



# Liberty Union High School District

## Board Policy with Appendix

Classification: Bylaws of the Board

Policy No. BP 9270

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Effective: 9/21/96

Subject: Conflict of Interest

Revised: 9/6/23

### 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.

(cf. [9005](#) - Governance Standards)

Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her 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 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](#))

(cf. [9320](#) - Meetings and Notices)

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](#))



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(cf. [4117.2/4217.2/4317.2](#) - Resignation)

(cf. [9222](#) - Resignation)

## 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 he/she knows or has reason to know that he/she has 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 Board member, designated employee, or other person in a designated position, his/her 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, authorizes or directs any action on a matter, votes or provides information or opinion on it, contacts or appears before a district official for the purpose of affecting the decision, or takes any other action specified in 2 CCR [18704](#).

However, a Board member 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 to Government Code [87101](#) and 2 CCR [18705](#).

## Conflict of Interest under Government Code [1090](#) - Financial Interest in a Contract

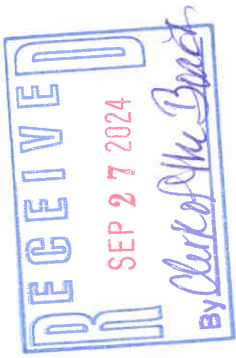
Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a 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 his/her 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 member's private or personal interest may conflict with his/her official duties.



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### 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](#))

(cf. [4136/4236/4336](#) - Nonschool Employment)

### 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.

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



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claimed as a deduction from income for tax purposes

### Legal Reference:

#### EDUCATION CODE

[1006](#) Qualifications for holding office

[35107](#) School district employees

[35230-35240](#) Corrupt practices, especially:

[35233](#) Prohibitions applicable to members of governing boards

[41000-41003](#) Moneys received by school districts

[41015](#) Investments

#### 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

[81000-91014](#) Political Reform Act of 1974, especially:

[82011](#) Code reviewing body

[82019](#) Definition, designated employee

[82028](#) Definition, gift

[82030](#) Definition, income

[82033](#) Definition, interest in real property

[82034](#) Definition, investment

[87100-87103.6](#) General prohibitions

[87200-87210](#) Disclosure

[87300-87313](#) Conflict of interest code

[87500](#) Statements of economic interests

[89501-89503](#) Honoraria and gifts

[89506](#) Ethics; travel

[91000-91014](#) Enforcement

#### PENAL CODE

85-88 Bribes

#### REVENUE AND TAXATION CODE

203 Taxable and exempt property – colleges

#### CODE OF REGULATIONS, TITLE 2

[18110-18997](#) Regulations of the Fair Political Practices Commission, especially:

[18700-18707](#) General prohibitions

[18722-18740](#) Disclosure of interests

[18750.1-18756](#) Conflict of interest codes

#### COURT DECISIONS

McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)

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

#### ATTORNEY GENERAL OPINIONS

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)



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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

WEB SITES

CSBA: <http://www.csba.org>

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

Institute of Local Government: <http://www.ca-ilg.org>

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