

AP 2710 Conflict of Interest

Reference:

Government Code Sections 1090 et seq., 1126, 87105, 81000 et seq., 87103(e), 87200-87210, 89501, 89502, and 89503;
Title 2 Section 18700 et seq.;
2 Code of Federal Regulations Part 200.318 subdivision (c)(1); and other citations as listed below

- 1.0 **Incompatible Activities (Government Code Sections 1099 and 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 Sections 1090 et seq.):** Board members and designated employees shall not be financially interested in any contract made by the Board of Trustees 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 their 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 they have only a remote interest in the contract and if the remote interest is disclosed during a Board of Trustees' meeting and noted in the official Board of Trustees' minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other member of the Board of Trustees 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 their 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 they resign 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 of Trustees, 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 Sections 87100 et seq.):** If a Board member or designated employee determines that he/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 of Trustees. A Board member, upon identifying a conflict of interest, or a potential conflict of

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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 themselves 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.
- 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/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 and 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/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.
 - 5.5.2 Any honorarium that is not used and, within thirty (30) days after receipt, is either returned to the donor or delivered to the District for donation into

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the general fund without being claimed as a deduction for income tax purposes.

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

7.0 **Contracts Supported by Federal Funds (2 Code of Federal Regulations Part 200.318(c)(1)):** No employee, Board member, or agent of the District may participate in the selection, award, or administration of a contract supported by a federal award if he/she has a real or apparent conflict of interest.

7.1 Such a conflict of interest would arise when the employee, Board member, or agent, any member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

7.2 The Board members, employees, and agents of the District may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

7.3 Disciplinary action will be taken for violations of such standards by Board members, employees, or agents of the District.

8.0 CONFLICT OF INTEREST CODE

8.1 **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 positions and establishing disclosure categories, shall constitute the conflict of interest code of the North Orange County Community College District.

8.2 **Filing of Statements:** Individuals holding designated positions 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 will be retained by the North Orange County Community College District.

8.3 Officials Who Manage Public Investments

8.3.1 It has been determined that the following positions manage public

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investments and will file a Statement of Economic Interests pursuant to Government Code Section 87200:

8.3.1.1 Elected members of the Board of Trustees;

8.3.1.2 Student trustees.

8.3.1.3 An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations, if they believe their position has been categorized incorrectly. The Fair Political Practices Commission makes the determination whether a position is covered by Section 87200.

8.4 Designated Positions and Disclosure Categories

8.4.1 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:

8.4.1.1 <u>District Positions</u>	<u>Disclosure Categories</u>
Chancellor	1, 2
Vice Chancellor, Educational Services and Institutional Effectiveness	1, 2
Vice Chancellor, Administrative Services	1, 2
Vice Chancellor, Human Resources	1, 2
District Director, Facilities Planning/Construction	1, 2
Executive Director, Fiscal Affairs	1, 2
Associate Vice Chancellor, Human Resources	1, 2
Executive Director, Information Technology & Services (CTO)	1, 2
Chief Information Security Officer (CISO)	1, 2
District Director, Printing and Design	2
District Director, Public & Governmental Affairs	2
District Director, Purchasing	2
District Director, Human Resources Operations	2
District Manager, Fiscal Affairs	2
Assistant District Director, Purchasing	2
District Director, Risk Management & Workplace Safety	2
Manager, District Facilities Planning, Maintenance & Construction Contracts	2
Buyer	2

8.4.1.2 Campus Positions

President	1, 2
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North Orange County Community College District
ADMINISTRATIVE PROCEDURES
Chapter 2
Board of Trustees

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Vice President, Administrative Services	1, 2
Vice President, Instruction	1, 2
Vice President, Student Services	1, 2
Director, NOCE Administrative Services	1, 2
Project Manager, Campus Capital Projects	1, 2
Dean, Counseling/Student Development	3
Dean, Library/Learning Resources	3
Dean, Student Support Services	3
Director, Campus Communications	3
Manager, Campus Accounting	3
Manager, Maintenance and Operations	1, 3
Director, Physical Plant/Facilities	1, 3
Director, Student Life and Leadership	3
Director, Academic Computing Technologies	3
Manager, Systems Technology Services	3
Manager, Instructional Technology Services	3
Executive Director, Foundation and Community Relations	3

8.4.1.3 Consultants

8.4.1.3.1 Consultants/New Positions 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:

8.4.1.3.2 With respect to consultants or new positions, the Chancellor may determine in writing that a particular Consultant or new position, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such determination shall include a description of the consultant's or new position'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. (Gov. Code Sec. 81008)

8.4.2 Disclosure Categories

8.4.2.1 Category 1: Designated positions assigned to this category must report:

8.4.2.1.1 Interests in real property located within the jurisdiction of the District that are used by the District as well as real property within two miles of the use or potential use.

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8.4.2.1.2 Business positions or investments in business entities or income (including receipt of gifts, loans, and travel payments) from sources of the type that engage in the acquisition or disposal of real property or are engaged in building construction or design for school districts.

8.4.2.2 **Category 2: Designated positions assigned to this category must report:**

8.4.2.2.1 Investments and business positions in business entities or income (including receipt of gifts, loans, and travel payments) from sources of the type that are contractors engaged in the performance of work, training, consulting or services, or are sources that manufacture or sell supplies, instructional materials, machinery, equipment, or vehicles of the type utilized by the District.

8.4.2.3 **Category 3: Designated positions assigned to this category must report:**

8.4.2.3.1 Investments and business positions in business entities or income (including receipt of gifts, loans, and travel payments) from sources of the type that are contractors engaged in the performance of work, training, consulting or services, or are sources that manufacture or sell supplies, instructional materials, machinery, equipment, or vehicles of the type utilized by the designated position's department.

See Board Policy 2200, Board Duties and Responsibilities; Board Policy 2710, Conflict of Interest; Board Policy and Administrative Procedure 2715, Code of Ethics/Standards of Practice; Board Policy 2716, Board Political Activity; Board Policy, 2717, Personal Use of Public Resources; and Board Policy and Administrative Procedure 3050, Institutional Code of Ethics.

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November 30, 2011 Chancellor's Staff
December 12, 2006
July 25, 2006
June 1, 2004