



**Clerk of the Board  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

KUYLER CROCKER  
District One  
PETE VANDER POEL  
District Two  
AMY SHUKLIAN  
District Three  
J. STEVEN WORTHLEY  
District Four  
MIKE ENNIS  
District Five

**AGENDA DATE:** December 11, 2018

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
CONTACT PERSON: Melinda Benton    PHONE: 559-636-5000				

**SUBJECT:** Approval of Visalia Unified School District Conflict of Interest Code

**REQUEST(S):**

That the Board of Supervisors:  
Approve the new or amended Conflict of Interest Code adopted by the following special district:

**School District**

Visalia Unified School District

**SUMMARY:**

The Political Reform Act, Administered by the State Fair Political Practice Commission (FPPC), requires local governmental agencies to adopt a Conflict of Interest Code and update it from time-to-time to reflect changes in decision-making positions within the Agency. This includes newly added positions, deleted positions, or changes in the title or decision-making duties assigned to positions. This also includes changes in disclosure categories for designated positions.

In addition, a local government agency is required to conduct a review of its Conflict of Interest Code every even numbered year. A local government agency includes a special district of any kind, school districts, or any local board, committee, commission or agency established by State of Federal statute that has a separate legal status. Pursuant to the Act, the Tulare County Board of Supervisors is the code-reviewing body for all local government agencies whose territorial boundaries are wholly in Tulare County, and has the responsibility to see that such agencies meet conflict of interest code requirements.

**SUBJECT:** Approval of Visalia Unified School District Conflict of Interest Code  
**DATE:** December 11, 2018

A Conflict of Interest Code is designated to cover members of boards, commissions, committees, districts and similar bodies, and administrative employees that make, or participate in making government decisions. The purpose of the Code is to prevent such officials from engaging in government decision-making in which the official may have a personal financial interest. Officials designated in an agency's code are required to file a Form 700-Statement of Economic Interests upon appointment to a designated position, upon leaving the position and on a yearly basis while performing the official functions of that position. For this reason, positions designated in the local agency's code must also be assigned a disclosure category. Disclosure categories describe the types of personal financial interests that the official must disclose in his or her Form 700-Statement of Economic Interests.

In July 2018, written notices were sent to all local government agencies within Tulare County of their obligation to conduct a Biennial Review of the agency's Conflict of Interest Code as required by law. By law, the Board of Supervisors must approve all amended or new Conflict of Interest Codes.

The Visalia Unified School District responded that it has amended its Conflict of Interest Code since 2016 and has provided the County with the necessary supporting documents for review. This amended code meets the requirements of the Political Reform Act and can be recommended to this Board for approval. Declaration by the representative of this special district confirming compliance with applicable requirements for adopting or amending the agency's code are attached for your review.

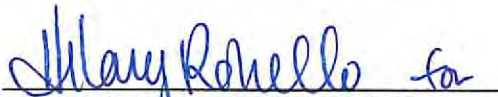
**FISCAL IMPACT/FINANCING:**

There is no County cost associated with this request.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The approval of the Conflict of Interest Codes helps fulfill the Organization Performance initiative by ensuring that the County and the local agencies are in compliance with the law.

**ADMINISTRATIVE SIGN-OFF:**

  
Melinda Benton, Chief Clerk

Cc: County Administrative Office

Attachment(s) Attachment A - Visalia Unified School District Conflict of Interest Code



**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF APPROVAL OF )  
VISALIA UNIFIED SCHOOL DISTRICT ) Resolution No.  
CONFLICT OF INTEREST CODE )

UPON MOTION OF SUPERVISOR \_\_\_\_\_, SECONDED BY  
SUPERVISOR \_\_\_\_\_, THE FOLLOWING WAS ADOPTED BY THE  
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD \_\_\_\_\_  
\_\_\_\_\_, BY THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: JASON T. BRITT  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy Clerk

\* \* \* \* \*

Approved the new or amended Conflict of Interest Code adopted by the following special district:

**School District**  
Visalia Unified School District

## 2018 Local Agency Biennial Notice

Name of Agency: VISALIA UNIFIED SCHOOL DISTRICT  
Mailing Address: 5000 W. CYPRESS AVENUE, VISALIA, CA 93277  
Contact Person: CARINA MELLO Phone No. 559-730-7552  
Email: Cmello@vusd.org Alternate Email: \_\_\_\_\_

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that (check one BOX):

An amendment is required. The following amendments are necessary:

(Check all that apply.)

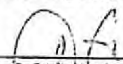
- Include new positions
- Revise disclosure categories
- Revise the titles of existing positions
- Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- Other (describe) Content revised (updated/deleted)

The code is currently under review by the code reviewing body.

No amendment is required. (If your code is over five years old, amendments may be necessary.)

Verification (to be completed if no amendment is required)

*This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.*

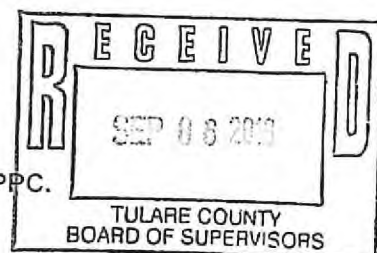
  
Signature of Chief Executive Officer

9/5/18  
Date

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than September 14, 2018, or by the date specified by your agency, if earlier, to:

Clerk of the Board of Supervisors  
Attn: Melinda Benton  
2800 W. Burrel Avenue  
Visalia, CA 93291

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.





**CONFLICT OF INTEREST**

**RESOLUTION ADOPTING A  
CONFLICT OF INTEREST CODE**

Note: The Governing Board is required to adopt a conflict of interest code in compliance with Government Code 87300-87313 of the Political Reform Act (PRA). Pursuant to 2 CCR 18730, the requirements of the Government Code are satisfied if a district adopts a conflict of interest code that incorporates 2 CCR 18730 by reference along with a list of designated positions and disclosure categories. Board members and designated employees must annually file a Statement of Economic Interest/Form 700 pursuant to the disclosure requirements of the district's conflict of interest code.

Government Code 87303 requires a district's conflict of interest code to be approved by a code reviewing body. For school districts located entirely in one county, the code reviewing body is the board of supervisors of the county in which the district is located. The Fair Political Practices Commission (FPPC) is the code reviewing body for school districts with jurisdiction in more than one county.

The code reviewing body needs to review only the portion of the district's conflict of interest code that specifies the district's designated positions and the disclosure categories as detailed in the following sample Resolution, including its Appendix, and not the other legal requirements related to conflict of interest reflected in the accompanying sample bylaw. The Resolution, including the Appendix, should be adopted by the Board and, as necessary, forwarded to the code reviewing body. Pursuant to Government Code 87306.5, the code reviewing body is required to notify the district in even-numbered years of the need to review the district's conflict of interest code. Upon such notification, the district should review the Appendix and make any necessary changes. In some counties, the code reviewing body requires that a resolution be adopted during each review and that the Board's resolution and amended appendix be submitted to that body. In other counties, only the appendix needs to be submitted. In both cases, districts need not submit BB 9270 - Conflict of Interest to the code reviewing body. In addition to the biannual review, districts should modify the Appendix and submit it, and the resolution if required, to the code reviewing body when any changed circumstances within the district require amendments to the Appendix, such as the creation of new designated positions or a change of duties assigned to existing positions.

The following resolution should be modified to reflect district practice as well as any specific requirements of the district's code reviewing body.

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 Visalia Unified School District 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 district'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

**CONFLICT OF INTEREST (continued)**

WHEREAS, the Visalia Unified School District has recently reviewed its positions, and the duties of each position, and has determined that (changes/no changes) to the current conflict of interest code are necessary; and

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

NOW THEREFORE BE IT RESOLVED that the Visalia Unified School District 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

**CONFLICT OF INTEREST** (continued)

**Conflict of Interest Code of the  
Visalia Unified School District**

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 district'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 Appendix. The Statement of Economic Interest shall be filed with the district's filing officer and/or, if so required, with the district's code reviewing body. The district's filing officer shall make the statements available for public review and inspection.

