



**SANTA MARIA-BONITA SCHOOL DISTRICT  
SUPERINTENDENT'S OFFICE**

Paula Elkins  
Executive Secretary  
(805) 361-8111

September 29, 2008

Jerry Czuleger  
Senior Deputy County Council  
Office of the County Council  
105 E. Anapamu Street  
Santa Barbara, CA 93101

Dear Mr. Czuleger,

In reference to our conversation this afternoon regarding the Board Bylaw 9270, Conflict of Interest, the changes made to our Bylaw were very minimal. The positions of the designated employees was just rearranged and categorized differently then in our original Bylaw. The Directors were all put categorized together instead of separately as well as the Coordinators.

On the last page of the Bylaw is the name of our school district and the dates it has been revised.

If you have any further questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Paula J. Elkins'.

Paula J. Elkins  
Executive Secretary

Enclosure

ARTICLE 9

BYLAWS OF THE BOARD

(Series 9000)

	CODE	
0. Role of Board and Members (includes powers, purposes, duties).....	9000	BB
A. Governance Standards.....	9005	BB
B. Public Statements.....	9010	BB
1. Disclosure of Confidential Information.....	9011	BB
1. Organization.....	9100	BB
A. Number of Regular/Student Members; Terms of Office.....	9110	BB
B. Officers and Auxiliary Personnel.....	9120	BB
1. President.....	9121	BB
2. Secretary.....	9122	BB
3. Clerk.....	9123	BB
4. Attorney.....	9124	BB
C. Board Committees.....	9130	BB
D. Board Representatives (includes negotiators, Other representatives).....	9140	BB
2. Members (Limits of Authority).....	9200	BB
A. Qualifications.....	9210	
B. Governing Board Elections.....	9220	BB
1. Recruiting New Board Members.....	9221	
2. Resignation.....	9222	BB
3. Filling Vacancies.....	9223	BB
C. Orientation.....	9230	
D. Development in Service.....	9240	BB
E. Remuneration and Reimbursement.....	9250	BB
F. Legal Protection.....	9260	BB
G. Conflict of Interest.....	9270	BB
3. Board Operations.....	9300	
A. Development, Distribution and Maintenance of Policy Manual.....	9310	BB
1. Formulation, Adoption, Amendment of Policies.....	9311	BB
2. Formulation, Adoption, Amendment of Bylaws.....	9312	
3. Administrative Regulations.....	9313	BB
4. Suspension of Policies, Bylaws, ..... of Governing Board Policy.....	9314	BB
5. Administrative Leeway in Absence of Governing Board Policy.....	9315	BB
B. Meetings.....	9320	BB
1. Closed Sessions.....	9321	BB
2. Agenda/Meeting Materials (includes construction, posting, advance delivery).....	9322	BB
3. Meeting Conduct.....	9323	BB
a. Order of Business.....	9323.1	BB
b. Actions by Board.....	9323.2	BB
4. Minutes.....	9324	BB
C. Membership in Associations.....	9340	BB
4. Board Evaluation x0500.....	9400	BB

**CONFLICT OF INTEREST**

**Incompatible Activities**

Governing Board members shall not engage in any employment or activity 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 1126)

**Conflict of Interest Code**

The district's conflict of interest code shall be comprised of the terms of 2CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a district attachment specifying designated positions and the specific types of disclosure statements required for each position.

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code in even-numbered years. If no change in the code is required, the district shall submit by October 1 a written statement to that effect to the code reviewing body. If a change in the code is necessitated by changed circumstances, the district shall submit an amended code to the code reviewing body. (Government Code 87306.5)

When a change in the district's conflict of interest code is necessitated by changed circumstances, such as the creation of new designated positions, amendments or revisions, the changed code shall be submitted to the code reviewing body within 90 days. (Government Code 87306)

When reviewing and preparing conflict of interest codes, the district shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

If a Board member or designated employee determines that he/she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required. (2 CCR 18700)

Statements of economic interests submitted to the district by designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction. (Government Code 81008)

**Financial Interest**

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 Board members or designated employees. (Government Code 1090)

**CONFLICT OF INTEREST (continued)**

A Board member 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 or 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 in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091
4. That of a spouse of an officer or employee of the district if his/her spouse's employment or officeholding has existed for at least one year prior to his/her election or appointment
5. That of nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records
6. That of a noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the nonprofit board or to which the school Board has a legal obligation to give particular consideration, and provided further that such interest is noted in its official records
7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that such interest is noted in its official records
8. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm

**CONFLICT OF INTEREST (continued)**

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

A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and if the remote interest is disclosed during a 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 to enter into the contract. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

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

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person 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 the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

**Disqualification for Board Members Who Manage Public Investments**

A 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:

1. Publicly identify the 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. (Government Code 87105)
2. Recuse himself/herself from discussing and voting on the matter or otherwise acting in violation of a Government Code 87100. This Board member shall not be counted toward achieving a quorum while the item is discussed. (Government Code 87105; 2 CCR 18702.5)

