

AP 2710 Conflict of Interest

Reference:

Government Code Section 8715; 87200-87210;
Title 2, Section 18700 et seq,

- 1.0 **Incompatible Activities (Government Code Section 1126):** Board members shall not engage in any employment or activity that is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the District.
 - 1.1 A board member shall not simultaneously hold two public offices that are incompatible.
 - 1.2 When two offices are incompatible, a board member shall be deemed to have forfeited the first office upon acceding to the second.
- 2.0 **Financial Interest (Government Code Section 1090 et seq.):** Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as members of the Board or as designated employees.
 - 2.1 A board member shall not be considered to be financially interested in a contract if his or her interest meets the definitions contained in applicable law (Government Code Section 1091.5).
 - 2.2 A board member shall not be deemed to be financially interested in a contract if he or she has only a remote interest in the contract and if the remote interest is disclosed during a board meeting and noted in the official board minutes. The affected board member shall not vote or debate on the matter or attempt to influence any other member of the Board to enter into the contract. Remote interests are specified in Government Code Sections 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his or her minor child.
- 3.0 **No Employment Allowed (Education Code Section 72103(b):** An employee of the District may not be sworn in as an elected or appointed member of the governing board unless and until he or she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office. This provision does not apply to an individual who is usually employed in an occupation other than teaching and who also is, at the time of election to the board, employed part time by the District to teach no more than one course per semester or quarter in the subject matter of that individual's occupation (Education Code Section 72103(b)).
- 4.0 **Financial Interest in a Decision (Government Code Section 87100 et seq.):** If a board member or designated employee determines that he or she has a financial interest in a decision, as described in Government Code Section 87103, this determination shall be disclosed and made part of the Board's official minutes. In the case of a designated employee, this announcement shall be made in writing and submitted to the Board. A board

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member, upon identifying a conflict of interest, or a potential conflict of interest, shall do all of the following prior to consideration of the matter:

- 4.1 Publicly identify the financial interest in detail sufficient to be understood by the public.
 - 4.2 Excuse himself or herself from discussing and voting on the matter.
 - 4.3 Leave the room until after the discussion, vote, and any other disposition of the matter is concluded unless the matter is placed on the agenda reserved for uncontested matters. A board member may, however, discuss the issue during the time the general public speaks on the issue.
- 5.0 **Gifts (Government Code Section 89503):** Board members and any employees who manage public investments shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law (\$360).
- 5.1 Designated employees shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law if the employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.
 - 5.2 The above limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.
 - 5.3 Gifts of travel and related lodging and subsistence shall be subject to the above limitations except as described in Government Code Section 89506.
 - 5.3.1 A gift of travel does not include travel provided by the District for board members and designated employees.
 - 5.4 Board members and any employees who manage public investments shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering (Government Code Sections 89501, 89502).
 - 5.5 Designated employees shall not accept any honorarium that is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, if the employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. The term "honorarium" does not include:
 - 5.5.1 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.

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5.5.2 Any honorarium that 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 for income tax purposes.

6.0 **Representation (Government Code 87406.3):** Elected officials shall not, for a period of one year after leaving their position, act as an agent or attorney for, or otherwise represent for compensation, any person appearing before that local government agency.

7.0 CONFLICT OF INTEREST CODE

7.1 Legal Requirements

The Political Reform Act (Government Code Sections 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Reg. Sec. 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of Title 2, California Code of Regulations, Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached appendix designating officials and employees and establishing disclosure categories shall constitute the conflict of interest code of the North Orange County Community College District.

7.2 Filing of Statements

Designated employees and officials shall file statements with the North Orange County Community College District who will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees and officials will be retained by the North Orange County Community College District.

7.2 Officials Who Manage Public Investments

7.3.1 It has been determined that the following positions manage public investments and will file a Statement of Economic Interests pursuant to Government Code Section 87200:

7.3.1.1 Elected members of the Board of Trustees;

7.3.1.2 Student trustees.

7.3.2 Subject to the provisions of Government Code Sections 87200 through 87210, an official in this category shall disclose:

7.3.2.1 Interests in real property located within the jurisdiction of the District;

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7.3.2.2 Business positions or investments in business entities or income from sources which plan to do business, are currently doing business, or have done business within the jurisdiction of the District during the previous two (2) years.