**APPENDIX**

**Disclosure Categories**

Note: The following list must be modified to reflect the specific disclosure categories in the district.

1. **Category 1:** A person designated Category 1 shall disclose:
  - a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.
  - b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, 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 district, or manufacture or sell supplies, books, machinery, or equipment of the type used by the district.
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 or 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 manages or directs. For the purposes of this category, a principal's department is his/her entire school.



**CONFLICT OF INTEREST (continued)**

Note: Item #3 below is for use only by districts in which the Board and Superintendent "manage public investments." All other districts must delete item #3.

Government Code §7500 requires public officials and designated employees to annually file a Statement of Economic Interest/Form 700 to disclose any assets and income which may be materially affected by official actions. Under the PRA, there are two separate categories of Form 700 disclosure requirements. For the first category pursuant to Government Code §7302, which is applicable to most school districts, the disclosure requirements are determined by the district and set forth in the district's conflict of interest code. The second category, pursuant to Government Code §7200, is only applicable to Board members and Superintendents who "manage public investments." Those Board members and designated employees, referred to by the FPPC as Government Code §7200/Article 2 filers, must file broader disclosure statements pursuant to the disclosure requirements specified in law and FPPC regulation. See section in accompanying bylaw entitled "Additional Requirements for Boards that Manage Public Investments" for a further discussion of this issue.

3. **Full Disclosure:** Because it has been determined that the district's Board members and/or Superintendent "manage public investments," they and other persons designated for "full disclosure" shall disclose, in accordance with Government Code §7200:
- a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.
  - b. Investments, business positions, and sources of income, including gifts, loans, and travel payments.

**Designated Positions**

Note: The following list must be modified to reflect the specific designated positions and applicable disclosure categories in the district. For districts in which the Board and Superintendent "manage public investments," the disclosure category for Board members and the Superintendent in the list below must be modified to "Full Disclosure."

<u>Designated Position</u>	<u>Disclosure Category</u>
Governing Board Members	1
Superintendent of Schools	1
Assistant/Associate Superintendent	1
Chief Financial Officer	1
Purchasing Agent	1
Director	2
Principal	2
Assistant Principal	2
Athletic Directors, High School	2
Maintenance and Operations Director	2
Program Coordinator	2
Supervisor	2
Dean of Students	2

CONFLICT OF INTEREST (continued)

Disclosures for Consultants

Note: The definition of designated employees in Government Code §2019 includes consultants. To preclude amending the code whenever retaining a consultant in a decision-making capacity, the following section provides that the Superintendent or designee shall make case-by-case determinations of the disclosures necessary, depending on the range of duties to be performed by the consultant.

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The 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 district, makes a governmental decision whether to: (2 CCR 18700.3)

Deleted: 18701

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the district to enter into, modify, or renew a contract that requires district approval
5. Grant district approval to a contract that requires district approval and in which the district is a party, or to the specifications for such a contract
6. Grant district approval to a plan, design, report, study, or similar item
7. Adopt or grant district approval of district policies, standards, or guidelines

Deleted: a

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18704, subsections (a) and (b), or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict of interest code. (2 CCR 18700.3)

Deleted: 18702.2

Deleted: 18701

**Visalia Unified School District  
Board of Education  
MINUTES**

**OPENING  
BUSINESS**

The February 28, 2017, Board meeting was called to order at 5:30 p.m. by President Lucia Vazquez in the Board Room at the VUSD Educational Office Complex, 5000 West Cypress Avenue, Visalia. A quorum of the Board was present.

**ATTENDANCE**

	<u>Arrive</u>	<u>Leave</u>	<u>Absent</u>
John L. Crabtree	5:30	9:18	
William A. Fulmer	5:30	9:18	
Patricia M. Griswold	5:30	9:18	
Juan Guerrero	5:30	9:18	
Jim L. Qualls	5:30	9:18	
Charles Ulmschneider	5:30	9:18	
Lucia D. Vazquez	5:30	9:18	
Dr. Todd Oto, Superintendent	5:30	9:18	

**Staff Members**

Robert Gröeber, Assistant Superintendent, Administrative Services  
Tamara Ravalin, Assistant Superintendent, Human Resources Development  
Melanie Stringer, Assistant Superintendent, Instructional Services  
Delia Smart, Administrative Assistant, Superintendent's Office  
Jose Medina, Spanish Interpreter  
Bryanna Martinez, Board Representative to the School Board

**CLOSED SESSION**

President Vazquez identified the closed session topics listed below and called for public comment on the closed session items. There were no comments from the public. The Board adjourned to closed session.

- 2.1 RECOMMENDED EXPULSIONS (Education Code Sections 48900, et. seq.)
- 2.2 RECOMMENDED SUSPENDED EXPULSIONS
- 2.3 PUBLIC EMPLOYEE ASSIGNMENT/REASSIGNMENT/  
APPOINTMENT (Government Code Section 54957)
- 2.4 PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE/  
COMPLAINT (Government Code Section 54957)
- 2.5 CONFERENCE WITH LABOR NEGOTIATOR (Government Code  
Section 54957.6)
  1. Agency Negotiator: Tamara Ravalin
  2. Employee Organizations
    1. CSEA
    2. VUTA
    3. Management
- 2.6 CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
Property: 107 W. Tulare Avenue  
Visalia, CA 93277  
APN: 097320069  
Agency negotiator: Robert Gröeber  
Negotiating parties: City of Visalia  
Under negotiation: Potential Sale



- 2.7 CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
 Property: 28050 Road 148, Visalia, CA 93292  
 APN: 127050013  
 Agency Negotiator: Robert Gröeber  
 Negotiating parties: Blue Oak Academy  
 Under negotiation: Potential Lease
- 2.8 CONFERENCE WITH REAL PROPERTY NEGOTIATORS  
 Property: N. Lovers Lane and Mill Creek Pkwy., Visalia CA  
 APN: 098070035  
 Agency Negotiator: Robert Gröeber  
 Negotiating parties: City of Visalia  
 Under negotiation: Potential Sale
- 2.9 PUBLIC EMPLOYEE EVALUATION – SUPERINTENDENT'S  
 MID-YEAR REVIEW

**REGULAR SESSION**

The Board convened the regular Board meeting at 7:03 p.m. A quorum of the Board was present.

**INTRODUCE  
 INTERPRETER**

President Vazquez introduced Jose Medina as the Spanish interpreter for the Board meeting. Mr. Medina announced in Spanish that headphones were available for those wishing to hear the meeting in Spanish.

**REPORT ACTION  
 TAKEN IN CLOSED  
 SESSION**

President Vazquez announced that the following action was taken in closed session and asked Board Clerk Fulmer to read aloud both of the resolutions that were adopted in closed session.

Board Clerk Fulmer read aloud the Resolution of Release and Reassignment of Certificated Administrator(s) (Ed. Code § 44951) that was adopted by unanimous vote (7-0) in closed session. Listed on Exhibit A of the resolution is Certificated Administrator #17834. Motion was made by Member Crabtree and seconded by Member Griswold. Motion carried.

**Vote:**

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

Board Clerk Fulmer read aloud the Resolution of Non-Reelection of Probationary Certificated Employees (Ed. Code § 44929.21) that was adopted by unanimous vote (7-0) in closed session. Listed on Exhibit A of the resolution are Certificated Employees #009890, #017892, and #006703. Motion was made by Member Fulmer and seconded by Member Qualls. Motion carried.

**Vote:**

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

**PLEDGE OF  
 ALLEGIANCE**

Board Member William A. Fulmer led the pledge of allegiance.

GENERAL PUBLIC  
COMMENT

Public Comment:

Melanie Stringer, Assistant Superintendent, introduced Ridgeview Middle School Principal Michal Yates.

