

Regular Study Session Meeting
04/18/2024 06:30 PM
6:30 P.M. - CALL TO ORDER/OPEN/PUBLIC
SESSION (ZOOM) / IN-PERSON
After the Completion of Open Session -
CLOSED SESSION

MEETING MINUTES

AGENDA FOR THE REGULAR STUDY SESSION MEETING OF THE BOARD OF TRUSTEES OF THE ROSEMEAD SCHOOL DISTRICT

6:30 P.M. - CALL TO ORDER/OPEN/PUBLIC SESSION (ZOOM) / IN-PERSON
After the Completion of Open Session - CLOSED SESSION

This meeting will also be held electronically via Zoom Meetings with limited in-person capacity.

PARTICIPATION IN-PERSON: Adherence to current Los Angeles County Department of Public Health, protocols:

Rosemead School District

District Office - Board Room

3907 Rosemead Blvd., Rosemead, CA 91770

Tel: (626) 312-2900 x212 | Email: board@rosemead.k12.ca.us

District Website: www.rosemead.k12.ca.us

Agenda Website: <https://t.ly/dGRp>

PARTICIPATION VIA TELECONFERENCE/ELECTRONIC:

Zoom Call-In# (346) 248-7799

Zoom Meeting ID# 823 2523 1502

Passcode: 584772

Attendees

Voting Members

Ms. Nancy Armenta, Trustee

Mr. Ronald Esquivel, Trustee

Mrs. Veronica Pena, Trustee

Mr. John Quintanilla, President

Mrs. Diane Benitez, Clerk

Non-Voting Members

Dr. Alejandro Ruvalcaba, Superintendent

Dr. Maria Rios, Assistant Superintendent, Administrative Services

Dr. Jennifer Fang, Assistant Superintendent, Educational Services

Mr. Alejandro Gaeta, Network Administrator

Mrs. Cynthia Bracamonte, Executive Assistant to the Superintendent

I. NOTICES - Public Comments / Speaker's Requests

II. NOTICES

III. Call to Order by _____ at _____ p.m.

President Quintanilla called the meeting to order at 6:30 p.m.

IV. Members Present _____ Members Absent _____

President Quintanilla read the following statement:

The Rosemead School District Board of Trustees will conduct their public meetings in-person along with a virtual Zoom cast. In order to ensure the board's business is heard clearly, we would like to respectfully request for all Zoom attendees to mute their microphones unless you are requested by the Board President to address the Board.

V. MEETING RECORDED

This meeting will be audio and video recorded. Trustees have received background information regarding each agenda item prior to the meeting thus ensuring a thorough review of each item.

VI. APPROVAL OF AGENDA

That the Agenda, be Approved.

Motion made by: Mrs. Diane Benitez

Motion seconded by: Mr. Ronald Esquivel

Voting:

Ms. Nancy Armenta - Yes

Mr. Ronald Esquivel - Yes

Mrs. Veronica Pena - Yes

Mr. John Quintanilla - Yes

Mrs. Diane Benitez - Yes

The motion passed by a 5-0 vote.

VII. REGULAR SESSION - 6:30 P.M.

VIII. PLEDGE OF ALLEGIANCE by: _____

President Quintanilla asked for Mr. Alex Gaeta to lead the Pledge of Allegiance.

IX. PUBLIC COMMENT ON AGENDA ITEMS (3 minutes per person or 20 minutes per topic)

Pursuant to Board Bylaw No. 9323, we would like to encourage members of the public to present their views to the Board regarding matters listed in the agenda. At regular meetings of the Board, members of the public may address the Board on agenda items, as well as any other items of concern that fall within the subject matter jurisdiction of the Board of Trustees. If you want to address an agenda item, you have the option of speaking at this time or at the time the item is being discussed by the Board.

Individual speakers shall be allowed three (3) minutes total to address the Board on each agenda or non-agenda item. The Board shall limit the total time for public input on each item to 20 minutes. Please state your name, make your presentation as brief as possible, and understand that the Board will not engage in a debate with visitors, but you may be given an opportunity for further questions and answers when a specific item is presented in the agenda.

Mrs. Bracamonte shared that there were no submission received.

X. SUPERINTENDENT'S REPORT

Superintendent Ruvalcaba shared the following:

- Facilities projects update - shared that there are challenges with DSA for some of the summer projects, and he sent a letter to the head of DSA. He will be meeting with DSA to review the projects which will deem whether there will be a need for a special meeting on May 23rd to approve the bid award. Dr. Ruvalcaba shared that with DSA approved projects there is a tight timeline that needs to be followed for each phase of the bid process.
- Presented the April Perfect Attendance video and shared that the video will be played during the May meeting.

XI. BOARD PRESIDENT'S COMMENTS

President Quintanilla shared the following:

- Attended the Conga Dance competition, and felt it was an amazing show where students showcased their dancing skills to different types of Merengues. He shared that the Shuey team won the contest.
- Superintendent Ruvalcaba shared that the team will participate in the County level competition at LA Live.

XII. BOARD ORAL COMMUNICATIONS

Trustee Peña shared the following:

- Thanked Mr. Gaeta for the attendance video and shared that it was lovely to see the students who made perfect attendance for April. She also thanked the Attendance Clerks for their work on the video.

Clerk Benitez shared the following:

- Congratulated all the perfect attendance recipients from every school and asked them to keep it up.

