SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

Agenda Item 9.1e

Meeting Date: December 8, 2016

Subject: Approve Revision of Appendix of Board Bylaw 9270: Conflict of Interest

- ☐ Information Item Only
- ☒ Approval on Consent Agenda
- ☐ Conference (for discussion only)
- ☐ Conference/First Reading (Action Anticipated: _____)
- ☐ Conference/Action

_____: Legal Services

Recommendation: Adopt revision to Appendix of Board Bylaw 9270: Conflict of Interest.

Background/Rationale: The Political Reform Act requires every local government agency to review and revise if necessary, its conflict-of-interest bylaw biennially. As required, by October 1, 2016, the District submitted to the County Board of Supervisors a notice indicating that an amendment to the Bylaw's Appendix is necessary. After a review of Board Bylaw 9270, it is apparent that updates to the Appendix are needed in order to align it with the District's changes to positions and overall organizational structure. Previous updates to Board Bylaw 9270 have occurred in 2014, and in every even year previous thereto.

Financial Considerations: N/A

LCAP Goal(s): Operational Excellence

Documents Attached:
1. Executive Summary
2. Red-lined version of BB 9270 with Appendix
3. Clean version BB 9270 with Appendix.

Estimated Time of Presentation: N/A
Submitted by: Raoul Bozio, Legal Services Manager
Approved by: José L. Banda, Superintendent

Board of Education Executive Summary

Department Name: Legal Services

Agenda Title: Revision to Appendix of Board Bylaw 9270, Conflict of Interest

Date of Board Meeting: December 8, 2017

I. OVERVIEW / HISTORY: The Political Reform Act requires every local government agency to review and revise if necessary, its conflict-of rall organizational st Bylaw 9270 have occurred in 2014, and in every even year

II. DRIVING GOVERNANCE: The Political Reform Act, C seq., requires every local government agency to review an biennially.

III. BUDGET: No measurable impact.

IV. GOALS, OBJECTIVES, AND MEASURES: The goal of with the Political Reform Act's requirements that public ag potential conflicts of interest. In light of the District's Depa positions that have been created over the previous two ye appendix is necessary in order to ensure that required emp well as taking and leaving office, disclosure requirements c Completing this revision will maintain the District as a tran with California public entity laws.

V. MAJOR INITIATIVES

Operational Excellence

VI. RESULTS

N/A

VII. LESSONS LEARNED / NEXT STEPS

N/A

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Board Bylaw

Conflict-of-Interest

BB 9270
Board Bylaws

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.

Conflict-of-Interest Code

The district's conflict-of-interest code shall be comprised of the terms of the 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with an Appendix specifying designated positions and the specific types of disclosure category required for each position.

Upon direction by the code reviewing body, the Board shall review the district's conflict-of-interest code in even-numbered years. If no change in the code is required, the district shall submit by October 1 a written statement to that effect to the code reviewing body. If a change in the code is necessitated by changed circumstances, the district shall submit an amended code to the code reviewing body. (Government Code 87306.5)

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 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) A newly elected or appointed Board member or a newly hired employee in a designated position shall, within 30 days, file an

governmental 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.

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

1. Publicly identify the 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. (Government Code 87105)

2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. This Board member shall not be counted toward achieving a quorum while the item is discussed. (Government Code 87105; 2 CCR Section 18702.5)

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. (Government Code 87105)

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 the consent calendar. (2 CCR Section 18702.5)

A Board member who has recused himself/herself from participating in a matter may speak on the matter during the time that the general public speaks on the matter. The Board member shall recuse himself/herself from voting on the matter and 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. (Government Code 87105; 2 CCR 18702.5)

If the Board's decision is made during closed session, the public identification may be made orally during the open session before the Board goes into closed session and shall be limited to a declaration that his/her recusal is because of a conflict-of-interest pursuant to Government Code 87100. The Board member shall not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the Board's decision. (2 CCR 18702.5)

(cf. 3430 -

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 district for Board members and designated employees. (Government Code 89506)

Honoraria

Chief Information Officer

category, a principal's department is his/her entire school.

Consultants

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis, as recommended by General Counsel to the Superintendent and the Board of Trustees. The determination shall be written and 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 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 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

g. Adopt or grant district approval of district policies, standards or guidelines

Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511
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)

Management Resources:
CSBA PUBLICATIONS
Conflict of Interest: Overview of Key Issues for Governing Board Members, Fact Sheet, July 2010
FAIR POLITICAL PRACTICES COMMISSION PUBLICATIONS
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Sacramento City USD

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BB 9270
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– Meetings and Notices)

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Assuming Office statement covering the 12 months prior to the date the assuming office or position date. These statements shall be available for public inspection and reproduction. (Government Code 81008)

Upon receiving the statements from designated employees, the district shall make and retain copies and shall forward the originals to the appropriate county agency.

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 ind((s)-5(/)-6(h)-)-2(u)-10(a)4(l)-2(a)4(n3i3(i)-2(i)-2(ma)4(t)--4( )4(s)-1(a)4(n of)-7(f)3(t)-2)-2(c)4(e)4

governmental 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)

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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

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 shall 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.

<u>Category 2</u>

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

Deputy Superintendent's Office

Business Services

Director, Accounting Services
Director, Budget Services
Director, Compensation and Benefits
Manager, Purchasing

Human Resource Services

Assistant Superintendent, Labor Relations
Director, Employee Relations
Director, Human Resource Services

Operations

Director, Facilities Maintenance and Resource Management
Director, Facilities and Management Operations
Director, Distribution Services
Director, Nutrition Services

Strategy and Innovation

Director, Strategy and Innovation
Director, Innovative Schools

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.

Consultants

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.

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Fair Political Practices Commission: http://www.fppc.ca.gov
Institute of Local Government: http://www.ca-ilg.org

Bylaw SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
adopted: November 16, 1998 Sacramento, California
revised: April 2, 2001
revised: March 3, 2005
revised: November 6, 2008
revised: December 10, 2009
revised: November 4, 2010
revised: December 20, 2012
revised: December 18, 2014
revised: December 8, 2016