

**POWAY UNIFIED SCHOOL DISTRICT  
ADMINISTRATIVE PROCEDURE**

**Originator:** Superintendent

**Issue No:** 1

**Date:** 10/13/08

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**Reference:** EC 35107; GC 1090-1091,  
1126, 87103, 87306, 89501,  
89503, 89506

**ARTICLE: 1.0 GOVERNING BOARD**

**1.11 CONFLICT OF INTEREST CODE**

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**SECTION 1.11.2 Conflict of Interest Code**

Governing Board members shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with, or contrary to the Board member's duties as an officer of the District.

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 Board.

If a Board member or designated employee determines that he/she has a financial interest in a decision, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required.

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.

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.

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:

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 a non-salaried 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 non-compensated 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

**SECTION 1.11.2 Conflict of Interest Code**

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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.

In addition, a Board member or designated 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.

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.

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. 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.

Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503. 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.

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.

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. The term honorarium does not include 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; or any honorarium which is not used and, within thirty (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.