Trustee Esquivel shared the following:

- Congratulated all the students who made perfect attendance and shared that this is something to strive for even in the work life, and thanked Alex Gaeta and Isa Barrera for putting it together.

Trustee Armenta shared the following:

- Thanked Isa Barrera for the beautiful video. Congratulated all the recipients for perfect attendance and shared that it is a wonderful goal to reach. She looks forward to future presentations.

XIII. FOCUS TOPIC(S):

A. Presentation on Board Governance and Board Ethics by Mrs. Christine Hsu, Legal Counsel, Olivarez Madruga Law Organization

Mrs. Hsu presented on the topics of Board Governance and Board Ethics. See the presentation attached.

XIV. ACTION ITEM(S)

A. ACTION - Drafted 2024-2025 Professional Academic School Calendar, Late-Start Schedule, and Holiday Schedule for Administration and Classified Employees

That the drafted 2024-2025 Professional Academic School Calendar, Late-Start Schedule, and Holiday Schedule for Administration and Classified Employees, be Approved.

Motion made by: Ms. Nancy Armenta

Motion seconded by: Mr. Ronald Esquivel

Voting:

Ms. Nancy Armenta - Yes

Mr. Ronald Esquivel - Yes

Mrs. Veronica Pena - Yes

Mr. John Quintanilla - Yes

Mrs. Diane Benitez - Yes

The motion passed by a 5-0 vote.

XV. NEW BUSINESS

There were no topics raised during new business.

XVI. PUBLIC COMMENTS ON CLOSED SESSION ITEMS (3 minutes per person or 20 minutes per topic)

Pursuant to Board Bylaw No. 9323, we would like to encourage members of the public to present their views to the Board regarding matters listed in the agenda. At regular meetings of the Board, members of the public may address the Board on agenda items, as well as any other items of concern that fall within the subject matter jurisdiction of the Board of Trustees. If you want to address an agenda item, you have the option of speaking at this time or at the time the item is being discussed by the Board.

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Mrs. Bracamonte shared that there were no submissions received for closed session topics.

XVII. RECESS TO CLOSED SESSION at ____ p.m.

President Quintanilla announced that the Board of Trustees would recess the meeting to closed session to consider agenda items A-B.

President Quintanilla recessed the meeting to closed session at 8:31 p.m.

XVIII. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - pursuant to Government Code Section 54956.9(d)(2) and (e)(1)

Participants: Mr. Alejandro Ruvalcaba and Mrs. Christine Hsu, Olivarez
Madrugá Law Organization, LLP, Legal Counsel:

- Two (2) Matters

B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION - pursuant to Government Code Section 54957

Participants: Dr. Alejandro Ruvalcaba and Mrs. Christine Hsu, Olivarez Madruga Law Organization, LLP, Legal Counsel

- Superintendent

XIX. ADJOURNMENT OF CLOSED SESSION at _____ p.m.

President Quintanilla adjourned closed session at 10:40 p.m.

XX. RECONVENE TO OPEN SESSION at _____ p.m.

President Quintanilla reconvened the meeting at 10:44 p.m.

XXI. ANNOUNCEMENT OF ANY ACTION TAKEN IN CLOSED SESSION (if any)

President Quintanilla announced that the Board of Trustees took no actions in closed session.

XXII. ADJOURNMENT The meeting (be) adjourned at _____ p.m.

President Quintanilla adjourned the April 18, 2024, Board of Trustees Meeting at 10:44 p.m., be Approved.

Motion made by: Mrs. Diane Benitez

Motion seconded by: Ms. Nancy Armenta

Voting:

Ms. Nancy Armenta - Yes

Mr. Ronald Esquivel - Yes

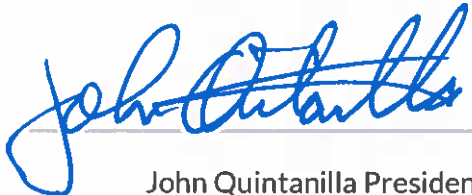
Mrs. Veronica Pena - Yes

Mr. John Quintanilla - Yes

Mrs. Diane Benitez - Yes

The motion passed by a 5-0 vote.

XXIII. NEXT MEETING DATES



John Quintanilla President

Diane Benitez, Clerk



AB 2158 ETHICS TRAINING PART 2

April 18, 2024

Presenters:

Christine Hsu & Katie Oh

GENERAL OVERVIEW

- I. ~~Superintendent/Board Trustee~~ Roles
- II. ~~Ethics Principles~~
- III. Transparency Laws
- IV. Personal Financial Gain
- V. Fair Process
- VI. Perks of Office

III. TRANSPARENCY LAWS

- A. The Brown Act - Open Meeting Laws
- B. Political Reform Act – Reporting Economic Interests

BROWN ACT BOTTOM LINE



The Brown Act requires:

- Openness
- Transparency
- Public access to information



Any gathering of a majority of the District's governing board that involves any aspect of the decision-making process triggers Brown Act open meeting requirements.

III. TRANSPARENCY LAWS B. POLITICAL REFORM ACT – REPORTING ECONOMIC INTERESTS



DUTY TO REPORT CERTAIN FINANCIAL INTERESTS



- When people become public servants, the public gets to learn a great deal about their financial lives.
- California voters established some of these disclosure requirements when they approved the **Political Reform Act** in 1974.
- Those entering public service sacrifice a degree of their privacy.