**CONFLICT OF INTEREST (continued)**

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. (Government Code 87105)

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 the consent calendar. (2CCR 18702.5)

*(cf. 3430 – Investing)*

The Board member may speak on the issue during the time that the general public speaks on the issue. The Board member shall recuse himself/herself from voting on the matter and leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion of the matter with members of the public. (Government Code 87105; 2 CCR 18702.5)

If the Board's decision is made during closed session, the public identification may be made orally during the open session before the Board goes into closed session and shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 87100. The Board member shall not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the Board's decision. (2 CCR 18702.5)

**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 limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

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

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 gathering, in accordance with law. (Government Code 89501, 89502)

**CONFLICT OF INTEREST (continued)**

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.

**APPENDIX  
DESIGNATED POSITION/DISCLOSURE CATEGORIES**

1. Persons occupying the following positions are designated employees in **Category 1**:
  - Governing Board Members
  - Superintendent of School
  - Assistant Superintendent of Business Services
  - Assistant Superintendent of Curriculum & Instruction
  - Assistant Superintendent of Human Resources
  - Purchasing Supervisor
  - Directors:
    - Special Education
    - Curriculum & Instruction
    - Consolidated Projects
    - Food Service
    - Pupil Personnel
  - Coordinators
    - Curriculum & Instruction
    - Maintenance, Operations, Facilities & Transportation
    - Budget & Finance
    - Migrant Services
    - After School Programs

Designated persons in this category must report:

- 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. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
- b. Investments or business positions in or income from sources which:

**CONFLICT OF INTEREST (continued)**

- (1) Are engaged in the acquisition or disposal of real property within the district
- (2) 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
- (3) Manufacture or sell supplies, books, machinery or equipment of the type used by the district

2. Persons occupying the following positions are designated employees in **Category 2:**

Principal  
Assistant Principal/Administrator  
Maintenance and Operations Director  
Project Specialist  
Supervisor  
Consultants  
Student Housing Technician  
Assistant Administrator  
Supervisor

- Supervisor – IMC
- Budget
- Food Services
- Human Resources
- Maintenance & Operations

Designated persons in this category must report investments or business positions in or income from sources which:

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
  - b. 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.
3. 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.



**CONFLICT OF INTEREST (continued)**

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

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the district to enter into, modify or renew a contract that requires district approval
- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- f. Grant district approval to a plan, design, report, study or similar item
- g. 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 18702.2 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 18701)

*Legal Reference: (see next page)*

**CONFLICT OF INTEREST (continued)**

*Legal Reference:*

EDUCATION CODE

- 1006 *Qualifications for holding office*
- 35107 *School district employees*
- 35230-35240 *Corrupt practices*
- 35233 *Prohibitions applicable to members of governing boards*
- 35239 *Compensations for board members in districts under 70 ADA*

GOVERNMENT CODE

- 1090-1098 *Prohibitions applicable to specified officers*
- 1125-1129 *Incompatible activities*
- 81000-91015 *Political Reform Act of 1974, especially:*
- 82011 *Code reviewing body*
- 82019 *Definition of designated employee*
- 82028 *Definition of gifts*
- 82030 *Definition of income*
- 87100-87103.6 *General prohibitions*
- 87200-87210 *Disclosure*
- 87300-87313 *Conflict of interest code*
- 87500 *Statements of economic interests*
- 89501-89503 *Honoraria and gifts*
- 91000-91014 *Enforcement*

CODE OF REGULATIONS, TITLE 2

- 18110-18997 *Regulations of the Fair Political Practices Commission, especially:*
- 18702.5 *Public identification of a conflict of interest for Section 87200 filers*

COURT DECISIONS

- Thorpe v. Long Beach Community College District, (2000) 83 Cal. App. 4<sup>th</sup>. 655*
- Kunec v Brea Redevelopment Agency, (1997) 55 Cal. App. 4<sup>th</sup> 511*

ATTORNEY GENERAL OPINIONS

- 86 *Ops. Cal. Atty. Gen. 138 (2003)*
- 85 *Ops Cal. Atty. Gen. 60 (2002)*
- 82 *Ops. Cal. Atty. Gen. 83 (1999)*
- 81 *Ops. Cal. Atty. Gen. 327 (1998)*
- 80 *Ops. Cal. Atty. Gen. 320 (1997)*
- 69 *Ops. Cal. Atty. Gen. 255 (1986)*
- 68 *Ops. Cal. Atty. Gen. 171 (1985)*
- 65 *Ops. Cal. Atty. Gen. 606 (1982)*

*Management Resources:*

WEB SITES

*Fair Political Practices Commission:* <http://www.fppc.ca.gov>

Bylaw  
adopted:  
revised  
revised

SANTA-MARIA BONITA SCHOOL DISTRICT  
April 2004  
October 25, 2006  
August 27, 2008