, 87306, 87306.5)

Additional Requirements for Boards that Manage Public Investments

Any Board member who manages public investments pursuant to Government Code Section 87200 and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, comply with the requirements set forth in Government Code section 87105 and California Code of Regulations, Title 2, Section 18707. Such requirements include, but are not limited to, the following:

1. Publicly identify each financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a principal or personal residence is not required.
2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code Section 87100. The Board member shall not be counted toward achieving a quorum while the item is discussed.

However, the Board member may speak on the issue during the time that the general public speaks on it and leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion of the matter with members of the public.

3. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

If the item is on the consent calendar, the Board member must recuse himself/herself from discussing or voting on that matter, but the Board member is not required to leave the room during consideration of the consent calendar.

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 may be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code Section 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 non-public information regarding the Board's decision.

(cf. 3430 - Investing)

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

CONFLICT OF INTEREST (continued)

Financial Interest

Board members and 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 employees. (Government Code Section 1090)

A Board member shall not be considered to be financially interested in a contract if any of the exceptions set forth in Government Code Section 1091.5 apply.

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 Section 1091(b); they include, among other things, the interest of a parent in the earnings of his/her minor child for personal services. (Government Code Section 1091)

If a Board member determines that he/she has a financial interest in a decision, this determination shall be disclosed and made part of the Board's official minutes. The Board member shall be disqualified from voting, making the decision, participating in the decision, or attempting to use his/her official position to influence the decision in any way.

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. (Education Code Section 35107 et. seq.)

Gifts/Honoraria

Except for payments, advances, or reimbursements for travel and related lodging and subsistence permitted by Section 89506, Board members shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in the Political Reform Act and related regulations. This section also shall not prohibit or limit 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 Section 89503)

The above limitations on gifts do not apply to any payment from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle or first cousin or the spouse of any such person unless the donor is acting as an agent or intermediary for a person not herein identified. (Government Code Section 82028)

CONFLICT OF INTEREST (continued)

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. This prohibition does not apply to 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. This prohibition also does not apply to any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the State Controller for donation to the General Fund, or in the case of a board member or designated employee of the district, delivered to his or her district for donation to an equivalent fund, without being claimed as a deduction from income for tax purposes. (Government Code Sections 89501, 89502)

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

1090-1099 Prohibitions applicable to specified officers
1125-1129 Incompatible activities
81000-91014 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"
87100-87105 General prohibitions
87200-87210 Disclosure
87300-87314 Conflict of interest code
87500 Statements of economic interests
89501-89503 Honoraria and gifts
89506 Travel payments, advances and reimbursements
91000-91014 Enforcement

CODE OF REGULATIONS, TITLE 2

18110 et seq. Regulations of the Fair Political Practices Commission
68 Ops.Cal.Atty.Gen. 171 (1985)
65 Ops.Cal.Atty.Gen. 606 (1982)

Bylaws of the Board

BB 9270(e)

CONFLICT OF INTEREST (continued)

Bylaw
adopted: October 1, 1984
Revised: June 20, 1988
June 1992
June 19, 1995
September 3, 1996
September 21, 2010
September 20, 2016
September 4, 2018
October 17, 2018

Reviewed: September 18, 2012
September 2, 2014
September __, 2020

ELK GROVE UNIFIED SCHOOL DISTRICT
Elk Grove, California