WHO ENFORCES THE POLITICAL REFORM ACT?

Fair Political Practices Commission (FPPC)

- **Enforcement Division:** Audit, Investigates and Prosecutes.
- **Legal and Education Divisions:** Advice, Training and Education.
- **Statute of Limitations:**
 - 5 years
 - Can be tolled with probable cause report, tolling agreement, or if the intent to conceal is found.

REQUESTS FOR INFORMATION

* STUDY SESSION TOPIC

- Board Bylaw 9200: Limits of Board Member Authority
- Board Trustee requests for information must be directed to the Superintendent
- Individual Trustees do not have the authority to resolve complaints
- If a Trustee is approached directly by a person with a question or complaint, Trustee should refer the person to the Superintendent



REVIEW QUESTION

True or False?

A Board Trustee may resolve community members' complaints individually without consulting the Superintendent.

III. PERSONAL FINANCIAL GAIN BY PUBLIC SERVANTS

- "A public official ...shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest."



III. PERSONAL FINANCIAL GAIN BY PUBLIC SERVANTS

- A. Laws Prohibiting Bribery
- B. Conflicts of Interest under the Political Reform Act
- C. Contractual Conflicts of Interest
- D. Conflicts of Interest and Campaign Contributions
- E. Conflicts of Interest when Leaving Office – Revolving Door Restrictions

CONFLICT OF INTEREST AND THE STATEMENT OF ECONOMIC INTEREST FORM

Board Policy 9270-E(1) :

- The Superintendent's office must make and retain copies of all statements of economic interest filed by the Board of Trustees and designated District employees and forwards the originals to the Executive Office of the Board of Supervisors of Los Angeles County.
- All retained statements, original or copied, shall be available for public inspection and reproduction

FORM 700

| | Common Reportable Interests | Non-Reportable Interests |
|---------------------|---|--|
| Schedule A-1 | Stocks, including those held in an IRA or a 401K | Insurance policies, government bonds, diversified mutual funds and certain other funds and investments held in certain retirement accounts |
| Schedule A-2 | Business entities such as sole proprietorships, partnerships, LLCs, corporations, and trust | Savings and checking accounts and annuities |
| Schedule B | Rental property in the jurisdiction | Residence used exclusively as a personal residence such as a home or vacation cabin |
| Schedule C | Non-governmental salaries of public official and spouse/registered domestic partner | Governmental salary |
| Schedule D | Gifts from businesses (such as tickets to sporting or entertainment events) | Gifts from family members |
| Schedule E | Travel payments from third parties | Travel paid by your government agency |

FORM 700

Public records subject to disclosure.

Filed with District.

Subject to penalties for late filing.

IV. PERSONAL FINANCIAL GAIN A. LAWS PROHIBITING BRIBERY



REVIEW QUESTION

Public officials may not:

- Solicit, receive or agree to receive.
- A benefit.
- In exchange for their official actions.



True or False?

Technically, bribery only involves the exchange of an official action for money.

BRIBERY: PENALTIES

- Felony charges and up to four years in state prison.
- Loss of office.
- Barred from holding office.
- Fines/restitution
- Federal prosecutions; stiffer penalties.



IV. PERSONAL FINANCIAL GAIN B. IDENTIFY CONFLICTS OF INTEREST – USING FPPC FOUR-PART TEST

1. Is it "*reasonably foreseeable*" that the decision will have a financial effect on the Trustee's economic interests?

2. Is the financial effect *material*?

3. Is the financial effect *indistinguishable* from its effects on the public generally?

4. Is the Trustee "making, participating in making or attempting to" influence a *governmental decision*?

CONFLICT OF INTEREST: FINANCIAL INTERESTS

What are some examples an official's financial interests?

- **Business:** (a) investment of more than \$2,000 in a for-profit organization or (b) a business position.
- **Real Property:** equity or lease interest in real property worth more than \$2,000; "500 Feet Rule" decision affecting real property value located within 500 feet of the property.

CONFLICT OF INTEREST: FINANCIAL INTERESTS (CONT'D)

- **Source of Income:** any source that provided or promises \$500 or more in prior 12 months.
- **Source of Gifts:** a person or business that gave gifts totaling \$590 or more in prior 12 months; Giving or receiving gifts can create an economic interest.
- **Personal Finances:** expenses, income, assets, liabilities.

STEP #1 – FINANCIAL EFFECT REASONABLY FORESEEABLE

A financial effect is reasonably foreseeable if:

1. The official's economic interest is expressly involved, or
2. The financial effect "is a realistic possibility and more than hypothetical or theoretical."

Rule of Thumb: if the economic interest is expressly involved in the decision, then the impact is presumed to be material.

Not material if it is nominal, inconsequential, or insignificant.

For example, under Personal Finances, the financial effect of a governmental decision are **material** if the Trustee or the Trustee's immediate family member will receive a "measurable financial benefit or loss" from the decision."



HYPOTHETICAL

The District's governing board is set to review a proposal to lease land to Acme Inc. that pays Trustee Esquivel a monthly salary of \$4,000. The governing board's decision would have no effect on the Trustee's salary.

Can he participate in the decision?

ANSWER

- No.
- He receives income over \$500 in the 12 months preceding the decision. The effect on his salary is irrelevant.



