



**SANTA CLARA COUNTY BOARD OF EDUCATION  
POLICY DEVELOPMENT SUBCOMMITTEE**

**MEETING AGENDA**

**Date:** Wednesday, August 21, 2013  
**Time:** 4:30-5:00 PM  
**Place:** SCCOE, Union Conference Room  
1290 Ridder Park Drive, San Jose

1. Roll Call
2. Setting the Agenda
3. Hearing of persons desiring to address the subcommittee on policy issues not on the agenda.
4. Discussion Items:
  - a. Policy Revision
    - BB 9270 Conflict of Interest
5. Setting of Date, Time and Place of Next Meeting.

**Members:**

Michael Chang, Chair, Vice President  
Darcie Green, Board Member  
Anna Song, Board Member

**Alternate:**

Julia Hoover-Smoot, Board Member

**Resource Staff:**

Toni Cordova, Chief Strategy Officer  
Lee Alvis, SEIU  
Rochelle Velazquez, SEIU  
Don Renwick, ACE/CTA  
Lisa Vieler, ACE/CTA

**CONFLICT OF INTEREST**

**Incompatible Activities**

Santa Clara County Board of Education (“County Board”) members shall not engage in any employment or activity that is inconsistent with, incompatible with, in conflict with or inimical to the County Board member’s duties as an officer of the Santa Clara County Office of Education. (Government Code 1126)

**Conflict of Interest Code**

The County Board’s Conflict of Interest Code shall be comprised of the terms of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with an attachment (Exhibit A) specifying designated positions and the specific types of disclosure statements required for each position.

Upon direction by the Santa Clara County Board of Supervisors (“Board of Supervisors”), the County Board shall review its Conflict of Interest Code in even-numbered years. If no change is required, the County Board shall submit by October 1 a written a written statement to that effect to the Board of Supervisors. If changing circumstances necessitates a change in the Code, the County Board shall submit an amended Code to the Board of Supervisors. (Government Code 87306.5)

When a change in the County Board’s Conflict of Interest Code is necessitated by changing circumstances, such as the creation of new designated positions, amendments or revisions, the changed Code shall be submitted to the Board of Supervisors within 90 days. (Government Code 87306)

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

Statements of economic interests submitted by County Board members pursuant to the Conflict of Interest Code shall be available for public inspection and reproduction. (Government Code 81008)

**Additional Requirements for Boards that Manage Public Investments**

A County Board member who manages public investments pursuant to Government Code [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, do all of the following: (Government Code [87105](#); 2 CCR [18702.5](#))

**CONFLICT OF INTEREST** (continued)

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 residence is not required.
2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. The County Board member shall not be counted toward achieving a quorum while the item is discussed.

However, the County Board member may speak on the issue during the time that the general public speaks on it and may 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 County Board member must recuse himself/herself from discussing or voting on that matter, but the County Board member is not required to leave the room during consideration of the consent calendar.

4. If the County Board's decision is made during closed session, disclose his/her interest orally during the open session preceding the closed session. This disclosure shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 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 nonpublic information regarding the County Board's decision.

(cf. 3430 - Investing)

**Financial Interest**

County Board members shall not be financially interested in any contract made by the County Board or in any contract they make in their capacity as County Board members. (Government Code 10890)

A County Board member shall not be considered to be financially interested in a contract if his/her interest is any of the following: (Government Code 1091.5)

**CONFLICT OF INTEREST** (continued)

1. The ownership of less than 3 percent of the shares of a corporation for profit contracting with the County Board, if the total income to him/her from the corporation's dividends, including the value of stock dividends, does not exceed 5 percent of his/her total annual income.
2. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty;
3. That of a recipient of public services generally provided by the County Board, on the same terms and conditions as if he or she were not a member of the County Board;
4. That of a landlord or tenant of a party contracting with the County Board if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public district of this state or adjoining state.
5. However, the County Board member shall be deemed to have a remote interest within the meaning of, and subject to, the provisions of Government Code Section 1091 if the subject matter of the contract between the County Board and the contracting party is the particular property in which the County Board member has an interest as landlord or tenant.
6. That of a spouse of an officer or employee of the County Office if her/his spouse's employment or office holding has existed for at least one year prior to his/her election or appointment;
7. That of a non-salaried member of a nonprofit corporation, provided that such interest is disclosed to the County Board at the time of the first consideration of the contract, and provided further that such interest is noted in the County Board's official records;
8. That of a non-compensated officer of a nonprofit tax-exempt corporation which, as one of its primary purposes, supports the functions of the County Board or to which the County Board has a legal obligation to give particular consideration, and provided further that such interest is noted in the County Board's official records;
9. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contact directly involves the department of the government entity that employs the County Board member, provided that such interest is disclosed to the County Board at the time of consideration of the contract, and provided further that such interest is noted in the County Board's official records;

