

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

542 A



FROM: County Counsel

SUBMITTAL DATE: June 28, 2006

SUBJECT: Approval of the Conflict of Interest Code for the Val Verde Unified School District

RECOMMENDED MOTION: That the Board of Supervisors approve the Revised Conflict of Interest Code submitted by the Val Verde Unified School District.

BACKGROUND: Government Code section 87306.5 requires that all local agencies review their conflict of interest code, and the listing of designated positions for employees who must disclose along with the types of disclosure required, and make appropriate amendments to each as required.

The Val Verde Unified School District recently revised its Conflict of Interest Code (Board Bylaw 9270) and has submitted it for approval by the Board of Supervisors as the code reviewing body.

This office has reviewed the revised code and has found that it complies with statutory requirements. It is recommended that the new Revised Code be approved and that the clerk notify the District of the action taken.

[Signature]
FOR JOE S. RANK
County Counsel

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

[Signature]

Policy

Poli

Consent

Consent

Department Recommendation:

Per Executive Office:

Prev. Agn. ref.

Dist.

AGENDA NO.

Sube 711 - 2 VW 11: 58
RECEIVED BIAERBIDE COMTA

Val Verde Unified School District
Perris, California 92571

RESOLUTION #05-06-49
AUTHORIZING SUBMISSION OF REVISED CONFLICT OF INTEREST CODE
TO BOARD OF SUPERVISORS OF RIVERSIDE COUNTY FOR APPROVAL

WHEREAS, the Governing Board of the Val Verde Unified School District (the "District") has adopted and promulgated a Conflict of Interest Code (the "Code") pursuant to the provisions of Title 9, Article 3, Chapter 7 of the Political Reform Act of 1974 commencing with Government Code section 87300; and,

WHEREAS, the District has performed its biennial review of its Code as required by Government Code section 87306.5 to determine if a change in the Code is necessitated by changing circumstances; and

WHEREAS, the District desires to amend its Code to ensure continued compliance with the content requirements of Government Code Section 87302; and,

WHEREAS, the amendment to the Code must be approved by the Board of Supervisors of Riverside County in its capacity as the code-reviewing body prior to the amended Code becoming effective pursuant to Government Code section 87303(c).

NOW THEREFORE, the Board of Education hereby resolves:

- (1) That the Superintendent or his Designee is authorized and directed to furnish the Board of Supervisors of Riverside County the revised Code amendment attached hereto as Exhibit "A".
- (2) That upon the approval of the revised Code, said Code shall be deemed adopted by the District.

Passed and adopted this 13th day of June 2006, by the following vote:

Ayes: 5
Noes: 0
Absent: 0
Abstention: 0

Val Verde Unified School District
Board of Education

D. Shelly Galloway
Stacy S. Lyman
Renee Fink
Marla Kirkland
Jeanne S. McAulis

Attest:

C. Fred Workman
C. Fred Workman, Ed.D.
Superintendent and Secretary to the Board of Education

Conflict Of Interest

The Board of Education hereby revises and adopts this Conflict of Interest Code as of the 13th day of June 2006.

A. Conflict of Interest and Prohibition Against Making, Participating in the Making or in Any Way Attempting to Use Official Position to Influence Decision.

In accordance with Government Code section 87100 and Title 2, California Code of Regulations, section 18730, no employee or member of the Board of Education of the Val Verde Unified School District shall make, participate in making, or in any way attempt to use his or her official position to influence a decision of the Val Verde Unified School District which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the officer or employee or a member of his or her immediate family or on any of the following:

1. Any business entity in which the officer or employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;
2. Any real property in which the officer or employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;
3. Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the officer or employee within 12 months prior to the time when the decision is made;
4. Any business entity in which the officer or employee is a director, officer, partner, trustee, employee, or holds any position of management; or
5. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating three hundred twenty dollars (\$320) or more in value provided to, received by, or promised to the officer or employee within 12 months prior to the time when the decision is made.

B. Prohibition Upon Designated Employees' Employment By or Other Business Relationships with District Vendors

In accordance with Government Code section 1126, the employment of a designated employee by or other business relationships with a current vendor of the district is prohibited. No designated employee shall accept compensation from any vendor who has done business with the district within the last two years.