STEP #3 – FINANCIAL EFFECT INDISTINGUISHABLE FROM ITS EFFECTS ON THE PUBLIC

It is indistinguishable from the effect on the “public generally” if the official establishes:

1. Significant segment of the public (at least 25%) is affected; and
2. The effect on his or her financial interest is not unique.



STEP 4: GOVERNMENTAL DECISION IS BEING MADE



Occurs when an official:

- Authorizes or directs any action;
- Votes;
- Appoints a person;
- Obligates or commits the District to a course of action; or
- Enters into a contract on behalf of the District.

IF A FINANCIAL CONFLICT EXISTS, THE OFFICIAL MUST



WHAT IF I AM DISQUALIFIED?

- Don't discuss or influence (staff or colleagues)
- Identify nature of conflict at meeting
- Leave room (unless on consent)
- No voting or discussing the matter



NOTE:

You do not count towards a quorum!!

LIMITED EXCEPTIONS TO “LEAVE THE ROOM”

- Trustee may speak on a matter as a member of the general public during the period for public comment about a matter related to his or her personal interests.
- For agenda items on consent calendar- Trustee may remain in the room during the consent calendar. However, Trustee must either make a motion to remove the item from the consent calendar or abstain from voting on the consent calendar.
- Official must still disclose conflict.
- NOTE: To disqualify oneself (e.g., live within 500 feet of project) is the responsible course of action. Improper to not acknowledge those interests.

WHAT HAPPENS IF I HAVE A DISQUALIFYING FINANCIAL INTEREST IN A GOVERNMENTAL DECISION?

Closed Session –

- Trustee must disclose the interest orally during the open session preceding the closed session. The disclosure must be limited to declaration that the recusal is due to a conflict of interest pursuant to Government Code 87100.
- Trustee shall not be present when item is considered in closed session.
- Trustee must not obtain or review a recording or any nonpublic information regarding the Board's decision

(Bylaw 9270)



PENALTIES FOR FAILURE TO STEP ASIDE

- Invalidate Decision
- Misdemeanor
- Loss of Office
- Fines
- Embarrassment



HYPOTHETICAL:

True or False

Participating in a contract decision in which a Trustee has a financial interest may subject the official to particularly harsh sanctions?



IV. PERSONAL FINANCIAL GAIN C. CONTRACTUAL CONFLICTS OF INTEREST

General Rule - Government Code 1090:

A school District's governing board and District employees are prohibited from having financial interests in contracts made by them or by their board.

Purpose: Prohibit against "self dealing"



QUESTION

Trustee Peña owns a large parcel within District boundaries. The District is looking to purchase land for a new athletic field. Trustee Peña sells the parcel *below market value* to a property developer, who then sells it to the District.

To be safe, Trustee Peña abstains from the final decision to purchase the property.

Did she violate Section 1090?

ANSWER

- YES! *Thomson v. Cal*, 38 Cal. 3d 633, 699 (1985)
- Peña has to give back the money received from the property developer plus interest to District.

EXCEPTIONS TO SECTION 1090

1. **Remote Interest and-**
 - a. Official's disclosure interest on the record;
 - b. Disqualifies himself / herself;
 - c. Does not influence or attempt to influence other voting members; and
 - d. Governing Board acts in good faith with disqualified member's vote not counted.
2. **Non-Interests** – While abstention not required, disclosure sometimes required; or
3. **Rule of Necessity** - Extremely limited and fact-specific. Applied to a conflicted Trustee in order carry out its essential functions when no other is competent to do so.. FACT SPECIFIC.

EFFECTS OF SECTION 1090 CONFLICT



- District barred from entering contract.
- Abstention/disclosure do not cure conflict.
- Contracts made in violation of Section 1090 are void and unenforceable.
- Good faith reliance on counsel's advice is not a defense.
- Penalties:
 - ❑ Willful violation = Felony (min. \$1,000 fine and state prison).
 - ❑ Disgorgement of contract proceeds.
 - ❑ Lifetime disqualification from holding office in the California.

IV. PERSONAL FINANCIAL GAIN

D. CONFLICT OF INTEREST & CAMPAIGN CONTRIBUTIONS THE LEVINE ACT: GOV'T CODE§84308

- Board Trustee may not participate in a proceeding to approve a license, permit or other use entitlement if he or she **accepted, solicited, or directed** campaign contributions **in excess of \$250** from any participant or financially interested party in the proceeding or their agents during the previous 12 months.
- Options: Disclosure and recusal or Return and participate
- Effective January 1, 2023:
 - The ban extends from 3 months after the proceedings are completed to 12 months.

D. SCOPE OF THE LEVINE ACT: GOV'T CODE§84308

- Only applies in specific context: entitlement for use proceedings
 - Business, professional, trade, and land use licenses and permits
 - Entitlements for land use
 - Contracts (except competitively-bid, labor, or employment contracts)
 - Franchises
- Section 84308 does not apply to:
 - Proceedings involving general policy decisions
 - Rules where the interests affects are many and diverse
 - Ministerial decisions

D. SCOPE OF THE LEVINE ACT: GOV'T CODE§84308

- Proceedings involving **specific, identifiable parties directly affected** by the proceeding or participants that would experience a **substantial financial impact**.
- General question to ask yourself: "Does this proceeding involve an identifiable person or persons seeking some type of permission or allowance, **specific to them**, from the District?"



REVIEW QUESTION

What are a Board Trustee's options for participating in an entitlement for use proceeding if he/she accepted campaign contributions above \$250 from another participant?