**CONFLICT OF INTEREST** (continued)

10. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if the County Board member has not received and will not receive remuneration, consideration, or a commission as a result of the contract and if the County Board member has an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm;
11. That of an officer or employee of a person having less than a 10 percent ownership interest in a bank, bank holding company, or savings and loan association with which a party to the contract with the County Board has a relationship of borrower or depositor, debtor, or creditor.

In addition, a County Board member shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. (Government Code 1091.5)

A County 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 County Board meeting and noted in the official County Board minutes, and the contract was authorized, approved or ratified in good faith by a vote of the county Board's membership sufficient for the purpose without counting the vote of the County Board member with the remote interest. 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. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

A County Board member may participate in a County Board decision to enter into a contract if the rule of necessity or legally required participation applies as defined in Government Code 87101.

**Gifts**

County Board members may accept gifts only under the conditions and limitations specified in Government Code Section 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)

**CONFLICT OF INTEREST** (continued)

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

A gift of travel does not include travel provided by the County Office for County Board 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 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 Office for donation into the general fund without being claimed as a deduction from income for tax purposes.

*Legal Reference: (see next page)*

**CONFLICT OF INTEREST (continued)**

*Legal Reference:*

EDUCATION CODE

1006 *Qualifications for holding office*

GOVERNMENT CODE

1090-1098 *Prohibitions applicable to specified officers*

1125-1129 *Incompatible activities*

81000-91015 *Political Reform Act of 1974, especially:*

82011 *Code reviewing body*

82019 *Definition of designated employee*

82028 *Definition of gifts*

82030 *Definition of income*

82041 – *Definition: Local Government Agency*

82048 – *Definition: Public Official*

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 – *Political Reform; Ethics; Travel*

91000-91014 *Enforcement*

CODE OF REGULATIONS, TITLE 2

18110-18997 *Regulations of the Fair Political Practices Commission, especially:*

18700 *General Prohibition Basic Rule: Guide to Conflict of Interest*

18702.5 *Public identification of a conflict of interest for Section 87200 filers*

18730 – *Chapter 7, Conflicts of Interest Disclosure...*

COURT DECISIONS

*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

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)

**CONFLICT OF INTEREST**

**APPENDIX**

**Disclosure Categories**

**1. Category 1 (Full Disclosure):** Because it has been determined that the County Board's members and the County Superintendent "manage public investments," they shall file a full Statement of Economic Interests pursuant to Government Code Section 87200.

**2. Category 2:** A person designated Category 2 shall disclose:

- a. Investments or business positions in or income from sources which are contractors or subcontractors engaged in work services of the type used by the department which the designated person manages or directs.
- b. Investments or business positions in or income from sources which manufacture or sell supplies, books, machinery, or equipment of the type used by the department which the designated person manage or directs.



**CONFLICT OF INTEREST** (continued)**Designated Positions**

<u>Designated Position</u>	<u>Disclosure Category</u>
Member of the Board of Education	1
County Superintendent of Schools	1
Chief Strategy Officer	2
Chief Academic Officer	2
Chief Business Officer	2
Chief Human Resources Officer	2
Chief Schools Officer	2
Chief Technology Officer	2
Assistant Controller	2
Buyer	2
Buyer, Senior	2
Controller	2
Consultant	3
Director III - Alternative Education	2
Director I - Career Technical Education	2
Director III – Technology Programs & Instructional Support	2
Director III – Information Systems	2
Director I - Environmental Education	2
Director III - General Services	2
Director III – Head Start	2
Director III - Internal Business Services	2
Director - Early Learning Services	2
Director II - Regional Occupational Program	2
Director II - Risk Management	2
Director - Special Education	2
Director I – Digital Design and Media Services	2
Executive Director of Human Resources	2
Internal Auditor	2
Manager - Facilities and Construction	2
Manager – Head Start Planning & Support	2
Manager - Purchasing Services	2
Manager - Network & Technical Support Services	2
Manager - Special Education Programs	2
Manager – System Administration	2
Manager – Web Services & Application Development	2
Supervisor – Application Support	2
Supervisor - Print Services	2

