



2006 Local Agency Biennial Notice

Name of Agency: Napa County Office of Education
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This agency has reviewed its conflict-of-interest code and has determined that:

☒ **An amendment is required. The following amendments are necessary:**
(Check all that apply)

- ☐ Include new positions (including consultants) that must be designated
- ☐ Delete positions that manage public investments from the list of designated positions
- ☐ Revise disclosure categories
- ☐ Revise the titles of existing positions
- ☐ Delete titles of positions that have been abolished
- ☒ Other (describe) Minor language changes within the code.

☐ **No amendment is required.**

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 which 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.

Barbara Nemko
Signature of Chief Executive Officer

September 18, 2006
Date

Complete this notice regardless of how recently your code was approved or amended.
Please return this notice no later than **October 1, 2006** to:

(PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE)

2121 Imola Avenue, Napa, CA 94559

Fair Political Practices Commission
(866) ASK-FPPC/www.fppc.ca.gov
Biennial Notice Locals - May 2006

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

CONFLICT OF INTEREST

Incompatible Activities

Governing Board members shall not engage in any employment or activity that is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the Napa County Office of Education. (Government Code 1126)

An employee of Napa County Office of Education may not be sworn into office as an elected or appointed member of that agency's Board unless he/she resigns as an employee. If the employee does not resign, the employment automatically terminates when he/she is sworn into office. (Education Code 35107)

Conflict of Interest Code

The Napa County Office of Education's conflict of interest code shall comprise of the terms of California Code of Regulations, Title 2, Section 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a the agency's 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 Napa County Office of Education's conflict of interest code in even-numbered years. If no change in the code is required, the Napa County Office of Education shall submit by October 1 a written statement to that effect to the code reviewing body, the County Board of Supervisors. If a change in the code is necessitated by changed circumstances, the Napa County Office of Education shall submit an amended code to the code reviewing body. (Government Code 87306.5)

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

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

Conflict of Interest

BB 9270 (b)

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 Napa County Office of Education 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).

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 local education agency 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 Napa County Office of Education if his/her spouse's employment or office holding has existed for at least one year prior to his/her election or appointment.

Conflict of Interest

BB 9270 (c)

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 Board has 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 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.

Conflict of Interest

BB 9270 (d)

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.

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 Napa County Office of Education 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 Napa County Office of Education for donation into the general fund without being claimed as a deduction from income for tax purposes

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*

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*

COURT DECISIONS

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

ATTORNEY GENERAL OPINIONS

- 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>

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

1. Persons occupying the following positions are designated employees (Government Code 87302):

Governing Board Members
Superintendent of Schools
Associate Superintendent
Deputy Superintendent
Director

Designated persons in this category must report:

a. Interests in real property located entirely or partly within the local education agency's boundaries, or within two miles of agency's boundaries or of any land owned or used by the agency. 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 local education agency's boundaries

(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 Napa County Office of Education or

(3) Manufacture or sell supplies, books, machinery or equipment of the type used by the Napa County Office of Education

2. 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 Napa County Office of Education, 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 Napa County Office of Education to enter into, modify or renew a contract that requires approval of the local education agency
- e. Grant Napa County Office of Education approval to a contract or contract specifications which require agency approval and in which the agency is a party
- f. Grant Napa County Office of Education approval to a plan, design, report, study or similar item
- g. Adopt or grant Napa County Office of Education approval of agency policies, standards or guidelines

A consultant is also an individual who, pursuant to a contract with the Napa County Office of Education, serves in a staff capacity with the agency 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 agency that would otherwise be performed by an individual holding a position specified in the Napa County Office of Education's Conflict of Interest Code. (2 CCR 18701)

Napa County Superintendent of Schools

	1. Tony Apolloni
	2. Jill Cadloni
	3. Cherie Cahn
	4. Darrel Carter
	5. Ann Cash
	6. Larry Fredrickson
	7. Patricia Howell
	8. Jill Johnson
	9. Andrea Knowlton
	10. Jennifer Kresge
	11. Sandra Leveque
	12. Teresa Longoria
	13. Barbara Nemko
	14. Stephen Orndorf
	15. Mary Oxford
	16. John Perkiss
	17. Jan Sabo
	18. Ken Slavens
	19. Janna Waldinger
	20. Susan Wight