- A. Disclosure and recusal
- B. Return and participate
- C. All of the above
- D. None of the above

IV. PERSONAL FINANCIAL GAIN

E. CONFLICTS WHEN LEAVING OFFICE – REVOLVING DOOR ISSUES BEFORE LEAVING OFFICE

- Expands conflict of interest rules where a decision will have a reasonably foreseeable material financial effect on prospective employer even though the official does not yet have an economic interest in the employer.
- Note: Does not apply if prospective employer is a governmental agency.
- Following contacts will trigger the ban:
 - ❖ An interview with an employer or his / her agent.
 - ❖ Discussing an offer of employment with an employer or his / her agent.
 - ❖ Accepting an offer of employment.



REVOLVING DOOR ISSUES: AFTER LEAVING OFFICE / 1-YEAR BAN

- For one year following their departure from a school district, Trustees cannot make:
 - any oral or written communications with the District in the capacity of a compensated agent trying to advocate on behalf of a third party who has business with the District.

V. FAIR PROCESS

1. Common Law Bias
2. Due Process
3. Incompatible Offices
4. Competitive bidding for public contracts
5. Nepotism

1. COMMON LAW BIAS

A Board Trustee has a fiduciary duty to exercise the powers of office for the benefit of the public and is not permitted to use those powers for the benefit of private interests.

FORMS OF COMMON LAW BIAS

1. **Personal Interests in a Decision's Outcome** – Trustees cannot use their position for personal gain
2. **Personal Bias** – Strong animosity about an employee based on conduct that occurred outside a hearing or certain beliefs/ideologies that could bias a Trustee.
3. **Factual Bias** – Information a Trustee receives outside of a public hearing that causes the Trustee to have a closed mind to information presented at the meeting.



REVIEW QUESTION

True or False?

A Board Trustee has a fiduciary duty NOT to participate in a decision-making process if he/she possesses some form of common law bias.

2. DUE PROCESS: LEGISLATIVE VS. QUASI-JUDICIAL

- **Quasi-judicial:** When a body acts to apply such laws or regulations to a particular situation (e.g., personnel disciplinary actions)
- **Legislative:** When a body acts to create laws or regulations (e.g., adopting a new Board Policy).
- Due process requires a decision-maker to be fair and impartial when the decision-making body is sitting in a "quasi-judicial" capacity. (14th Amendment to U.S. Constitution).

DISQUALIFICATION VS. ABSTENTION

Disqualification – Trustee is legally required to not participate in the decision-making process due to financial or other conflicting relationships.

Abstention – Trustee voluntarily does not participate in the decision-making process based on his/her own concerns about an ability to make a fair decision.

POTENTIAL CONSEQUENCES OF BIAS

- Can create a risk that the decision will be set aside by a court if challenged.
- If the violation rises to the level of a denial or due process under the Constitution, the affected individual(s) may seek damages, costs and attorney's fees. 42 USC 1983 and 1988.
- Rule does not preclude holding opinions, philosophies or strong feelings about issues or specific projects; or expression of views important to the community.

KEY TAKEAWAY



When acting in a quasi-judicial capacity, decision-makers should:

- Hear all of the evidence before drawing or expressing conclusions about the matter under consideration.
- Evaluate the matter under consideration using the criteria established by ordinance or law (not by ad hoc factors)
- Maintain an open mind while matter is pending.

3. DOCTRINE OF INCOMPATIBLE OFFICES

- If appointed or elected to another public office, a Board Trustee may lose their seat *if*:
 - Potential for significant clash or division of loyalty;
 - Holding two offices would violate public policy; or
 - One office supervises, audits, or can remove the other

BOARD BYLAW 9270: CONFLICT OF INTEREST

- Trustee 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 Trustee's duties as an officer of the District.

4. FAIR PROCESS COMPETITIVE BIDDING

- Process usually involves public advertisement for the submission of sealed bids, the public opening of bids, and the award of contracts to the lowest responsible bidder that is responsive to the solicitation for bids.
- Almost exclusively governed by statute.
- Pursuant to California Public Contract Code, with limited exceptions, public agencies have a duty to publicly bid certain contracts, particularly construction contracts.



FAIR PROCESS: COMPETITIVE BIDDING



- Public Projects
- Other Purchases
 - District's Own Purchasing Policy
- Purpose
 - Get the best deal for the agency's money
 - Ensure the process is fair, avoids favoritism.

COMPETITIVE BIDDING REQUIREMENTS FOR PUBLIC CONTRACTS

- Exceptions:
 - Emergency;
 - Professional Services; and
 - Special Services
- Must:
 - Award to lowest responsive and responsible bidder;
 - Use state licensed contractor; or
 - Reject all bids and re-advertise.

5. ANTI-NEPOTISM LAWS

Policies intended to avoid the appearance of impropriety or favoritism.

State law does not specifically address the issue of nepotism in local agency hiring decisions.

Public agencies are allowed to adopt anti-nepotism policies.

Acting to hire a relative could trigger disqualifying conflict-of-interest issues if you have an economic interest.