**CONFLICT OF INTEREST** (continued)**Disclosure for Consultants**

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the County Superintendent or designee. The County Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A *consultant* is an individual who, pursuant to a contract with the County Office, makes a governmental decision whether to: (2 CCR [18701](#))

1. Approve a rate, rule or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
4. Authorize the County Office to enter into, modify or renew a contract that requires County Office approval
5. Grant the County Office approval to a contract or contract specifications which require County Office approval and in which the County Office is a party
6. Grant the County Office approval to a plan, design, report, study or similar item
7. Adopt or grant County Office approval of County Office policies, standards or guidelines
8. A consultant is also an individual who, pursuant to a contract with the County Office, serves in a staff capacity with the County Office and in that capacity participates in making a governmental decision as defined in 2 CCR [18702.2](#) or performs the same or substantially all the same duties for the County Office that would otherwise be performed by an individual holding a position specified in the County Office 's Conflict of Interest Code. (2 CCR [18701](#))

**RESOLUTION ADOPTING A  
CONFLICT OF INTEREST CODE**

WHEREAS, the political Reform Act, Government Code 87300-87313, requires each public agency in California to adopt a conflict of interest code; and

WHEREAS, the Governing Board of the Santa Clara County Office of Education has previously adopted a local conflict of interest code; and

WHEREAS, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to the SCCOE's conflict of interest code; and

WHEREAS, a regulation adopted by the Fair Political Practices Commission, 2 CCR 18730, provides that incorporation by reference of the terms of that regulation, along with an agency-specific appendix designating positions and disclosure categories shall constitute the adoption and amendment of a conflict of interest code in conformance with Government Code 87300 and 87306; and

WHEREAS, the Santa Clara County Office of Education has recently reviewed its positions, and the duties of each position, and has determined that changes to the current conflict of interest code are necessary; and

WHEREAS, any earlier resolutions, bylaws, and/or appendices containing the SCCOE's conflict of interest code shall be rescinded and superseded by this resolution and Appendix;

NOW THEREFORE BE IT RESOLVED that the Santa Clara County Office of Education Governing Board adopts the following Conflict of Interest Code including its Appendix of Designated Employees and Disclosure Categories.

PASSED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at a meeting, by the following vote:

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSENT \_\_\_\_\_

Attest:

Secretary/President \_\_\_\_\_

**RESOLUTION ADOPTING A  
CONFLICT OF INTEREST CODE**

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, are incorporated by reference and shall constitute the SCCOE's conflict of interest code.

Governing Board members and designated employees shall file a Statement of Economic Interest Form 700 in accordance with the disclosure categories listed in the attached Exhibits. The Statement of Economic Interests shall be filed with the SCCOE's filing official and with the SCCOE's code reviewing body. If statements are received in signed paper format, the SCCOE's filing official shall make and retain a copy and forward the original of this statement to the SCCOE's filing officer, the County of Santa Clara Clerk of the Board of Supervisors. If statements are electronically filed using the County of Santa Clara's Form 700 e-filing system, both the SCCOE's filing official and the County of Santa Clara Clerk of the Board of Supervisors will receive notice and access to the e-filed Statement simultaneously.

The SCCOE's filing official shall make the statements available for public review and inspection subject to Government Code section 81008.

This document is the conflict of interest code for Santa Clara County Office of Education and is subject to statutory requirements for review and approval by the County Board of Supervisors. In order to be effective by law, any time updates are to be made to this section, the Human Resources Office must be consulted and the code amendment must be sent to the County of Santa Clara Office of the County Counsel for review and code-reviewing body approval by the County Board of Supervisors pursuant to Government Code section 87303.