Michal Yates, Ridgeview Middle School Principal, introduced the RoboRaptors, the school's first-ever robotics team members: Abby Bond, Abroom Gutierrez, Alfredo Vera, Brent Stroble, Connor Schmelfening, Darrian Rosario, Jeremiah Camaquin, Jonathan Son, Victor Carrillo, Sabrina Hirani, Scott Wegley and Instructor Pam Richards. Mr. Yates shared that the 7th grade team has done an outstanding job demonstrating the 21st Century learning objectives of the five C's: critical thinking, collaboration, communication, creativity, and civic mindedness. In December, students on this team organized the 2016 Ridgeview Raptor Rumble. This was Ridgeview's first-ever Central Valley Lego League tournament. Mr. Yates congratulated the students and Mrs. Richards for their effort and accomplishments and thanked the Board and district administrators for supporting the robotics program at the middle school level.

CONSENT AGENDA  
(Encl. No. 1-14)

A revised handout for the following items was distributed at the Board meeting because revisions were made after the Board agenda packet was posted and distributed:

- Item 4.2.2 - Certificated Personnel Report (Encl. No. 5)
- Item 4.2.3 – Consultant Contracts (Encl. No. 6)

Member Crabtree moved to approve Consent Agenda Items, Encl. No. 1-14, with revisions. Member Guerrero seconded the motion. Motion carried unanimously.

Vote:

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

CONSENT AGENDA

- 4.1 ADMINISTRATIVE SERVICES
  - 1. Warrant List – February 6, 2017 Through February 17, 2017 (Encl. No. 1)
  - 2. Deem Surplus Vehicles Obsolete (Encl. No. 2)
  - 3. VUSD General Fund Cash Flow Report as of January 31, 2017 (Encl. No. 3)
- 4.2 HUMAN RESOURCES DEVELOPMENT
  - 1. Classified Personnel Report (Encl. No. 4)
  - 2. Certificated Personnel Report (Encl. No. 5)
  - 3. Consultant Contracts (Encl. No. 6)
  - 4. Memorandum of Understanding (MOU) for the Student Teaching Agreement between Visalia Unified School District (VUSD) and Walden University (Encl. No. 7)
  - 5. Agency Agreement for the IMPACT Intern Agreement between Visalia Unified School District and Tulare County Superintendent of Schools (Encl. No. 8)
- 4.3 INSTRUCTIONAL SERVICES
  - 1. Student Field Trip Requests (Encl. No. 9)
  - 2. Addendum to the Memorandum of Understanding between Visalia Unified School District and Pro-Youth/HEART (Encl. No. 10)
  - 3. Agreement between Tulare County Office of Education and Visalia Unified School District – County Operated Community Day Classes (Encl. No. 11)

4. Memorandum of Understanding (MOU) between Visalia Unified School District and Family HealthCare Network (Encl. No. 12)
  5. Ridgeview Single Plan for Student Achievement (Encl. No. 13)
- 4.4 SUPERINTENDENT'S OFFICE
1. Record of Board Member Attendance for Regular and Special Board Meetings (Encl. No. 14)

**PUBLIC  
RECOGNITION/  
PROCLAMATIONS/  
ACTION**

RESOLUTION  
DECLARING MARCH  
2017 NATIONAL  
WOMEN'S HISTORY  
MONTH  
(Encl. No. 15)

Board Clerk Fulmer read aloud the resolution in support of declaring March 2017 as National Women's History Month.

Member Ulmschneider moved to adopt the Resolution Declaring March 2017 as National Women's History Month. Member Qualls seconded the motion. Motion carried unanimously.

**Vote**

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

RESOLUTION  
DECLARING MARCH  
2017 ARTS EDUCATION  
MONTH  
(Encl. No. 16)

Board Clerk Fulmer read aloud the resolution in support of declaring March 2017 as Arts in Education Month.

Member Guerrero moved to adopt the Resolution Declaring March 2017 as Arts in Education Month. Member Ulmschneider seconded the motion. Motion carried unanimously.

**Vote**

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

**PUBLIC COMMENT/  
PUBLIC INTEREST  
ANNOUNCEMENTS/  
STATUS REPORTS/  
ACTION (as  
applicable)**

SEQUOIAS ADULT  
EDUCATION  
CONSORTIUM (SAEC)  
UPDATE  
(Encl. No. 17)

Presenter: John Werner, Director of Sequoias Adult Education Consortium

The Sequoias Adult Education Consortium (SAEC) has been formed to develop a regional plan to improve the delivery of adult education in different program areas and to address existing gaps in programs and services. VUSD plays an active role in this consortium as an adult education service provider through the Visalia Adult School. Mr. Werner provided the Board with an update on the status of the SAEC and



measures of effectiveness. Statewide the Adult Education Block Grant (AEBG) provides \$500M in funding; and for the AEBG program serving Tulare and Kings Counties, it provides \$9.1M in funding. There is approximately \$3.8M in other revenues to support those adult education activities. A total of 18,457 students were enrolled/participated in the 2015-16 school year and a total of 12,161 participants met the criteria of 12+ hours of instructional time. The total number of courses completed in 2015-16 was 5,398. *(For more information, see PowerPoint presentation handout.)*

This was an information only item. There were no comments from the public.

**RIVERWAY  
ELEMENTARY SCHOOL  
PROGRESS UPDATE  
(Encl. No. 18)**

Presenter: Mark Atkins, Construction Manager with CM Construction Services, Inc.

Gerry Lemus, Director of Administrative Services, introduced Mark Atkins with CM Construction. Mr. Lemus extended an invitation to Board members to visit the new school site, Riverway Elementary, and asked them to coordinate some dates with Delia Smart or Monica Andrew in the Superintendent's Office.

Mr. Atkins provided the Board with an update on the construction status of Riverway Elementary School and the overall progress, schedule, costs and coordination efforts with the City of Visalia and the major utility companies. Riverway Elementary School is scheduled to open in August 2017. *(For more information, see PowerPoint presentation handout.)*

This was an information only item. There were no comments from the public.

**FOCUS ON  
STUDENT  
LEARNING  
Presentation/Public  
Comment/Board  
Discussion/ACTION  
(as applicable)**

**GRADUATION  
REQUIREMENTS –  
MATHEMATICS –  
SECOND READING  
(Encl. No. 19)**

Presenter: Melanie Stringer, Assistant Superintendent of Instructional Services

Ms. Stringer reminded the Board that this item was presented at the February 14, 2017, Board meeting as a first read. At that meeting, she provided an update and history regarding the current graduation requirements for high school students in Visalia Unified School District and information regarding the current state of implementation of integrated mathematics courses 7-12 and the professional development provided to support the mathematical shifts in instruction of these new courses. The Graduation Requirements Committee is recommending the need to increase math classes at the high school level to ensure that students are college and career ready. They have recommended the upcoming class of 2022 (this year's 7<sup>th</sup> graders) be required to earn 30 units or successfully pass three years of math to graduate high school.

**Public Comment**

Greg Price, VUTA President, stated that he is in favor of three years of math and shared some concerns that were brought up at a study session they held with high

schools. Ms. Stringer acknowledged and responded to the concerns expressed by Mr. Price.

Board members expressed their concerns with requiring a third year of math as a graduation requirement, and Ms. Stringer addressed each of their concerns.

Board Member Fulmer moved to approve a third year of math as a graduation requirement starting with the class of 2022. President Vazquez seconded the motion. Motion carried 6-1.