BOARD BYLAW 9270: CONFLICT OF INTEREST

- Trustee shall abstain from voting on personnel matters that uniquely affect the Trustee's relatives
- May vote on CBAs and personnel matters that affect a class of employees to which Trustee's relative belongs
- Definition of relative: related to Trustee by blood, affinity, or adoption within 3rd degree
 - Relationships within the 3rd degree include: Trustee'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 Trustee is widowed or divorced

VI. CLAIMING PERKS OF OFFICE

1. Limitations on Gifts
2. Honoraria
3. Free or Discounted Transportation
4. Misuse of Public Funds
5. Prohibition Against Gifting Public Funds
6. Mass Mailing Restrictions
7. Election Campaigns



1. GIFTS



DISCLOSE
\$50 or more
(calendar year)

DISQUALIFY
over \$590
(rolling 12 mos.)

REFUSE
over \$590+
(calendar year)

IF GIFT WOULD PUT YOU OVER \$590 IN TOTAL GIFTS FROM THAT SINGLE SOURCE or EXCEEDS \$590:

RETURN, REIMBURSE, OR DONATE TO DESIGNATED 501C(3) NON-PROFIT WITHIN 30 DAYS OF RECEIPT

GIFTS DON'T ALWAYS HAVE BOWS

- Meals, food and drink (including receptions)
- Entertainment (concerts & sporting events)
- Certain kinds of travel and lodging



GIFT TO FAMILY = GIFT TO OFFICIAL



- "Family member" includes the Trustee's:
 - Spouse, Registered domestic partner, Minor child who can be claimed as dependent (Child of official 18-23 in school, who lives at home and provides less than 1/2 of his/her own support)
- Payment to a Trustee's family member is deemed a gift to the Trustee if:
 - There is no established working, social or similar relationship between the donor and the family member, or
 - There is evidence to suggest the donor had a purpose to influence the trustee.

(FPPC Reg. 18943)

COMMON GIFT EXCEPTIONS



- Gifts returned or donated to a charity within 30 days without being claimed as a tax deduction;
- Campaign contributions.
- Personalized plaques or trophies valued less than \$250;
- Home hospitality under specified circumstances;
- Benefits commonly exchanged between the official and non-lobbyist on a holiday, birthday or other similar occasion, including reciprocal exchanges made in the context of a social relationship (e.g., rotating payment for lunches, rounds of golf, etc.) – must be proportional and cannot exceed \$590 annual gift limit;
- Bereavement offerings;
- Acts of neighborliness (e.g., loan of tools, occasional ride, help making repairs, feeding the cat, etc.)

SPECIAL ISSUE: TICKETS TO FUNDRAISERS



- FPPC Regulation 18946.4 provides special rules for tickets provided to public officials to fundraisers for **nonprofit** and **political** organizations.
- Such tickets are *not* considered reportable gifts if certain conditions apply.

SPECIAL ISSUE: TICKETS TO FUNDRAISERS NOT REPORTABLE OR SUBJECT TO GIFT LIMIT

- Two admission tickets to **501(c)(3) fundraisers** (must be received from the organization).
- Two tickets to **campaign fundraisers** (must be received from candidate/committee).

SPECIAL ISSUE: TICKETS TO FUNDRAISERS REPORTABLE AND SUBJECT TO GIFT LIMIT

- Tickets to 501(c)(3) and political events provided by third party source.
- Tickets benefiting other types of non-profits, such as 501(c)(4) or 501(c)(6)s.
- Value: Pro-rata share of food and entertainment or non-deductible portion of the ticket or admission.

HYPOTHETICAL

Board Trustee Benitez is invited to attend a fundraiser for the local Boys and Girls Club, which is a 501(c)(3) organization. The Boys and Girls Club directly provides Board Trustee Benitez with the tickets, which are valued at \$100 each.

Does Board Trustee Benitez have to report the tickets? What amount is subject to the gift limitation?

ANSWER

- **No.** Tickets received directly from 501(c)(3).

- No amount is subject to the gift limitation.

FPPC Reg. 18946.4

HYPOTHETICAL

Board Trustee Esquivel is invited to attend a fundraiser to benefit the local Chamber of Commerce, which is a 501(c)(6) organization. The Chamber directly provides Board Trustee Esquivel with the tickets, which are each valued at \$100 each and indicate that the donation portion is \$75 of the \$100 total.

Does Board Trustee Esquivel have to report the tickets? What amount is subject to the gift limitation?

ANSWER

- **Yes.** \$25 – the non-donation portion covering food, entertainment, etc.
- If the organization sponsoring the event says what portion of the ticket price is the donation, the public official can deduct that from the face value of the ticket to determine the value of the ticket(s) for the purposes of California's gift rules.
- Otherwise, the value of the benefit the official receives is the per-guest share of the cost of food, entertainment and any other items provided to all guests at the event. Other specific benefits attendees receive (for example, golf greens fees) are valued at fair market value. This is the same approach for valuing attendance at invitation-only events.

SPECIAL ISSUE: DROP-IN VISITS

hello...
goodbye...

• If you (and an accompanying guest) are invited to an event, you do not have to report any gifts relating to the event so long as you **do not**

- Consume a meal at the event (minimal appetizers and drinks ok);
- Stay for any entertainment.

• Does not apply to events sponsored by lobbyist, lobbying firm or lobbyist's employer.

SPECIAL ISSUE: DISTRICT-PROVIDED TICKETS

A District-provided ticket to you is *not* reportable on your Form 700 or subject to the gift limit if:

- The ticket is not earmarked for a particular official;
- The ticket is distributed in accordance with the District's ticket distribution policy in furtherance of a "public purpose"; and
- Your name (as recipient) is identified on the District's Website on a Form 802, indicating the original source of ticket.