EXHIBIT A

Designated Positions

<u>Designated Position</u>	<u>Disclosure Category</u>
Member of the Board of Education	1
County Superintendent	1
Chief Strategy Officer	2
Chief Academic Officer	2
Chief Business Officer	2
<u>Executive Director-Human Resources Branch</u>	<u>2</u>
Chief Schools Officer	2
Chief Technology Officer	2
<u>General Counsel</u>	<u>*</u>
Consultant	3
Buyer	2
Buyer, Senior	2
Director-Information Systems	2
Manager-Systems Administration	2
Controller	2
Director-Alternative Education	2
<u>Director-21<sup>st</sup> Century Learning</u>	<u>*</u>
<del>Director-Career Technical Education</del>	<del>2</del>
Director-Technology Programs & Instructional Support	2
Director-Environmental Education	2
Director-General Services	2
Director-Head Start	2
Director-Internal Business Services	2
Director-Early Learning Services	2
<u>Director-Media &amp; Communication Services</u>	<u>*</u>
<del>Director-Regional Occupational Program</del>	<del>2</del>
<del>Director-Risk Management</del>	<del>2</del>
Director-Special Education	2
Internal Auditor	2
Manager-Facilities and Construction	2
<del>Director-Digital Design &amp; Media Services</del>	<del>2</del>
Manager-Purchasing Services	2
<u>Manager-Risk &amp; Liability</u>	<u>*</u>
Manager-Network Support & Technical Services	2
Manager-Special Education	2
Manager-Web Services & Application Development	2
Supervisor-Print Shop	2
Newly Created Position	*

**\*Newly Created Positions**

Newly Created Positions that make or participate in the making of decisions that may foreseeably have a material effect on any financial interest, and which specific position title is not yet listed in the SCCOE's conflict of interest code are included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation: The Superintendent or designee may determine in writing that a particular newly created position, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the broadest disclosure requirements, but instead must comply with more tailored disclosure requirements specific to that newly created position. Such written determination shall include a description of the newly created position's duties and, based upon that description, a statement of the extent of disclosure requirements. The SCCOE's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008.)

As soon as the SCCOE has a newly created position that must file statements of economic interests, the SCCOE shall contact the County of Santa Clara Clerk of the Board of Supervisors Form 700 division to notify it of the new position title to be added in the County's electronic Form 700 record management system, known as eDisclosure. Upon this notification, the Clerk's office shall enter the exact position title of the newly created position into eDisclosure and the SCCOE shall ensure that the name of any individual(s) holding the newly created position is entered under that position title in eDisclosure.

Additionally, within 90 days of the creation of a newly created position that must file statements of economic interests, the SCCOE shall update this conflict-of-interest code to reflect the exact position title in its list of designated positions, and submit the amended conflict of interest code to the County of Santa Clara Office of the County Counsel for code-reviewing body approval by the County Board of Supervisors. (Gov. Code Sec. 87306.)

**EXHIBIT B**

**Disclosure Categories**

1. Category 1: A person designated in Category 1 shall disclose:
  - a. Interests in real property located entirely or partly within county boundaries, or within two miles of county boundaries or of any land owned or used by the SCCOE; and
  - b. Investments or business positions in or income (includes gifts, loans, and travel payments) from sources which are engaged in the acquisition or disposal of real property within the SCCOE's boundaries, are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type used by the SCCOE, or manufacture or sell supplies, books, machinery, or equipment of the type used by the SCCOE.
  
2. Category 2: A person designated in Category 2 shall disclose
  - a. Investments or business positions in or income (includes gifts, loans, and travel payments) from sources which are contractors or subcontractors engaged in work services of the type used by the department which the designated person manages or directs; and
  - b. Investments or business positions in or income (includes gifts, loans, and travel payments) from sources which manufacture or sell supplies, books, machinery, or equipment of the type used by the department which the designated person manages or directs.
  
3. Category 3: Disclosure for Consultants

Consultants, as defined for purposes of the Political Reform Act, shall disclose pursuant to the broadest disclosure category in the SCCOE's conflict of interest code subject to the following limitation: The Superintendent or designee may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such a determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code.

A consultant is an individual who, pursuant to a contract with the agency, makes a governmental decision whether to: (2 CCR 18701)

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the agency to enter into, modify or renew a contract that requires agency approval
- e. Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract
- f. Grant agency approval to a plan, design, report, study or similar item
- g. Adopt or grant agency approval of, policies, standards or guidelines for the agency, or for any subdivision thereof.

A consultant is also an individual who, pursuant to a contract with the agency, serves in a staff capacity with the agency and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code. (2 CCR 18701)