**Vote**

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: Ulmschneider

Abstain: None

**CALIFORNIA SCHOOL  
DASHBOARD  
OVERVIEW  
(Encl. No. 20)**

Presenter: Dr. Phil Black, Director of Assessment

California's developing accountability and continuous improvement system includes a web-based dashboard that will display the performance of local educational agencies (LEAs), schools, and student groups on a set of state and local measures to assist in identifying strengths, weaknesses, and areas in need of improvement. Dr. Black provided the Board with a presentation regarding the new California School Dashboard that will become publicly available in March 2017. He provided an overview of the local indicators, state indicators, a sample dashboard, and what the five performance levels/colors indicate. Performance will be based on status, how each school or district fared last year, and change—how much they have improved or declined in the last three years. Schools will be rated based on a combination of these factors and assigned one of five performance levels. From highest to lowest: blue, green, yellow, orange and red. He also provided status (performance level) information for the VUSD student sub-groups in English language arts, mathematics, English Learners, graduation rates, and suspension rates. *(For more information, see PowerPoint presentation handout.)*

This was an information only item. There were no comments from the public.

**LOCAL CONTROL  
ACCOUNTABILITY  
PLAN (LCAP) for 2017-  
2018  
(Encl. No. 21)**

Presenter: Jim Sullivan, Director of State and Federal Projects

Mr. Sullivan provided a presentation regarding the VUSD Local Control Accountability Plan (LCAP), identified the community stakeholders, and reviewed the funding sources (supplemental funds \$24,957,236, concentration funds \$11,048,298, and federal funds \$9,062,456) of the proposed LCAP activities and how the activities align with Board goals and the timeline for the approval of the 2017-18 LCAP. The next steps for the LCAP are to pre-hire anticipated positions in March and present School Site Plans to the Board for approval in May/June 2017. *(For more information, see PowerPoint presentation handout)*

This was an informational only item.

**Public Comment**

Greg Price, VUTA President, shared his concerns with what the district is doing with the concentration and supplemental grants and thinks the money should be spent in different ways. He believes we should be addressing the schools that have the greatest need, especially in early childhood. He requested that Jim Sullivan send him a detailed accounting report of where the money is being spent. Mr. Price also shared that VUTA

**BOARD MEMBER  
REPORTS/REQUESTS  
SUPERINTEN-  
DENT'S REPORT**

will be bringing forward a petition regarding spending our money on early childhood and on the schools that need it the most.

Mr. Sullivan shared that VUSD is strategically placing intervention teachers at the schools with the highest needs and believes it does address the needs of those schools and will share this information in a presentation to the Board at a later date.

Board Member Guerrero reminded Superintendent Oto that at the Board Planning Session in January, he requested budget information regarding carryover funds and asked when he would receive the information. Superintendent Oto replied that he is speaking with his Cabinet on Thursday, March 2, and that he'd send the information the following week. Further question/answer discussion followed.

Bryanna Martinez, Student Representative to the Board from Redwood High School, gave a brief summary of the events that are taking place at each of the high schools.

Superintendent Oto announced that he had just received word that the Golden West High School's boys' soccer team is the new CIF Division II champions. Great news for Golden West!

The Board members' reports included the following:

- John Crabtree
  - Attended the following events:
    - Worked-based Learning Convention - he attended mostly for lunch, but it was an interesting convention.
    - VTEC Advisory Board Meeting
    - February 23, 2017, Special Board Study Session
    - Golden West High School WASC Visiting Committee Meet-and-Greet Meeting on February 26, 2017
    - Visalia Education Foundation Board Meeting
    - Mt. Whitney High School Drama Production *Sister Act*
- Patricia Griswold
  - Attended the following events:
    - Mt. Whitney High School Drama Production *Sister Act* - she shared that it was a great production the school put on. They had about 70 in their cast, and it was a feel good production. She attended all the shows; her daughter was in the show as Mother Superior.
    - February 23, 2017, Special Board Study Session
    - Golden West High School WASC Visiting Committee Meet-and-Greet Meeting on February 26, 2017
- Bill Fulmer
  - Attended the following events:
    - VTEC Advisory Board Meeting
    - Executive Committee
    - February 23, 2017, Special Board Study Session
    - Golden West High School WASC Visiting Committee Meet-and-Greet Meeting on February 26, 2017
- Lucia Vazquez
  - She attended most of the events mentioned by the other Board members.



- She visited Fairview Elementary School and the programs that ProYouth puts on.
- Juan Guerrero
  - Attended the following events:
    - Pulse Winter Sports Banquet at the Boys and Girls Club - he commended Christi Perry and Frank Escobar for putting on the banquet and stated that the 7<sup>th</sup> and 8th grade afterschool programs do a lot of activities. Some of the kids they serve were cut from their regular school teams. He received word about the banquet and decided to attend and also took pictures. It was a great event.
    - February 23, 2017, Special Board Study Session
    - Golden West High School WASC Visiting Committee Meet-and-Greet meeting on February 26, 2017
    - Golden West High School Baseball Foundation Dinner held on Sunday, February 26, 2017 - he shared that it was a nice event and there were lots of community members who attended.
  - Board Member Request from Member Guerrero
    - Member Guerrero shared that he wanted to talk about what is going on here in the valley and the country. There is a lot of fear right now, especially in folks that might be undocumented and have kids in our schools. Because of that, he has been following what is going on within our school districts and what the California School Boards Association (CSBA) recommended last winter. Fresno Unified passed a Safe Haven Resolution and so did Kern County and Bakersfield, and it's happening with districts throughout the valley. He asked the Board to create a committee to develop a safe haven resolution and then bring it to the Board for consideration. He's be willing to serve on the committee and suggested Member Griswold or maybe another Board member join him to develop the resolution and bring it back to the Board.

President Vazquez asked Board members if they would like to serve on the committee. Further discussion followed:

- Member Griswold volunteered to serve on the committee.
- Member Qualls shared his concern about the Board getting into politics and believes the School Board should spend its time on the education of its children, focusing on their learning, and abiding by the law.
- President Vazquez reminded the Board that this item may not be discussed; she was merely asking if Board members would like to serve on the committee.
- Member Qualls replied that he heard but needed to state his concern at even considering a resolution.
- Member Ulmschneider shared his concern about getting into politics, it being an evolving issue, and the Board needing to be deliberative in how they move on things like this, especially talking about a committee during Board member reports.
- President Vazquez reminded the Board of the reason for adding "Board member requests" to the agenda.

- Member Crabtree shared that he agrees with Member Qualls' concern and thinks it's a very divisive issue and does not care what other districts are doing just because the ACLU has recommended it.
  - Board Member Fulmer agreed with Members Crabtree, Qualls, and Ulmschneider.
  - Member Guerrero talked about the higher education act (federal law) that guarantees a free education for all residents in this country and about addressing a real concern for our students and families. He's okay with getting outvoted but needed to bring it up in his good conscience.
  - Member Crabtree stated that he respects what Member Guerrero is saying but feels it may actually create more fear by developing something like this and believes it's the wrong thing to do.
  - Member Fulmer shared that he disagrees with Member Guerrero.
  - President Vazquez shared that she thinks the Board at least has every right to at least discuss it and she invited one of the four Board members that disagree with it to serve on the committee, and she again reminded them of why it is needed.
  - Member Ulmschneider shared some information about his wife being an immigrant from Mexico and having talked about it with her. He stated again that the Board needs to be deliberative because it's a complicated issue and also shared his concerns about it not being on the agenda, and it being on the "spot".
  - President Vazquez again stated that it's the reason for asking for a subcommittee.
  - Board Members (could not tell who, all spoke at same time) then stated that she has her answer and they are not in favor of it.
  - President Vazquez then referred to Superintendent Oto.
  - Superintendent Oto stated that what he is hearing is that there is no collective board interest to have an ad hoc committee put together for that purpose. Obviously, the Board can consider this in the future if it wishes to.
- Jim Qualls
    - He attended the Special Board Study Scssion
  - Charles Ulmschneider
    - He reported that other than some of the events that the Board members attended, he wants to catch a basketball game.
  - Superintendent Oto
    - He reported that Dr. Phil Black provided a report on the California School Dashboard and he wants to reiterate that the information revealed by the state through the accountability system or dashboard is one thing we use to judge our effectiveness as a school district. It's not the only tool and we want to be very careful in rolling out any new measuring device. That we do not overuse it or assume too much power from it. It is good to see that the dashboard, at least at first blush, does reinforce some of the work that we done with LCFF and LCAP funding here in the district in terms of priorities. But we are not going to brand kids, schools, or the district by the color and

location on the five-by-five grid. We have good kids working hard and good people working hard with those kids. Working collectively to increase achievement in helping our kids get to that limitless opportunity we've talked about. We are thrilled about that potential—the dashboard helps us but it does not define us necessarily.

