

BP 2710 CONFLICT OF INTEREST

References:

Government Code Sections 1090 et seq., and 1126

Board members and employees shall not be financially interested in any contract made by them in their official capacity, or in any body or board of which they are members.

A Board member shall not be considered to be financially interested in a contract if his or her interest is limited to those interests defined as remote under Government Code Section 1091 or is limited to interests defined by Government Code Section 1091.5.

A Board member who has a remote interest in any contract considered by the Board of Trustees shall disclose his or her interest during a Board meeting and have the disclosure noted in the official Board minutes. The Board member shall not vote or debate on the matter or attempt to influence any other Board member to enter into the contract.

Incompatible Activities

A Board member shall not engage in any employment or activity that is inconsistent with, incompatible with, in conflict with or inimical to his or her duties as an officer of the District.

No officer or employee of the District shall engage in any employment (including self-employment), activity, or enterprise for compensation that is inconsistent, incompatible, in conflict with, or inimical to his/her duties as an officer or employee of the District. No officer or employee shall perform any work, service, or counsel for compensation outside of the District where any part of his or her efforts will be subject to approval by any other officer, employee, Board, or commission of this District, unless otherwise approved in the manner prescribed by this policy.

The Chancellor, with the assistance of legal counsel, will determine those outside activities that, for officers and employees of the District, are inconsistent with, incompatible to, or in conflict with duties as an officer or employee of this District. An officer or employees outside employment, activity, or enterprise may be prohibited if it:

- Involves the use, for private gain or advantage, of District, time, facilities, equipment, or supplies; or the badge, uniform, prestige, or influence of District's office of employment; or

- Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the District for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of District employment or as a part of duties as a District officer or employee; or
- Involves the performance of an act, other than in his/her capacity as a District officer or employee, which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other District officer or employee; or
- Involves such time demands as would render performance of his/her duties as a District officer or employee less efficient

Board of Trustees members are encouraged to seek counsel from the District's legal advisor in cases where questions arise.

Date Adopted: November 18, 2008

Revised: January 17, 2017

AP 2710 CONFLICT OF INTEREST

References:

Government Code Sections 1090 et seq., 1126 and 87100 et seq.;
and as listed below

Incompatible Activities/Public Offices (Government Code Sections 1126 and 1099)
Board members shall not engage in any employment or activity that is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the District. A Board member shall not simultaneously hold two public offices that are incompatible. When two offices are incompatible, a Board member shall be deemed to have forfeited the first office upon acceding to the second.

Officers and employees of the District who become involved in any outside employment or activities that may be perceived as inconsistent with, incompatible to, or in conflict with their duties as an officer or employee of the District, pursuant to Board Policy 2710, shall disclose those outside activities as soon as possible to their immediate supervisor. The supervisor will consult with the Chancellor/President who will decide if any further action needs to be taken.

Officers or employees who are determined (based on information from sources other than the officer or employee of the District) to be engaged in inconsistent, incompatible, or conflicting employment (including self-employment), activity, or enterprise shall receive notice from General Counsel that the District is aware of the outside activity/employment. The matter will be referred to the individual's immediate supervisor who will consult with the Chancellor/President to determine what action, if any, needs to be taken.

Financial Interest (Government Code Sections 1090 et seq.)

Board members or employees shall not be financially interested in any contract made by them in their official capacity with the District or by any body or board of which they are members.

A Board member shall not be considered to be financially interested in a contract if his or her interest meets the definitions contained in applicable law (Government Code Section 1091.5).

A Board member shall not be deemed to be financially interested in a contract if he or she has only a remote interest in the contract 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 member of the Board to enter into the contract. The willful failure to disclose the fact of his or her interest in a contract is punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the state prison, and is forever disqualified from holding any office in this state (Government Code Section 1097). Remote interests are specified in Government Code Section 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his or her minor child.

No Employment Allowed (Education Code Section 72103(b))

An employee of the District may not be sworn in as an elected or appointed member of the Board of Trustees unless and until he or she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office. This provision does not apply to an individual who is usually employed in an occupation other than teaching and who also is, at the time of election to the Board, employed part time by the District to teach no more than one course per semester or quarter in the subject matter of that individual's occupation (Education Code Section 72103(b)).

Financial Interest in a Decision (Government Code Sections 87100 et seq.)

If a Board member or employee determines that he or she has a financial interest in a decision, as described in Government Code Section 87103, this determination shall be disclosed and made part of the Board's official minutes. In the case of an employee, this announcement shall be made in writing and submitted to the Board. A Board member, upon identifying a conflict of interest, or a potential conflict of interest, shall do all of the following prior to consideration of the matter.

- Publicly identify the financial interest in detail sufficient to be understood by the public;
- Recuse himself or herself from discussing and voting on the matter;
- Leave the room until after the discussion, vote, and any other disposition of the matter is concluded unless the matter is placed on the agenda reserved for uncontested matters. A Board member may, however, discuss the issue during the time the general public speaks on the issue.

Gifts (Government Code Section 89503)

Board members and any employees who manage public investments shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law.

Designated employees shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law if the employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests. At the determination of the appropriate administrator, other employees may also be restricted from accepting gifts from outside sources.

The above 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. Additionally, these limitations do not prohibit or limit payments, advances, or reimbursement for travel and related lodging and subsistence from any source permitted by Government Code 89506.

A gift of travel does not include travel provided by the District for Board members and designated employees.

Board members and any employees who manage public investments 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 (Government Code Sections 89501 and 89502).

Designated employees shall not accept any honorarium from any source that would be reportable on his or her statement of economic interests.

Representation (Government Code Section 87406.3)

Elected officials, and the Chancellor, shall not, for a period of one-year after leaving their position, act as an agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to the Board, any Committee of the Board, any member of the Board or any officer or employee of the District, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract or the sale or purchase of goods or property. The appearance or communication may be made if, at the time of the appearance or communication, the individual is a board member, officer, or employee of another local government agency or an employee or representative of a public agency and is appearing or communicating on behalf of that agency.

Date Approved: November 18, 2008

Revised: May 17, 2011