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**FRESNO COUNTY BOARD OF EDUCATION****Board Bylaws****CONFLICT OF INTEREST**

The County Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the county office of education (COE) and the public. Accordingly, no County Board member shall participate in the making of any decision for the COE when the decision will or may be affected by the County Board member's financial, family, or other personal interest or consideration, as defined by law.

Additionally, a County Board member shall abstain from voting on a matter that uniquely affects the County Board member's relatives except as permitted by law. Relative means an adult who is related to the County Board member by blood or affinity within the third degree, as determined by 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 County Board shall consult with legal counsel whenever an actual or potential conflict of interest arises.

**Conflict of Interest Code**

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

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

When a change in the County Board's conflict of interest code is necessitated by changed circumstances, amendments, or revisions, the amended conflict of interest code shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments to the conflict of interest code have become apparent. (Government Code 87306.)

When reviewing and preparing its conflict of interest code, the County Board shall provide members of the community and consultants of the County Board adequate notice and a fair opportunity to present their views. (Government Code 87311.)

**Conflict of Interest under the Political Reform Act**

A County Board member shall not make, participate in making, or in any way use or attempt to use the official position to influence a governmental decision in which the County Board member

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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 one or more of the County Board member's immediate family, or any financial interests described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18707.)

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

However, a County Board member is not prohibited from participating in the making of a contract in which the County Board member has a financial interest if such participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

Conflict of Interest from Campaign Contributions

Prior to the County Board rendering a decision in a proceeding involving a contract, license, permit, or other entitlement for use, as defined by Government Code 84308, a County Board member whose campaign committee received a contribution of more than \$500 from any party or participant to the proceeding, or from an agent of such a party or participant, in the prior 12 months, and the party who made such a contribution, shall both publicly disclose that fact on the record of the proceeding. Additionally, if a County Board member willfully or knowingly received a contribution to the County Board member's campaign committee of more than \$500 from any party or participant to such a proceeding, or from an agent of a party or participant, in the prior 12 months, and knows or has reason to know that the participant has a financial interest in the County Board's decision, the County Board member shall not make, participate in making, or in any way attempt to use the County Board member's official position to influence the County Board's decision in the proceeding. However, a County Board member may make, participate in making, or attempt to use the County Board member's official position to influence the decision if the contribution is returned within 30 days after the decision was made or after the County Board member knows or should have known about the contribution and the proceeding, whichever is later.

All County Board members are prohibited from accepting, soliciting, or directing a contribution of more than \$500 to a candidate or ballot measure campaign committee from any party or participant to a proceeding before the County Board involving a contract, license, permit, or other entitlement for use, as defined by Government Code 84308, or from an agent of a party or participant, while the proceeding is pending before the County Board and for 12 months following the date the County Board renders a final decision in the proceeding, if the County Board member knows or has reason to know that the participant has a financial interest in the decision. However, if a County Board member does accept, solicit, or direct such a contribution during those 12 months but did not do so knowingly or willingly, the County Board member may cure the violation by ensuring that the contribution, or the portion exceeding \$500, is returned within 30 days of accepting, soliciting, or directing the contribution. The County Board member shall maintain records of curing the violation. (Government Code 84308)

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For a County Board member, a proceeding becomes "pending" when an item involving the contract, license, permit, or other entitlement for use, as defined by Government Code 84308, is placed on a County Board agenda for discussion or decision or when it is reasonably foreseeable that the proceeding will come before the County Board for a decision. For a party or participant, and the agent of a party of participant, a proceeding becomes "pending" when an application is filed with the COE, or, if the proceeding process does not require an application, when the proceeding is before the County Board for a decision or other action. (Government Code 84308)

The contributions disclosure requirements and restrictions above do not apply to contracts that are required to be competitively bid, personal employment contracts, contracts valued under \$50,000, contracts where no party receives financial compensation, or contracts with another governmental agency. (Government Code 84308)

**Form 700**

Each County Board member shall annually file a Form 700/Statement of Economic Interest in accordance with the disclosure categories specified in the County Board's conflict of interest code. An individual who ceases to be a County Board member 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 the individual ceased to be a County Board member. (Government Code 87302)