BOARD BYLAW 9270: GIFTS



REVIEW QUESTION

- Trustees may accept gifts only under the conditions and limitations specified in Gov. Code 89503
- Limitation on gifts does not apply to wedding gifts and gifts on birthdays and holidays, provided the gifts are not substantially disproportionate in value
- Limitation on gifts also does not apply to information materials (books, reports, pamphlets, calendars, etc.)

A Board Trustee must disclose a gift on a Form 700 if the amount exceeds:

- A. \$1
- B. \$5
- C. \$10
- D. \$50

2. HONORARIA



Definition: "Honorarium" means

- a payment (e.g., gift cards);
- in consideration for;
- a speech given (or other form of oral presentation), article published, or attendance at any public or private conference, meeting, or like gathering.

General Rule: No local elected officeholder, candidate for local elected office, individual specified in Gov't. Code §87200, or employee required to report income/gifts on Form 700 may accept any honorarium.

EXEMPTIONS TO HONORARIA BAN: NOT SUBJECT TO BAN / NOT REPORTABLE

Payment returned (unused) to donor within 30 days of receipt.

Payment donated to the District's General Fund within 30 days of receipt without being claimed as a tax deduction.

Payment made not to you, but directly to tax-exempt organization, under certain conditions (can't claim on deduction on taxes for donation).

Payments from family members, up to first cousin (cannot be acting as agent/intermediary for another).

EXEMPTIONS TO HONORARIA BAN: REPORTABLE

3. FREE OR DISCOUNTED TRAVEL

Payments for travel for a public official are generally subject to the annual gift limit of \$590 unless the payment is somehow exempt.

Travel is deemed to include:

- Any payment that provides transportation;
- Cost of lodging and food connected with the travel.

TRAVEL EXCEPTIONS

The following are NOT considered gifts, income or honorarium and NOT reportable:

- Travel and per diem for education, training or inter-agency programs.
- Certain travel from a government agency or 501(c)(3) as part of the official's employment with the agency or 501(c)(3).
- Payments for official District business.



TRAVEL EXCEPTIONS (CONT'D)

NOT considered gifts, income, or honorarium and NOT reportable, potentially disqualifying, or subject to any gift limit:

- Payment for travel that constitutes a campaign contribution.
- Sharing a ride with another official.
- Travel from a source who is not subject to reporting on your Form 700.

TRAVEL PAYMENTS THAT ARE REPORTABLE ON FORM 700 & POTENTIALLY DISQUALIFYING

Travel payments and related lodging and subsistence related to a legislative or governmental purpose or an issue of state, national or international policy so long as the travel is *either*:

- (a) Travel for speech which is given by the Trustee and lodging and subsistence expenses are limited to a *day immediately before, day of and day after speech and within the US.*
- (b) Travel paid by a governmental agency or 501(c)(3).

Board Trustee Armenta has been invited to make a presentation at a one-day CSBA conference to occur on Wednesday. She arrives on the Monday before the conference, conducts her presentation, and leaves the next day, Thursday. CSBA pays for her lodging, food, and transportation costs, which totaled \$4,000.

Are these expenses exempt from gift/honoraria limits and reporting by Trustee Armenta?



ANSWER

- No.
- These expenses are only covered on the day before, the day of, and the day after the event. The Monday expenses would be subject to gift/honoraria limits and reporting. They would also likely be grounds for potential disqualification on conflict of interest grounds.

LOANS TO PUBLIC OFFICIALS



- Loans constitute "income" for Form 700 purposes, other than loans from commercial lending institutions in the ordinary course of business made on terms available to the general public.
- An elected officer may not accept *personal* loans of \$500 or more unless the loan's terms are clearly set forth in writing.
- No Trustee may receive a personal loan in excess of \$250 from an officer, employee, member or consultant for the District or any other agency over which the District exercises direction and control.

4. MISUSE OF PUBLIC RESOURCES



It is unlawful for any elected local officer, including any local appointee, employee or consultant to **use or permit others to use** public resources for campaign activities or person or other purposes which are not authorized by law.

"PUBLIC RESOURCES"



▪ Money or anything paid for with public money:

- Staff time
- Office space
- Equipment
- Supplies

CONSEQUENCES OF VIOLATIONS



▪ **Civil penalties:** \$1,000/day fine + 3X value of resource used.

▪ **Criminal penalties:** 2-4 year prison term + disqualification from holding office in California.

REIMBURSEMENT OF EXPENSES

▪ State law requires school districts to adopt policies for the reimbursement of "**actual and necessary expenses**" incurred by Trustees in the performance of their official duties.

▪ Reimbursement materials are public records.



BOARD BYLAW 9250: REIMBURSEMENT OF EXPENSES

- Trustees shall be reimbursed for actual and necessary expenses when performing authorized services for the District.
- Allowed expenses for travel, telephone, business meals, or other authorized purposes shall be in accordance with policies established for District personnel and at the same rate of reimbursement.
- Trustees shall be reimbursed for travel expenses incurred when performing services directed by the Board:
 - Attending educational seminars or conferences
 - Participating in regional, state, national organizations whose activities affect the District's interests
 - Attendance at District or community events
 - Meetings with state or federal officials on issues of community concern

BOARD BYLAW 9250: REIMBURSEMENT OF EXPENSES

- Personal expenses shall be the responsibility of individual Trustees.
 - Personal portion of any trip
 - Tips or gratuities
 - Alcohol
 - Entertainment
 - Expenses of any family member who is accompanying the Trustees on District-related business
 - Personal use of an automobile
 - Personal losses and traffic violation fees incurred while on District business.
- Any questions regarding the propriety of a particular type of expense should be resolved by the Superintendent or designee before the expense is incurred.

