



ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 7040

PAGE: 1 OF 9

CATEGORY: **Personnel, Staff Ethics**

EFFECTIVE: **12-23-77**

SUBJECT: **Conflict of Interest Code**

REVISED: **11-18-03**

A. PURPOSE AND SCOPE

1. To outline administrative procedures governing compliance with the “conflict of interest/disclosure provision” of Political Reform Act of 1974.
2. **Related Procedure:**
 Outside employment of employees 7035

B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: B-1170, C-6500, I-1200, I-1210; Political Reform Act of 1974; California Government Code Sections 81000 *et seq.*; 2 California Code of Regulations Section 18000 *et seq.*
2. **General Provisions of Conflict of Interest/Disclosure of Assets Provision of the Political Reform Act of 1974.** The Act prohibits any public officer or employee from making, participating in making, or influencing any district decision in which he/she has a financial interest. The Act also requires that certain officers and employees of the district disclose their financial interests. The district is required to adopt a conflict of interest code that has the force of law and contains the following provisions:
 - a. **A designation** of those positions within the district that make or participate in the making of decisions that may foreseeably have a material effect on the financial interests of the person holding the position.
 - b. **The circumstances** under which individual, or categories of, designated employees must disqualify themselves from making or participating in the making of any decision that may foreseeably have a material effect on the financial interest of the person holding the position.
 - c. **The types** of financial interests that shall be reported by individual and various categories of designated employees and the manner of reporting each item.
3. **Penalties for Violation of Code.** The conflict of interest code has the force of law. Any violation may constitute a misdemeanor with specified penalties depending on the nature of the infraction (e.g., for late reports, \$10 per day with a limit of \$100; for other violations, a fine of up to \$10,000 or three times the amount the person failed to report, whichever is greater).

4. All provisions of the Political Reform Act of 1974, regulations of the Fair Political Practices Commission, specifically 2 California Code of Regulations Section 18730, and any amendments to the Act or regulations, not otherwise modified into this conflict of interest code, are incorporated by reference into this conflict of interest code.

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Office of General Counsel, Office of the Superintendent.
2. **Definitions**
 - a. **Designated positions and employees:** The persons holding positions listed in the Appendix 1 are designated employees. These persons make or participate in the making of decisions that may foreseeably have a material effect on financial interests.
 - b. **Disclosure Categories:** The disclosure categories set forth in Appendix 2 specify which kinds of financial interests are reportable by a designated employee. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in Appendix 1. The financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests that he/she foreseeably can affect materially through the conduct of his/her office.
 - c. **The definitions,** not otherwise modified into this conflict of interest code, contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission, and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.
3. **Responsibilities**
 - a. **Designated employees** shall file disclosure statements and disqualify themselves from making decisions in accordance with C.3. and C.4.
 - b. **Division heads** shall assist the Office of General Counsel in determining which positions under their supervisory authority shall be required to file statements of economic interests. New positions to be added to the list should be forwarded to the Office of General Counsel.

- c. **Any management employee** employing a consultant or establishing a committee shall determine, in consultation with the Office of General Counsel, whether the consultant or committee members will be required, depending on the nature of the assignment, to file a statement of economic interests. *For consultants*, such determination shall be noted on a “Consultant Service Request” form (Procedure 1550). Designations of *permanent committees* whose members must file statements of economic interests shall be forwarded to the Office of General Counsel for inclusion on Appendix 1.
4. **Place of Filing Statements of Economic Interests**
 - a. **Members of the Board of Education** and the Superintendent of Public Education shall file the original of the statement of economic interests with the Office of General Counsel. The original statement for board members and the Superintendent of Public Education will be forwarded to the clerk of the San Diego County Board of Supervisors and a copy will be retained in the files of the Office of General Counsel. The Office of General Counsel shall be responsible for follow-up to ensure compliance with filing requirements.
 - b. **Designated employees** shall file the original of the statement of economic interests with the Office of General Counsel.
 - c. **Candidates for election** to the Board of Education shall file a statement of economic interests with the San Diego County Registrar of Voters.
5. **Time of Filing and Contents of Statements of Economic Interests**
 - a. **Initial statements**
 - (1) Members of the Board of Education and all designated employees employed by the district on the effective date of this code, as originally adopted, promulgated and approved by the San Diego County Board of Supervisors, shall file statements within thirty (30) days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within thirty (30) days after the effective date of the amendment.

- (2) Statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the twelve (12) months prior to the effective date of the code.

b. Assuming office statements

- (1) Members of the Board of Education and all persons assuming designated positions after the effective date of this code shall file statements within thirty (30) days after assuming office or the designated positions.
- (2) Members of the Board of Education and all persons who assume a district office or designated position within thirty (30) days after leaving another district office or designated position are not required to file an assuming office statement.
- (3) Statements shall disclose any reportable investments, interests in real property and positions held on the date of assuming office, and income received during the twelve (12) months prior to the date of assuming office.

c. Annual statements

- (1) Members of the Board of Education and all designated employees shall file statements no later than April 30.
- (2) Members of the Board of Education and all persons assuming office between October 1 and December 31, and who have properly filed an assuming office statement, are not required to file the next annual statement, but will do so the following year.
- (3) Statements shall disclose any reportable investments, interest in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later.

