

2012 Local Agency Biennial Notice

Name of Agency: Lompoc Unified School District

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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 requires disclosure by 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:

(Mark 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) _____

☐ No amendment is required.

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

Verification

The agency's code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of 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 the designated positions; and the code includes all other provisions required by Government Code Section 87302.

Gregory Kampf
Signature of Chief Executive Officer

9-26-12
Date

Complete this notice regardless of how recently your code was approved or amended.
Please return this notice no later than **October 1, 2012**, or the date specified by your agency, if earlier, to:

(PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE)

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

Board Bylaws

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. In accordance with law, Board members and designated employees shall disclose any conflict of interest and, as necessary, shall abstain from participating in the decision. (cf. 9005 - Governance Standards)

The Board shall adopt a resolution that specifies the terms of the District's conflict of interest code, the District's designated positions, and the disclosure categories required for each position.

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.

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. (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)

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 statement and the date of leaving office or district employment. (Government Code 87302, 87500) (cf. 4117.2/4217.2/ 4317.2 - Resignation) (cf. 9222 - Resignation)

Conflict of Interest under the Political Reform Act

A Board member or designated employee 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 conflict of interest exists if the decision will have a "reasonably

Board Bylaws

Conflict Of Interest (continued)

foreseeable material financial effect" on one or more of the Board member's or designated employee's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the Board member's or designated employee's participation is legally required. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

A Board member or designated employee makes a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or commits the District to any course of action, or enters into any contractual agreement on behalf of the District. (2 CCR 18702.1)

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 from voting on the matter. He/she may remain on the dais, but his/her presence shall not be counted towards achieving a quorum for that matter. A Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue. (2 CCR 18702.1)

Additional Requirements for Boards that 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: (Government Code 87105; 2 CCR 18702.5)

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.

Board Bylaws

Conflict Of Interest (continued)

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 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)

Conflict of Interest Under Government Code 1090

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, the District is barred from entering into the contract. (Government Code 1090; Klistoff v. Superior Court, (2007) 157 Cal.App. 4th 469)

A Board member shall not be considered to be financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5. One such noninterest is when a Board member's spouse/registered domestic partner has been a district employee for at least one year prior to the Board member's election or appointment. (Government Code 1091.5)

Board Bylaws

Conflict Of Interest (continued)

A Board member shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091 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. (Government Code 1091)

Even if there is not a prohibited conflict of interest, 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.

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.

Rule of Necessity or Legally Required Participation

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.

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)

Board Bylaws

Conflict Of Interest (continued)

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)

Gifts of travel and related lodging and subsistence shall be subject to the current 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)

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

Board BylawsConflict Of Interest (continued)

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

FAMILY CODE

297.5	Rights, protections, and benefits of registered domestic partners
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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
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

PENAL CODE

85-88	Bribes
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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

Klistoff 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

Board Bylaws

Conflict Of Interest (continued)

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)

Lompoc Unified School District

Adopted: (5/75 1/77 12/81 12/85 9/87 10/03 9/04 3/07) 3/12

Bylaws of the Board

Conflict of Interest

1. It has been determined that persons occupying the following positions manage public investments and shall file a full statement of economic interests pursuant to Government Code 87200:

Governing Board Members
Superintendent of Schools

2. Persons occupying the following positions are designated employees in Category 1:

Assistant Superintendent, Business Services
Assistant Superintendent, Human Resources
Director, Student Achievement and Curriculum
Director, Fiscal Services
Manager, Purchasing and Stores

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:
 - (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.
3. Persons occupying the following positions are designated employees in Category 2:

Bylaws of the Board

Conflict of Interest (continued)

Director, Student Achievement/Curriculum
Director, Special Education and Auxiliary Support Services
Director, Pupil Support Services
Principals
Assistant Principals
Supervisor, Maintenance and Operations
Director, Classified Personnel
Coordinator, EL Program
Supervisor, Energy/Safety/Operations
Manager, Child Nutrition Services
Supervisor/Dietician, Child Nutrition Services
Manager, Payroll and Benefits
Supervisor, Printing and Publications
Manager, Transportation

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.
4. 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 any of several specified governmental decisions as defined in 2 CCR 18702.2 or serves in a staff capacity with the district, performing the same or substantially 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. Consultants

Bylaws of the Board

Conflict of Interest (continued)

are individuals who decide whether to: (2CCR 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; or
- g. Adopt or grant district approval of district policies, standards or guidelines.

*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosures category in the code subject to the following limitation:

The Assistant Superintendent, Human Resources, 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 described 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 Assistant Superintendent, Human Resources' determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

Lompoc Unified School District

Adopted: (5/75 1/77 12/81 12/85 9/87 6/92 11/96 10/98 9/02 10/03 9/04 10/05 3/07 7/08 3/10) 3/12