**ADMINISTRATIVE  
PANEL RECOM-  
MENDATIONS/  
ACTION**

**RECOMMENDED  
EXPULSIONS  
(Encl. No. 22)**

Member Fulmer moved to accept the Administrative Panel Recommendations for Expulsions Case No.17-36 E and 17-37 E. Member Crabtree seconded the motion. Motion carried unanimously.

**Vote:**

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

**RECOMMENDED  
SUSPENDED  
EXPULSIONS  
(Encl. No. 23)**

Member Crabtree moved to accept the Administrative Panel Recommendations for Suspended Expulsions Case No. 17-13 SE and 17-14 SE. President Vazquez seconded the motion. Motion carried unanimously.

**Vote:**

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

**GENERAL AGENDA  
Review/Public Hearing/  
Public Input/  
Board Discussion/  
ACTION (as  
applicable)**

**VISALIA UNIFIED  
SCHOOL DISTRICT  
HEALTH AND  
WELLNESS CLINIC  
(Encl. No. 24)**

Presenters: Robert Gröeber, Assistant Superintendent of Administrative Services, and Rebecca Petersen, Director of Human Resources Development

Mr. Gröeber and Ms. Petersen reported that staff has been working with Elite Corporate Medical Services to open a VUSD exclusive Health and Wellness Clinic for employees and dependents. This clinic would operate much like any other walk in medical clinic in town but with a couple of notable differences: 1) this would be exclusively for VUSD employees and their dependents-- this would be an added benefit to all employees with increased flexibility and convenience; and 2) this clinic would be completely free for most covered services without copays and deductibles. Savings from our normal self-insured health benefit plan would pay the costs to operate the clinic. A list of the benefits to VUSD was shared and how the program would work. Contracts will be brought back to the Board for approval as they are negotiated.

This was an information only item. There were no comments from the public.

Further questions/answer discussion followed by the Board, Mr. Gröeber and Ms. Petersen.

Assistant Superintendent Gröeber asked the Board if they'd be in support of VUSD moving forward with the health and wellness clinic. The Board expressed their support in moving forward.

2017-2018 AND 2018-2019  
SCHOOL CALENDARS –  
SECOND AND FINAL  
READING (Encl. No. 25)

Presenter: Dr. Tamara Ravalin, Assistant Superintendent of Human Resources Development

Dr. Ravalin presented the 2017-18 and 2018-19 school calendars for a second read and recommended approval. At the February 14, 2017, Board Meeting, the proposed calendars were presented to the Board for a first read, and Dr. Ravalin shared there have been no changes to the calendars as of that date.

Member Crabtree moved to approve the 2017-2018 and 2018-2019 school calendars as presented. Member Ulmschneider seconded the motion. Motion carried 6-0 with one Board member temporarily out of the room.

Vote:

Ayes: Crabtree, Fulmer, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

Temporarily Out Of The Room: Griswold

DISTRICT-WIDE GOALS  
FOR 2017-2022 –  
SECOND AND FINAL  
READING  
(Encl. No. 26)

Presenter: Superintendent Todd Oto

Superintendent Oto presented a draft of the proposed District-Wide Goals for 2017-2022, along with the Beliefs Statement and Five C's documents. These goals have been drafted to represent Board and staff input.

There were no comments from the public.

Member Crabtree moved to approve the 2017-2022 District-Wide Goals, Beliefs Statement, and Five C's document as presented. Member Fulmer seconded the motion. Motion carried 6-0 with one Board member temporarily out of the room.

Vote:

Ayes: Crabtree, Fulmer, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

Temporarily Out Of The Room: Griswold

RE-ADOPT  
PROFESSIONAL  
GOVERNANCE  
STANDARDS AND  
PROTOCOLS – SECOND  
AND FINAL READING  
(Encl. No. 27)

Presenter: Superintendent Todd Oto

The Board conducted the annual review of the Professional Governance Standards and Protocols at the January 20, 2017, Board Planning Session. These standards serve as a framework for clarifying the Board member's role and responsibilities. They also serve as a guide for Board actions and relationships with staff, each other, and the public. Through adoption of their Professional Governance Standards and Protocols, the Board renews its commitment to serve in an effective and successful governance model.



Superintendent Oto shared that there are five or six changes to language and the Board was also provided a handout of Member Ulmschneider's suggested revisions to the Board Protocols and Agreements for their consideration.

Member Ulmschneider stated that he would be voting "no" on this item. He spent a lot of hours picking the document apart as well as transcribing it, so it is easily read. He shared his concerns with the grammar in the document, such as "his/her" vs. "their" and "he/she" vs. "they". He believes it is more concise to use "their" or "they", as these are collective pronouns. He does not believe the Board is an eight-member governance team; the Board is seven elected people and one appointed superintendent. That is one of many different issues with the language itself. He asked Board members, as his colleagues, to review it and give it some consideration with an open mind when they get home. President Vazquez thanked Member Ulmschneider the efforts and time he put into it and also shared that the Board has gone over it many times before. Member Crabtree shared that he did take the time to read it over and over to see where Member Ulmschneider was coming from. There are some suggestions he would not particularly agree with; but the rest of the suggestions, he did not think they were significant enough that the document should be re-written.

There were no comments from the public.

Member Fulmer moved to adopt the Professional Governance Standards and Protocols as presented. Member Qualls seconded the motion. Motion carried 6-1.

Vote:

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, and Vazquez

Noes: Ulmschneider

Abstain: None

NOTICE OF INTENT TO  
EMPLOY  
CERTIFICATED  
PERSONNEL AND  
APPROVAL OF  
VARIABLE TERM  
WAIVER REQUEST FOR  
SPEECH/LANGUAGE &  
HEARING  
(Encl. No. 28)

A revised handout for *Item 10.5 - Notice Of Intent To Employ Certificated Personnel And Approval Of Variable Term Waiver Request For Speech/Language & Hearing (Encl. No. 28)* was distributed at the Board meeting because a revision was made after the Board agenda packet was posted and distributed.

Presenter: Dr. Tamara Ravalin, Assistant Superintendent of Human Resources Development

Dr. Ravalin recommended the Board to approve the Variable Term Waiver Request For Speech/Language & Hearing for the following candidate:

- Gabrielle Villegas.

There were no comments from the public.

Member Crabtree moved to approve the variable term waiver request for speech/language & hearing for Gabrielle Villegas. Member Qualls seconded the motion. Motion carried unanimously.

Vote:

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

NOTICE OF INTENT TO  
EMPLOY  
CERTIFICATED  
PERSONNEL AND  
APPROVAL OF  
VARIABLE TERM  
WAIVER REQUEST FOR  
CCSD CERTIFICATION  
(Encl. No. 29)

A revised handout for *Item 10.6 – Notice Of Intent To Employ Certificated Personnel And Approval Of Variable Term Waiver Request For CCSD Certification (Encl. No. 29)* was distributed at the Board meeting because a revision was made after the Board agenda packet was posted and distributed.

Presenter: Dr. Tamara Ravalín, Assistant Superintendent of Human Resources Development

Dr. Ravalín recommended the Board approve the Variable Term Waiver Request For CCSD Certification for the following candidate:

- Diana Garcia

There were no comments from the public.

