

KERN 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 district and the public. In accordance with law, board members shall disclose any conflict of interest and, as necessary, shall abstain from participating in the decision.

The Board and the county superintendent shall develop and the Board shall adopt a resolution that specifies the terms of the conflict of interest code for the Kern County Superintendent of Schools Office, the designated positions, and the disclosure categories required for each position.

Upon direction by the code reviewing body, the Board shall review the conflict of interest code and submit any changes to the code reviewing body.

When a change in the 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.

When reviewing and preparing the conflict of interest code, the county superintendent or designee shall provide officers, employees, consultants, and members of the community adequate notice and a fair opportunity to present their views.

Board members shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the conflict of interest code. A board member who leaves office shall, within 30 days, file a revised statement covering the period of time between the closing date of the last statement and the date of leaving office.

CONFLICT OF INTEREST UNDER THE POLITICAL REFORM ACT

A board member shall not make, participate in making, or in any way use or attempt to use his/her 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 conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the board member's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the board member's participation is legally required.

A board member makes a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or commits the Board or the Kern County Superintendent of Schools Office to any

course of action, or enters into any contractual agreement on behalf of the Board or county office.

A board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the Board shall abstain from voting on the matter. He/she may remain on the dais, but his/her presence shall not be counted towards achieving a quorum for that matter. A board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue.

CONFLICT OF INTEREST UNDER GOVERNMENT CODE 1090

Board members shall not be financially interested in any contract made by the Board, 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, the Board is barred from entering into the contract.

A board member shall not be considered to be financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5.

A board member shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091 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.

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.

RULE OF NECESSITY OR LEGALLY REQUIRED PARTICIPATION

On a case-by-case basis and upon advice of legal counsel, a board member with a financial interest in a contract may participate in the making of the contract if the rule of necessity or legally required participation applies pursuant to Government Code 87101 and 2 CCR 18708.

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 official duties.

GIFTS

Board members may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the county office for board members in accordance with board policy.

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.

Legal References:

Education Code §§ 35230-35240

Government Code §§ 1090-1099; 1125-1129; 81000-91014

California Code of Regulations, Title 2, §§ 18110-18997