FPPC FINES FORMER CONTRA COSTA COUNTY OFFICIAL \$150,000 FOR MISUSE OF CAMPAIGN FUNDS

- One of the largest penalties involve a former public official who used campaign funds for himself in 2019.
- \$150,000 penalty was levied against former Contra Costa County Clerk/Recorder Joe Canciamilla for personal use of campaign funds, one of the most serious violations of the Political Reform Act.
- Canciamilla was found to have used the funds to remodel a vacation home in Hawaii and for a vacation to Asia.
- Canciamilla fully reimbursed the committee for the \$130,529 improperly used and the approved settlement required Canciamilla to pay half the penalty with his own personal funds.

PROFESSIONAL DEVELOPMENT BOARD BYLAW 9240: BOARD TRAINING *STUDY SESSION TOPIC

- All Trustees are encouraged to participate in advanced training offered by CSBA or other organizations to reinforce boardsmanship skills and build knowledge related to key education issues
 - Including online courses, webinars, in-person workshops and conferences
- Board training funds shall be budgeted annually for the Board of Trustees and each Trustee
 - Board shall annually develop a board training calendar
 - To schedule and track trainings
 - To schedule opportunities for Trustees to report on the trainings they participated in
- Trustees may attend conferences with other Trustees and/or Superintendent
 - In such case, shall not discuss specific District business unless part of the scheduled program so as to not violate the Brown Act
- Trustees shall report to the Board, orally or in writing, on the training activities they attend
 - Purpose: sharing acquired knowledge or skills with the full Board

PROFESSIONAL DEVELOPMENT *STUDY SESSION TOPIC

- CSBA Workshops/Conferences
- Legislative Day
- NALEO
- Sexual Harassment Training
- Ethics training
- Mandated Reporter Training

*Board may develop a board training calendar if one does not already exist

4. PROHIBITIONS AGAINST GIFTS OF PUBLIC FUNDS

Expenditures of public funds must be for a public purpose.

Test:

- Is the expenditure for a public purpose?
- Does it advance the agency's purpose?

Gifts of Public Funds

- Includes any financial aid (including credit) or any other "thing of value."
- Must be a reasonable basis for finding a public purpose exists.
- Incidental, private benefit is okay.

5. POLITICAL USE OF PUBLIC RESOURCES – BALLOT MEASURES

By individuals or agency itself (support of ballot measures)

- Materials that urge voters to either "VOTE YES" OR "VOTE NO" on a measure constitute campaign advocacy.
- Use of public funds to provide material that is purely **objective** and **informational** is permitted.



6. POLITICAL USE OF PUBLIC RESOURCES – MASS MAILING

- A newsletter or other "mass mailing" shall NOT be sent at public expense.

- A prohibited "mass mailing" meets the following criteria:

- Involves delivery of a tangible item (written doc, videotape, record, etc.);
- Item features an elected official (name, photo, etc.);
- Costs (design, printing, etc.) exceed \$50 or more; and
- 200 or more copies sent out.



7. ELECTION CAMPAIGNS

BOARD BYLAW 9220: GOVERNING BOARD ELECTIONS

- Candidates, including incumbents, shall abide by local, county, state, and federal requirements regarding campaign donations, funding, and expenditures
- Candidates shall not accept any public money for the purpose of seeking elective office
- District may establish a dedicated fund for those seeking Board election if the funds are available to all qualified candidates
- Board encourages all candidates to sign and adhere to the Code of Fair Campaign Practices (Elections Code 20440)

TAKE AWAY

Your reputation is everything.

You were appointed to serve the public.

Don't be an example of what not to do.

Don't end your career in handcuffs.



OBTAINING ADVICE FROM THE FPPC

INFORMAL ADVICE



- Can be provided by either telephone or email.
- Email: advice@fppc.ca.gov
- Telephone: (866) ASK-FPPC or 1-916-322-5660.
- Does NOT provide the requestor with immunity.

OBTAINING ADVICE FROM THE FPPC

FORMAL ADVICE



- Request must be in writing and mailed to:
 - Fair Political Practices Commission: 428 J Street, Suite 620 Sacramento, CA 95814
- The request may also be faxed to:
 - (916) 322-0886
- **Important:** Provides the requestor with immunity
- **Ask in Advance:** Takes at least One Month to get a response.

CONGRATULATIONS!

RESOURCES

- For a copy of the Political Reform Act, regulations, fact sheets, Commission meeting materials, or general information:
 - Visit the Commission's web site (www.fppc.ca.gov)
 - Call (866) ASK-FPPC (Toll-free) or (916) 322-5660.
- Institute for Local Self-Government (www.ilsf.org) Contains various ethics related publication and self-study materials.
- California Attorney General:
 - Open Government (www.ag.ca.gov/open-government)
 - Conflict of Interest (www.ag.ca.gov/conflict-of-interest)
 - Links to AG publications, including Attorney General Opinions (www.ag.ca.gov/publications)