**Conflict of Interest under Government Code 1090 - Financial Interest in a Contract**

A County Board member shall not be financially interested in any contract approved by the County Board, including in the development, internal discussions, negotiations, modifications, planning, deliberation of issues, and specifications and solicitations for bids. If a County Board member has such a financial interest in a contract approved by the County Board, the contract is void. (Government Code 1090)

**Remote Interest Exception to Government Code 1090**

A County 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 County Board meeting and noted in the official County Board minutes. The affected County Board member shall not vote or debate on the matter or attempt to influence any other County Board member to enter into the contract. (Government Code 1091)

**Noninterest Exception to Government Code 1090**

A County Board member shall not be considered to be financially interested in a contract for any "noninterest" specified in Government Code 1091.5.

**Common Law Doctrine against Conflict of Interest**

A County Board member shall abstain from any official action in which the County Board member's private or personal interest may conflict with official duties pursuant to the common

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law doctrine against conflict of interest. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

**Incompatible Offices and Activities**

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

**Gifts**

County Board members may accept gifts only under the conditions and limitations specified in law, including, but not limited to, 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 County Board for its members. (Government Code 89506)

**Honoraria**

County Board members 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, 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 County Board or County Superintendent for donation into the general fund without being claimed as a deduction from income for tax purposes.

Any County Board member, who, in good faith, believes that they may be subject to the requirements of this Bylaw and has questions, is unclear, or is unsure regarding the application of the requirements of this Bylaw to any particular instance or situation, may consult with the County Board's legal counsel with the permission of the County Board President or majority of the County Board.

Each County Board member shall complete ethics training in accordance with Government Code 53234-53235.2 by January 1, 2026, and at least once every two years thereafter as specified in County Board Bylaw 9240 - Board Training.

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Adopted: 04/20/1995

Amended: 10/20/2011, 11/15/2018, 09/21/2023, 11/20/2025

**Legal Reference**Education Code

1006 Qualifications for holding office  
35230-35240 Corrupt practices

Family Code

297.5 Rights, protections, and benefits of registered domestic partners

Government Code

1090-1099 Prohibitions applicable to specified officers  
1125-1129 Incompatible activities  
53234-53235.2 Ethics training  
81000-91014 Political Reform Act of 1974, especially:  
82003 Agency defined  
82011 Code reviewing body  
82019 Definition, designated employee  
82028 Definition, gift  
82030 Definition, income  
82033 Definition, interest in real property  
82034 Definition, investment  
84308 Campaign Disclosure  
87100-87505 Political Reform Act; conflict of interest  
89501-89503 Honoraria and gifts  
89506 Ethics; travel  
91000-91014 Enforcement

Penal Code

85-88 Bribes

Code of Regulations, Title 2

18110-18997 Regulations of the Fair Political Practices Commission  
18438.1-18438.8 Campaign contribution-based conflicts of interest  
18700-18760 Conflicts of interest  
18722-188740 Disclosure of interests  
18753-18756 Conflicts of interest codes  
18940.2 Gift limit amount

Court Decisions

McGee v. Balfour Beatty Construction, LLC, et al. (2016) 247 Cal.App.4th 235  
Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261  
Klistoff v. Superior Court (2007) 157 Cal.App.4th 469  
Thorpe v. Long Beach Community College District (2000) 83 Cal.App.4th 655  
Kunec v. Brea Redevelopment Agency (1997) 55 Cal.App.4th 511

**FRESNO COUNTY BOARD OF EDUCATION****Attorney General Opinions**

105 Ops.Cal.Atty.Gen.69 (2022)  
92 Ops.Cal.Atty.Gen. 26 (2009)  
92 Ops.Cal.Atty.Gen. 19 (2009)  
89 Ops.Cal.Atty.Gen. 217 (2006)  
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)  
63 Ops.Cal.Atty.Gen. 868 (1980)

**Management Resources****CSBA Publications**

Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010

**Fair Political Practices Commission Publications**

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

**Institute for Local Government Publications**

Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009  
Understanding the Basics of Public Service Ethics: Transparency Laws, 2009