7.4 Designated Positions and Disclosure Categories

7.4.1 It has been determined that the following positions within the District involve the making or participation in the making of decisions which may foreseeably have a material effect on a financial interest of a person holding the position and will file a Statement of Economic Interests pursuant to Government Code Section 87302:

7.4.1.1 District Positions Disclosure Categories

Chancellor	1, 2(a), 3
Vice Chancellor, Finance and Facilities	1, 2(b), 3
Vice Chancellor, Human Resources	1, 2(b), 3
Provost, School of Continuing Education	1, 2(b), 3
District Director, Facilities Control	2(b), 3
District Director, Fiscal Affairs	2(b), 3
District Director, Printing and Design	2(b)
District Director, Information Services	2(b)
District Director, Public Affairs	2(b)
District Director, Purchasing	2(b), 3
District Manager, Fiscal Affairs	2(b), 3
Administrative Assistant/Purchasing	2(b)
District Risk Manager	2(b)
Manager, District Facilities Planning/ Maintenance	2(b)
Manager, District Facilities and Construction Contracts	2(b)
Buyer	2(b)
Warehouse Supervisor	2(b)

7.4.1.2 College Positions

President	1, 2(a), 3
Executive Vice President, Educational Programs and Student Services	1, 2(b), 3
Vice President, Educational Support and Planning	1, 2(b), 3
Vice President, Instruction	1, 2(b), 3
Vice President, Student Services	1, 2(b), 3
Manager, SCE Administrative Services	2(b), 3
Dean, Counseling/Student Development	2(b)
Dean, Library/Learning Resources	2(b)
Dean, Student Support Services	2(b)
Director Bookstore	2(b)

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Public Information Officer	2(b)
Manager, Campus Accounting	2(b)
Manager, Maintenance and Operations	2(b), 3
Director, Physical Plant/Facilities	2(b), 3
Director, Student Activities	2(b)
Dean, Academic Services	2(b)
Director, Budget/Finance	2(b), 3
Director, Academic Computing Technologies	2(b)
Manager, Systems Technology Services	2(b)
Manager, Instructional Technology Services	2(b)
Executive Director, Foundation and Community Relations	2(b)

7.4.1.3 **Consultants**

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the Code subject to the following limitations:

The Chancellor may determine in writing that a particular Consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

7.4.2 **Disclosure Categories**

7.4.2.1 **Category 1: Designated employees whose duties are broad and undefinable:** Subject to the provisions of the applicable codes, a designated employee in this category shall disclose:

7.4.2.1.1 Interests in real property located within the jurisdiction of the District.

7.4.2.1.2 Business positions or investments in business entities or income from sources of the type which plan to do business, are currently doing business, or have done business with the District within the previous two (2) years.

7.4.2.2 **Category 2: Designated employees whose duties involve contracting or purchasing:** Subject to the provisions of the applicable code, a designated employee in either of the two following sub-categories shall disclose:

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7.4.2.2.1 **Contracts or makes purchases for entire District or college:**

Investments and business positions in business entities or income from sources of the type which plan to do business, are currently doing business, or have done business with the District or college within the previous two (2) years and which provide services, supplies, materials, machinery or equipment of the type utilized by the District.

7.4.2.2.2 **Contracts or makes purchases for specific department:**

Investments and business positions in business entities or income from sources of the type which plan to do business, are currently doing business, or have done business with the District or college within the previous two (2) years and which provide services, supplies, materials, machinery or equipment of the type utilized by the designated employee's department or division.

7.4.2.3 **Category 3: Designated employees whose decisions may affect real property interests:** Subject to the provisions of the applicable code, a designated employee in this category shall disclose:

7.4.2.3.1 Investments and business positions in business entities or income from sources of the type which plan to do business, are currently doing business, or have done business with the District or college within the previous two (2) years and which engage in land development, construction or the acquisition, lease, or sale of real property, and all interests in real property within the jurisdiction of the District.

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