d. **Leaving office statements**

- (1) Members of the Board of Education and all designated employees who leave office or designated positions shall file statements within thirty (30) days after leaving office.
- (2) Members of the Board of Education and all persons who leave a district office or designated position only to assume another district office or designated position within thirty (30) days are not required to file a leaving office statement.
- (3) Statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

e. **A person who is a candidate for election** to the Board of Education shall file a statement of economic interests no later than the time of filing declaration of candidacy.

f. **Statements for persons who resign prior to assuming office.** Any person who resigns within twelve (12) months of initial appointment, or within thirty (30) days of the date of notice provided by the Office of General Counsel to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his/her position to influence any decision and did not receive or become entitled to received any form of payment as a result of his/her appointment. Such person shall not file either an assuming or leaving office statement. Any person who resigns a position within thirty (30) days of the date of a notice from the Office of General Counsel shall do both of the following: (1) File a written resignation with the district; and (2) file a written statement with the Office of General Counsel declaring under penalty of perjury that during the period between appointment and resignation he/she did not make, participate in the making, or use the position to influence any decision of the district or receive, or become entitled to received, any form of payment by virtue of being appointed to the position.

g. **A designated employee who is required to disclose any interest in real property** shall file a supplementary statement disclosing any partially or wholly newly acquired or disposed of reportable interest in real property within thirty (30) days of that acquisition or disposal.

6. **Manner of Reporting.** Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the Office of General Counsel. All statements shall include information concerning reportable investments, interests in real property, income and business positions held or received in accordance with 2 California Code of Regulations Section 18730(b)(7).
7. **Prohibition on Receipt of Honoraria.** No member of the Board of Education or designated employee shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests. Government Code Section 89501 shall apply to the prohibitions on receipt of honoraria. This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code Section 89506.
8. **Prohibition on Receipt of Gifts in Excess of \$340.** No member of the Board of Education or designated employee shall accept gifts with a total value of more than \$340 in a calendar year from any single source, if the member or designated employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests. Government Code Section 89503 shall apply to the prohibitions on receipt of honoraria.
9. **Loans to Members of the Board of Education**
 - a. **No member of the Board of Education** shall, from the date of his/her election to office through the date that he/she vacates office, receive a personal loan from any officer, employee, member or consultant of the district.
 - b. **No member of the Board of Education** shall, from the date of his/her election to office through the date that he/she vacates office, receive a personal loan from any person who has a contract with the district. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the Board of Education member's official status.
 - c. **No member of the Board of Education** shall, from the date of his/her election to office through the date that he/she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when

payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

d. **This section shall not apply to the following:**

- (1) Loans made to the campaign committee of the member of the Board of Education or candidate for member of the Board of Education.
- (2) Loans made by a Board of Education member'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, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempt under this section.
- (3) Loans from a person, which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.
- (4) Loans made, or offered in writing, before January 1, 1998.

e. **Nothing in this section** shall exempt any person from any other provision of Title 9 of the Government Code.

10. **Personal Loans Received by Designated Employees.** Personal loans received by designated employees may be considered gifts, under 2 California Code of Regulations Section 18730(b)(8.4), for purposes of reporting them on the statement of economic interests.

11. **Disqualification.** No member of the Board of Education or designated employee shall make, participate in making, or in any way attempt to use his/her official position to influence the making of any government decision that he/she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the member of the Board of Education or designated employee, or a member of his or her immediate family, or on:

- a. **Any business entity** in which he or she has a direct or indirect investment worth two thousand dollars (\$2,000) or more.
- b. **Any real property** in which he or she 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 twelve (12) months prior to the time when the decision is made.
 - d. **Any business entity** in which he/she is a director, officer, partner, trustee, employee, or holds a position of management.
 - e. **Any donor** or, or any intermediary or agent for a donor of, a gift or gifts aggregating \$340 or more provided to, received by, or promised to the designated employee within twelve (12) months prior to the time when the decision is made.
12. **Manner of Disqualification**
- a. **Designated employees.** A designated employee required to disqualify himself or herself shall notify his/her supervisor in writing. This notice shall be forwarded to the Office of General Counsel, which shall record the employee's disqualification. Upon receipt of such statement, the supervisor shall immediately reassign the matter to another employee.
 - b. **Member of the Board of Education.** In case of a designated employee who is a member of the board, notice of disqualification shall be given at the meeting during which consideration of the decision takes place and shall be made part of the official record of the board. The member then shall refrain from participating and shall attempt in no way to use his/her official position to influence any other person with respect to the matter.
12. **Legally Required Participation.** No member of the Board of Education or designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a member of the Board of Education or designated employee who is on a voting body is needed to break a tie does not make his/her participation legally required for purposes of this section.

SUBJECT: **Conflict of Interest Code**

NO: **7040**

PAGE: **9 OF 9**

EFFECTIVE: **12-23-77**

REVISED: **11-18-03**

13. **Assistance of the Commission and Counsel.** Any designated employee who is unsure of his/her duties under this code may request assistance from the Office of General Counsel provided that nothing in this section requires the Office of General Counsel to issue any formal or informal opinion. A designated employee may also request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114.

D. IMPLEMENTATION (Section C.)

E. FORMS AND AUXILIARY REFERENCES

1. Appendix 1 – Designated Position
2. Appendix 2 – Categories of Reportable Economic Interests
3. State of Economic Interests (Available from the Office of General Counsel)

F. REPORTS AND RECORDS (Section C.3.)

G. APPROVED BY



Chief of Staff, Terrance L. Smith
For the Superintendent of Public Education