Member Ulmschneider moved to approve the variable term waiver request for CCSD certification for Diana Garcia. Member Crabtree seconded the motion. Motion carried unanimously.

Vote:

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

VUSD STAFF  
RECOMMENDATION TO  
ADOPT BP 3470 – DEBT  
MANAGEMENT –  
SECOND AND FINAL  
READING  
(Encl. No. 30)

President Vazquez stated that Enclosure Numbers 30-46 are all second reads and asked the Board to approve all of these enclosures with one motion and vote.

There were no comments from the public.

Member Fulmer moved to approve Enclosure Numbers 30-46, new or revised Board policies. Member Crabtree seconded the motion. Motion carried unanimously.

Vote:

Ayes: Crabtree, Fulmer, Griswold, Guerrero, Qualls, Ulmschneider, and Vazquez

Noes: None

Abstain: None

CSBA REVISION TO BP  
1230 – SCHOOL-  
CONNECTED  
ORGANIZATIONS –  
SECOND AND FINAL  
READING  
(Encl. No. 31)

Approved.

CSBA REVISION TO BP  
2121 –  
SUPERINTENDENT'S  
CONTRACT – SECOND  
AND FINAL READING  
(Encl. No. 32)

Approved.

VUSD  
RECOMMENDATION TO  
DELETE BP 2123 -  
EVALUATION OF  
SUPERINTENDENT –  
SECOND AND FINAL  
READING (Encl. 33)

Approved.

VUSD  
RECOMMENDATION TO  
ADOPT CSBA BP 2140 -  
EVALUATION OF THE  
SUPERINTENDENT –  
SECOND AND FINAL  
READING  
(Encl. No. 34)

Approved.

CSBA REVISION TO BP  
3311 – BIDS – SECOND  
AND FINAL READING  
(Encl. No. 35)

Approved.

CSBA REVISION TO BP  
3541.2 –  
TRANSPORTATION FOR  
STUDENTS WITH  
DISABILITIES – SECOND  
AND FINAL READING  
(Encl. No. 36)

Approved.

CSBA REVISION TO BP  
3580 – DISTRICT  
RECORDS – SECOND  
AND FINAL READING  
(Encl. No. 37)

Approved.

CSBA MINOR REVISION  
TO BP 4030 –  
NONDISCRIMINATION  
IN EMPLOYMENT –  
SECOND AND FINAL  
READING  
(Encl. No. 38)

Approved.

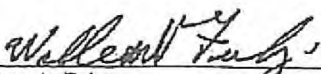
CSBA  
RECOMMENDATION TO  
DELETE BP 4112.24 –  
TEACHER  
QUALIFICATIONS  
UNDER THE NO CHILD  
LEFT BEHIND ACT –  
SECOND AND FINAL  
READING  
(Encl. No. 39)


Approved.

<p>CSBA REVISION TO BP 4117.13/4317.13 – EARLY RETIREMENT OPTION – SECOND AND FINAL READING (Encl. No. 40)</p>	<p>Approved.</p>
<p>VUSD REVISION TO BP 5116.1 – INTRADISTRICT OPEN ENROLLMENT – SECOND AND FINAL READING (Encl. No. 41)</p>	<p>Approved.</p>
<p>CSBA REVISION TO BP 6200 – ADULT EDUCATION – SECOND AND FINAL READING (Encl. No. 42)</p>	<p>Approved.</p>
<p>VUSD REVISION TO BP 7310 – NAMING OF SCHOOL FACILITY – SECOND AND FINAL READING (Encl. No. 43)</p>	<p>Approved.</p>
<p>CSBA REVISION TO BB 9222 – RESIGNATION – SECOND AND FINAL READING (Encl. No. 44)</p>	<p>Approved.</p>
<p>CSBA REVISION TO BB 9270 – CONFLICT OF INTEREST – SECOND AND FINAL READING (Encl. No. 45)</p>	<p>Approved.</p>
<p>CSBA REVISION TO BB 9321 – CLOSED SESSION PURPOSES AND AGENDAS – SECOND AND FINAL READING (Encl. No. 46)</p>	<p>Approved.</p>
<p><b>ADJOURNMENT</b></p>	<p>The meeting was adjourned at 9:18 p.m.</p>
<p><b>NEXT MEETING</b></p>	<p>The next regularly scheduled Board meeting will be held on Tuesday, March 14, 2017, at 5:30 p.m. in the Board Room at the VUSD Educational Complex located at 5000 West Cypress Avenue, Visalia (unless otherwise posted).</p>

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Respectfully submitted,

  
\_\_\_\_\_  
William A. Fulmer  
Board Clerk

  
\_\_\_\_\_  
Todd Oto, Ed.D.  
Board Secretary/Superintendent



## 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 his/her 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 his/her 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)*

**CONFLICT OF INTEREST (continued)**

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)

*(cf. 4117.2/4217.2/4317.2 - Resignation)*  
*(cf. 9222 - Resignation)*

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

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 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 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 18700-18709)

A Board member, designated employee, or other person in a designated position makes a governmental decision when he/she, acting within the authority of his/her 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 he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

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

Any 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 18707)

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.

**CONFLICT OF INTEREST (continued)**

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

However, the 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 and deliberations 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 Board member must recuse himself/herself from discussing or voting on that matter, but the Board member is not required to leave the room during consideration of the consent calendar.

4. If the 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 Board's decision.

*(cf. 3430 - Investing)*

*(cf. 9321 - Closed Session Purposes and Agendas)*

*(cf. 9321.1 - Closed Session Actions and Reports)*

**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 he/she has 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)



**CONFLICT OF INTEREST (continued)**

In addition, a Board member shall not be considered to be financially interested in a contract in which his/her interest is a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest in being reimbursed for his/her actual and necessary expenses incurred in the performance of his/her official duties, in the employment of his/her 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 his/her private or personal interest may conflict with his/her official duties.

**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.

**CONFLICT OF INTEREST (continued)**

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 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*

*Legal Reference continued: (see next page)*



**CONFLICT OF INTEREST (continued)**

*Legal Reference continued: (continued)*

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*

*Klistaff 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)*

*Management Resources: (next page)*

**CONFLICT OF INTEREST (continued)**

*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>

**Bylaw**

adopted: March 23, 1999

revised: January 9, 2001

revised: December 11, 2001

revised: April 13, 2004

reviewed: September 2006

reviewed: July 2008

revised: November 9, 2010

revised: February 28, 2017

**VISALIA UNIFIED SCHOOL DISTRICT**

**Visalia, California**

Board Bylaws

E 9270(a)

**CONFLICT OF INTEREST**

**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 Visalia Unified School District 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 district'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 Visalia Unified School District has recently reviewed its positions, and the duties of each position, and has determined that (changes/no changes) to the current conflict of interest code are necessary; and

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

NOW THEREFORE BE IT RESOLVED that the Visalia Unified School District 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

**CONFLICT OF INTEREST (continued)**

**Conflict of Interest Code of the  
Visalia Unified School District**

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 district'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 Appendix. The Statement of Economic Interest shall be filed with the district's filing officer and/or, if so required, with the district's code reviewing body. The district's filing officer shall make the statements available for public review and inspection.

**APPENDIX**

**Disclosure Categories**

1. **Category 1:** A person designated Category 1 shall disclose:
  - a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.
  - b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, 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 district, or manufacture or sell supplies, books, machinery, or equipment of the type used by the district.
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 or 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 manages or directs. For the purposes of this category, a principal's department is his/her entire school.



**CONFLICT OF INTEREST (continued)**

3. **Full Disclosure:** Because it has been determined that the district's Board members and/or Superintendent "manage public investments," they and other persons designated for "full disclosure" shall disclose, in accordance with Government Code 87200:
  - a. Interests in real property located entirely or partly within district boundaries, or within two miles of district boundaries, or of any land owned or used by the district.
  - b. Investments, business positions, and sources of income, including gifts, loans, and travel payments.

