

**CHAPTER 2: Administration and General Institution
ADMINISTRATIVE PROCEDURE NO. 2.45.1 (AP 2710)**

**ADMINISTRATIVE PROCEDURE
San Mateo County Community College District**

Subject: Conflict of Interest
Revision Date: 9/12; 4/22
References: Government Code Sections 1090 et seq., 1099, 1126, 87100 et seq., 87103, 87105, 87200-87210, 87300-87302, 87406.3, 89501-89503 and 89506; Title 2 Sections 18700 et seq. and 18730 et seq.; Education Code Section 72103 et seq.; 2 Code of Federal Regulations Part 200.318 subdivision (c)(1); and other citations as listed below

1. Incompatible Activities (Government Code Sections 1126 and 1099)

Board members and employees shall not engage in any employment or activity that is inconsistent with, incompatible with, in conflict with or inimical to their duties as officers or employees of the District. A Board member shall not simultaneously hold two public offices that are incompatible as defined in Government Code Section 1099. When two offices are incompatible, a Board member shall be deemed to have forfeited the first office upon acceding to the second.

2. Financial Interest (Government Code Sections 1090 et seq.)

Board members and employees shall not be financially interested in any contract made by them in their official capacity as members of the Board or as employees.

A Board member shall not be considered to be financially interested in a contract if his/her/their interest meets the definitions contained in applicable law (Government Code Section 1091.5).

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

3. No Employment Allowed (Education Code Section 72103 subdivision (b))

An employee of the District may not be sworn in as an elected or appointed member of the Governing Board unless and until he/she resigns 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, 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. Financial Interest in a Decision (Government Code Sections 87100 et seq.)

If a Board member or employee determines that he/she/they has/have a financial interest in a decision, as

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described in Government Code Section 87103, this determination shall be disclosed and made part of the Board's official minutes. In the case of an employee, this announcement shall be made in writing and submitted to the Board. A Board member, upon identifying a conflict of interest, or a potential conflict of interest, shall do all of the following prior to consideration of the matter.

- a. Publicly identify the financial interest in detail sufficient to be understood by the public;
- b. Recuse himself/herself/themselves from discussing and voting on the matter;
- c. 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. **Gifts** (Government Code Section 89503)

- a. Each Board member and each employee designated under the District's Conflict of Interest Code is prohibited from accepting gifts, as that term is defined by the Political Reform Act (Gov. Code, §§ 81000 et. seq.) of any value from any source if the Board member or employee would be required to report the receipt of income or gifts from that source on his/her/their statement of economic interests.
- b. The above prohibition shall not apply to gifts received as part of an event hosted by the District or by an organization of which the District is a member, such gifts may otherwise be subject to reporting and limited under the Political Reform Act.
- c. The above prohibition 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 and the individual or entity providing the gift does not do business with the District.
- d. Gifts of travel and related lodging and subsistence shall be subject to the above prohibition except as described in Government Code Section 89506. A gift of travel does not include travel provided by the District for Board members and designated employees.
- e. Each Board member and each employee designated under the District's Conflict of Interest Code 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 Board Member or employee would be required to report the receipt of income or gifts from that source on his/her/their statement of economic interests. The term "honorarium" does not include (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, or (2) any honorarium that 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 tax purposes.

6. **Representation** (Government Code Section 87406.3)

Elected officials and the District 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. The District will follow all requirements contained in Title 5, Sections 18730 et seq.

8. **Contracts Supported by Federal Funds** (2 Code of Federal Regulations Part 200.318 subdivision (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/they has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, Board member, or agent, any member of his/her/their immediate family, his/her/their 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. 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. Disciplinary action will be taken for violations of such standards by Board members, employees, or agents of the District.

9. **Training**

Each individual holding a position designated in the District's Conflict of Interest Code shall participate in a training on an annual basis which covers: the filing of financial disclosure statements ("Form 700"); Board Policy 2712 (2.45); and, Administrative Procedures 2710 (2.45.1) and 2712 (2.45.2) on an annual basis. Trainings will be coordinated by the District Chancellor's office.

Also see BP 2200 Board Duties and Responsibilities, BP 2710 Conflict of Interest, AP 2712 Conflict of Interest Code, BP/AP 2715 Code of Ethics/Standards of Practice, BP/AP 2716 Board Political Activity, and BP 2717 Personal Use of Public Resources – Board, BP/AP 3050 Institutional Code of Ethics, and BP/AP 3300 Public Records.