**Designated Positions**

<u>Designated Position</u>	<u>Disclosure Category</u>
Governing Board Members	1
Superintendent of Schools	1
Assistant/Associate Superintendent	1
Purchasing Agent	1
Director	2
Principal	2
Assistant Principal	2
Maintenance and Operations Director	2
Program Coordinator	2
Supervisor	2
Dean of Students	2

**Disclosures for Consultants**

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The 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 district, makes a governmental decision whether to: (2 CCR 18700.3)

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law

**CONFLICT OF INTEREST (continued)**

3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the district to enter into, modify, or renew a contract that requires district approval
5. Grant district approval to a contract that requires district approval and in which the district is a party, or to the specifications for such a contract
6. Grant district approval to a plan, design, report, study, or similar item
7. Adopt or grant district approval of district policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18704, subsections (a) and (b), or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict of interest code. (2 CCR 18700.3)

Exhibit  
Version: March 23, 1999  
revised: January 9, 2001  
revised: February 27, 2001  
revised: December 11, 2001  
revised: March 1, 2004  
reviewed: September 2006  
reviewed: July 2008  
revised: October 18, 2010  
revised: December 1, 2014  
revised: January 9, 2017

**VISALIA UNIFIED SCHOOL DISTRICT**  
Visalia, California

CONFLICT OF INTEREST

Note: The determination as to whether a conflict of interest exists must be analyzed under two separate sets of statutes: (1) the conflict of interest provisions of the Political Reform Act (PRA) (Government Code 87100-87505), detailed in the section below entitled "Conflict of Interest under the Political Reform Act," and (2) Government Code 1090-1098, detailed in the section below entitled "Conflict of Interest under Government Code 1090 - Financial Interest in a Contract." Even when a conflict does not exist pursuant to those statutes, a violation might still occur under the common law doctrine against conflict of interest; see the section below entitled "Common Law Doctrine Against Conflict of Interest."

Because the law and definitions are quite complex, it is strongly recommended that districts consult with legal counsel and staff from the Fair Political Practices Commission (FPPC) as soon as a potential conflict is presented.

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 his/her 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 his/her 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)

Note: The following paragraph reflects the common law definition of "relative within the third degree."

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.

Note: The Governing Board is required to adopt a conflict of interest code in compliance with Government Code 87300-87313. Board members and employees designated in the district's conflict of interest code are required by Government Code 87500 to annually file a Statement of Economic Interest/Form 700 to disclose any assets and income which may be materially affected by official actions. Under the PRA, there are two separate categories of Form 700 disclosure requirements. For the first category pursuant to Government Code 87302, which is applicable to most school districts, the disclosure requirements are determined by the district and set forth in the district's conflict of interest code. The second category, pursuant to Government Code 87200, is only applicable to Board members and designated employees who "manage public investments"; see section below entitled "Additional Requirements for Boards that Manage Public Investments." Those Board members and designated employees, referred to by the FPPC as Government Code 87200/Article 2 filers, must file broader disclosure statements pursuant to the disclosure requirements specified in law and FPPC regulation.

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CONFLICT OF INTEREST (continued)

Pursuant to Government Code 87303, the district's conflict of interest code must be approved by the appropriate code reviewing body. For districts located entirely in one county, the code reviewing body is the board of supervisors of the county in which the district is located. The FPPC is the code reviewing body for those school districts located in more than one county.

Pursuant to 2 CCR 18730, the requirements of the Government Code are satisfied if a district adopts a conflict of interest code that incorporates 2 CCR 18730 by reference, along with a list of designated positions and disclosure categories. The accompanying exhibit (E 9270) contains a sample resolution that includes an appendix with designated positions and disclosure categories which, once adopted by the Board, will comprise the terms of the district's conflict of interest code that should be submitted to the code reviewing body.

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)

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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)

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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)

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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 (continued)

Conflict of Interest under the Political Reform Act

Note: The FPPC has adopted an eight-step analysis, detailed in Government Code 87100-87500, 2 CCR 18700-18755, and interpretive opinions, to determine whether a conflict of interest exists under the PRA. When such a conflict exists, the affected Board member must disclose the interest and disqualify himself/herself from participating in the decision, as specified below. Because Family Code 297.5 grants a registered domestic partner the same rights, protections, and benefits as a spouse under state law, analysis of a conflict of interest with regards to a Board member's spouse is also applicable to a registered domestic partner.

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 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 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 18700-18709)

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A Board member, designated employee, or other person in a designated position makes a governmental decision when he/she, acting within the authority of his/her 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.

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Note: 2 CCR 18705 permits a Board member who is financially interested in a contract to participate in making a decision on the contract if (1) he/she discloses the existence of the conflict and describes with particularity the nature of his/her economic interest in the contract; (2) gives a summary description of the circumstances under which he/she believes the conflict may arise; and (3) either he/she, another Board member, or a district employee discloses the legal basis for concluding that no alternative source of decision exists for the district. In general, this rule will permit a district to acquire an essential supply or service. CSBA strongly recommends that legal counsel be consulted when situations arise involving the rule of necessity, as strict compliance is required.

However, a Board member shall participate in the making of a contract in which he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

Additional Requirements for Boards that Manage Public Investments

Note: The following optional section is for use only by districts in which the Board and/or designated employees are considered to be "officials who manage public investments" and who are required to

CONFLICT OF INTEREST (continued)

file a full financial disclosure statement in accordance with Government Code 87200. It should be deleted by all other districts. See the accompanying exhibit for further information.

According to the FPPC, officials who manage public investments are boards or designated employees who manage the investment of district surplus or special reserve funds in permitted securities and investments pursuant to Education Code 41015. Those boards that direct the investment of these funds, formulate or approve policies for the investment of these funds, even if they delegate day-to-day investment decisions to staff, or approve investment transactions involving these funds are considered officials who manage public investments.

The Board does not manage public investments when the district does not have any surplus or special reserve funds to invest and merely deposits all funds it receives (1) in the county treasury pursuant to Education Code 41001-41002.5 or (2) in a fund where a Tax and Revenue Anticipation Note (TRANs) is issued. Board members and superintendents in these types of situations are not considered to have discretion regarding the investment of the district's money and are therefore not officials who manage public investments.

Any 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 18707)

Deleted: 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

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 Board member shall not be counted toward achieving a quorum while the item is discussed.

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However, the 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 and deliberations of the matter with members of the public.

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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 Board member must recuse himself/herself from discussing or voting on that matter, but the Board member is not required to leave the room during consideration of the consent calendar.

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4. If the 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

CONFLICT OF INTEREST (continued)

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 Board's decision.

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(cf. 3430 - Investing)  
(cf. 9321 - Closed Session Purposes and Agendas)  
(cf. 9321.1 - Closed Session Actions and Reports)

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

Note: Pursuant to Government Code 1090, if a Board member has a financial interest in a contract, it is an absolute bar for that district to enter into the contract. The Attorney General has opined in 69 Ops. Cal. Attv. Gen. 255 (1986) that, unlike the PRA, the prohibitions in Government Code 1090 cannot be resolved by having the financially interested Board member abstain from participating in the matter. However, there are two categories of exceptions. If a financial interest meets the definition of a "noninterest" as specified in Government Code 1091.5, then the restrictions in Government Code 1090 do not apply and the district can enter into the contract. Secondly, if a Board member's interest is deemed a "remote interest" pursuant Government Code 1091, then the district can enter into the contract as long as certain conditions are satisfied, as specified below.

While the prohibitions in the PRA only apply to designated employees, the prohibitions in Government Code 1090 apply to all district employees and consultants. California appellate courts have ruled in McGee v. Balfour Beatty Construction LLC and Davis v. Fresno Unified School District that Government Code 1090 applies to consultants, including corporate consultants, who fill the roles and positions of officers, employees, and agents of the district. However, the Attorney General has opined in 63 Ops. Cal. Attv. Gen. 368 (1980) that an employee's financial interest would not prohibit the district from entering into a contract as long as the employee has not participated in the making of the contract, such as in discussions and planning, as detailed below.

Government Code 1090 does not define financial interest, but courts have held that, for the purposes of this statute, the definition of "financial interest" is not the same as the definition in the PRA which requires a "material financial effect" in order for a conflict to exist. Because the determination of whether a financial interest exists involves a review of statutes, court decisions, and Attorney General opinions as they apply to the particular facts at issue, the analysis can be complex and legal counsel should be consulted as appropriate.

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)

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Note: The district may enter into a contract when a Board member's interest is a "remote interest" as defined in Government Code 1091. Generally, this issue arises when the district wishes to enter into a contract with the Board member's employer. When the conditions specified in Government Code 1091 are satisfied (e.g., Board member is an employee of a nonprofit organization, the employer has at least 10 employees, and the Board member has been employed more than three years), then the district may enter into the contract as long as the affected Board member discloses the remote interest and abstains from the matter.

**CONFLICT OF INTEREST (continued)**

Board members who willfully fail to disclose a remote interest in a contract may be subject to a fine or imprisonment pursuant to Government Code 1097.

A Board member shall not be considered to be financially interested in a contract in which he/she has 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)

Note: Pursuant to Government Code 1091.5, certain financial interests are defined as "noninterests," meaning a conflict of interest does not exist and the district can enter into the contract. One of the noninterests listed in Government Code 1091.5 is when a Board member's spouse has been employed by the district for at least one year prior to the Board member's election or appointment. If the spouse has not been employed by the district for at least one year prior to the Board member's election or appointment, the exception does not apply and Government Code 1090 prohibits the district from entering into a new contract to hire the spouse. (80 Ops.Cal.Atty.Gen. 320 (1997))

Attorney General opinions and case law have further clarified the application of this noninterest exception when a previously employed spouse changes to a different position during the Board member's term. Generally, these opinions have held that a lateral transfer or change of classification that does not require Board approval (e.g., second year probationary teacher automatically achieving permanent status, step increase) is the same employment not requiring a new contract and thus constitutes a noninterest. (92 Ops.Cal.Atty.Gen. 26 (2009), 87 Ops.Cal.Atty.Gen. 23 (2004)) However, when a new contract is involved (e.g., promotion from classroom teacher to principal, substitute employee becoming a probationary employee), the exception in Government Code 1091.5 does not apply and the action would be prohibited under Government Code 1090 because Board approval of the contract is required. (Thorpe v. Long Beach Community College District, 69 Ops.Cal.Atty.Gen. 255 (1986))

Because this area of law is complex, it is strongly recommended that district legal counsel be consulted if a Board member's spouse is an employee of the district or when analyzing whether an interest is a noninterest or remote interest.

In addition, a Board member shall not be considered to be financially interested in a contract in which his/her interest is a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest in being reimbursed for his/her actual and necessary expenses incurred in the performance of his/her official duties, in the employment of his/her 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**

Note: Even when there is not a conflict pursuant to the PRA (Government Code 87100-87505) or Government Code 1090, the Attorney General has found that special situations may still exist under the common law doctrine against conflict of interest which, unlike the statutes, extends to noneconomic interests. In 92 Ops.Cal.Atty.Gen. 19 (2009), the Attorney General opined that a redevelopment board member should abstain from voting on a loan agreement where the recipient of the loan was a corporation

Deleted: if his/her interest is a "noninterest" as defined in Government Code 1091.5. A Board member or designated employee shall not be considered to be financially interested in a contract if his/her interest includes, but is not limited to, any of the following: (Government Code 1091.5)¶

1. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty;¶

2. That of a recipient of public services generally provided by the public body board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board;¶

3. That of a landlord or tenant of the contracting party 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 or an adjoining 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 an adjoining state unless the subject matter of such contract is the property

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4. That of a spouse of an officer or employe...  
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Moved up [2]: 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 t...

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**CONFLICT OF INTEREST (continued)**

owned by the board member's adult son. Although the board member was not financially interested in the contract under the PRA or Government Code 1090, the Attorney General determined that abstention was necessary in order to avoid a conflict between the member's official and personal interests and to avoid the appearance of impropriety.

Districts are encouraged to consult legal counsel if situations arise that raise the question as to whether such a conflict exists.

A Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

**Incompatible Offices and Activities**

Note: Government Code 1099 and 1126 prohibit Board members and employees from engaging in any employment or activity which is inconsistent, incompatible, in conflict with, or inimical to their duties with the district. Government Code 1126 mandates the district to adopt procedures regarding this prohibition. See BP 4136/4236/4336 - Nonschool Employment for language implementing this mandate relative to employees.

Attorney General opinions have indicated that it would be incompatible for Board members to serve on other elected or appointed boards, councils, or commissions that have interests which may conflict with the interests of the district (85 Ops. Cal. Atty. Gen. 60 (2002); 68 Ops. Cal. Atty. Gen. 171 (1985); 65 Ops. Cal. Atty. Gen. 606 (1982)). If a Board member is sworn into an incompatible office, then his/her position in the prior office is automatically terminated.

Pursuant to Education Code 35107, an employee of a school district may not be sworn into office as an elected or appointed member of that district's Board unless he/she resigns as an employee. If the employee does not resign, the employment automatically terminates when he/she is sworn into office. See BB 9220 - Governing Board Elections.

The determination as to whether an activity or office is incompatible is complex and requires a case-by-case analysis of the particular activities or duties of the office; therefore, it is recommended that district legal counsel be consulted as appropriate.

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**

Note: Pursuant to 2 CCR 18730, the gift limitation is currently \$460. This amount is adjusted in odd-numbered years by the FPPC. Pursuant to Government Code 89503, Board members and candidates are subject to gift limitation for gifts from all sources except when exempted by law or regulation. For those Board members who file a Form 700 based on the disclosure categories specified in the district's conflict of interest code pursuant to Government Code 87302 (see the accompanying exhibit), the gift limit is only applicable as to those individuals and entities that are disclosed on the Form 700.

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¶  
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 18708.5



**CONFLICT OF INTEREST (continued)**

Several exceptions exist within the Government Code's definitions of gifts, income, interest in real property, and investment; see Government Code §2028, §2030, §2033, and §2034. If questions arise as to such exceptions, the district may seek clarification from the FPPC through email to [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov) or consult legal counsel.

Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code §9503 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 §9503)

In addition, the limitation on gifts does not apply to informational materials such as books, reports, pamphlets, calendars, and periodicals. (Government Code §2028)

Note: Board members and designated employees may, in the circumstances described in Government Code §9506, receive payments, advances, or reimbursements for travel and related lodging and subsistence, which will not be subject to the gift limit set in Government Code §9503.

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation, except when: (Government Code §9506)

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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 §9506, 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 §9506)

**Honoraria**

Board members and designated employees shall not accept any honorarium, which is defined

**CONFLICT OF INTEREST** (continued)

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)

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The term *honorarium* does not include: (Government Code 89501)

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BB 9270(c)j

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 Reference:*EDUCATION CODE1006 *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 CODE297.5 *Rights, protections, and benefits of registered domestic partners*GOVERNMENT CODE1090-1099 *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 CODE85-88 *Bribes*REVENUE AND TAXATION CODE203 *Taxable and exempt property - colleges*

Legal Reference continued: (see next page)

BB 9270(j)

## CONFLICT OF INTEREST (continued)

Legal Reference: (continued)

### 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

Khistoff v. Superior Court, (2007) 157 Cal.App.4th 169

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th 655

Kiniec 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>

Bylaw  
adopted:

CSBA MANUAL MAINTENANCE SERVICE  
May 2016