C. Penalties

Any designated employee who fails to disclose reportable investments, business positions, interests in real property and income as required by the Political Reform Act, or any officer or employee who shall make, participate in making, or in any way attempt to use his or her official position to influence a decision of the Val Verde Unified School District in which he or she knows or has reason to know he or she has a financial interest shall be subject to discipline, including up to dismissal in accordance with the procedure articulated by Government Code section 91003.5. Classified employees shall be subject to discipline under Education Code section 45113. Certificated employees shall be subject to discipline under Education Code sections 44932 and 44933. In addition, state law provides for administrative, criminal and civil sanctions as discussed in paragraph H, section 12 below.

D. Annual In-Service

The District shall conduct annually an in-service for its officers and employees concerning the District's Conflict of Interest Code and the requirements included therein. This in-service shall cover (1) the reporting requirements contained in Form 700 entitled "Statement of Economic Interests", (2) conflicts of interest and the prohibitions of Government Code section 87100 and (3) the code of conduct expected and required of all officers and employees, including but not limited to the acceptance and reporting of gifts, meals and gratuities.

E. Disclosure of Loans as Income

Designated employees and members of the Board of Education shall disclose reportable loans on Schedule D of Form 700. Income is defined in Government Code section 82030 to include loans which aggregate five hundred dollars (\$500) or more from a single source which is either located in the jurisdiction, is doing business in the jurisdiction, has done business within the jurisdiction during the previous two years or plans to do business in the jurisdiction of the District. All reportable loans received or outstanding during the reporting period must be disclosed. Loans are not required to be disclosed in the following circumstances:

1. Any loan from a commercial lending institution which is secured by the principal residence of the filer. Loans exceeding ten thousand dollars (\$10,000) from a commercial lending institution or loans from other sources exceeding five hundred dollars (\$500) if not secured by the principal residence of the filer are reportable;
2. Loans from a commercial lending institution in the normal course of business which, in the aggregate, does not exceed ten thousand dollars (\$10,000) at any time during the reporting period;
3. Any indebtedness created as part of a retail installment or credit card transaction made in the creditor's regular course of business on terms available to the public without regard to the official status of the filer if the aggregate amount owed to the creditor does not exceed ten thousand dollars (\$10,000) at any time during the reporting period; or
4. Any loan from or payments received on a loan made to an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew,

niece, uncle, aunt, or first cousin, or the spouse of any such person, except that a loan or loan payment received from any such person is reportable if he or she is acting as an agent or intermediary for any person not covered by this provision.

F. Filing Deadline for Statements of Economic Interests

Designated employees and members of the Board of Education shall file annual Statements of Economic Interests with the Val Verde Unified School District no later than April 1 of each year.

Upon receipt of the Statements of the Superintendent and members of the Board of Education, the District shall make and retain a copy and forward the original of these statements to the Riverside County Board of Supervisors. Statements for all other designated employees will be retained by the District

G. Resources

For questions concerning the reporting requirements of the Political Reform Act, appendix "A" attached hereto should first be consulted. Appendix "A" sets forth the positions of those persons which are required to report financial interests and the disclosure categories which apply to each designated position. Next, the Statement of Economic Interests Form 700 should be consulted. Form 700 includes all the schedules which may need to be completed depending upon the disclosure category or categories applicable to a designated employee as well as instructions on how to complete each schedule. All members of the Board of Education and designated employees must complete the first page of Form 700 indicating the name of the position (including whether (i) the position is covered by a conflict of interest code and (ii) if the filing is an expanded statement), that the jurisdiction is Riverside County, the type of statement which is being submitted (i.e., assuming office, annual, leaving office, or initial statement), the schedules, if any, in which a reportable interest exists, and the certification of the filer that such information is true and correct.

For additional information on reporting requirements or information on conflicts of interest and prohibitions as discussed in paragraph A above, the Political Reform Act of 1974 commencing at Government Code 81000 and the Fair Political Practices Commission's implementing regulation found at Title 2, California Code of Regulations, section 18730 should be consulted. The applicable provisions of section 18730 are set forth below in paragraph H.

H. Section 18730: Provisions of Conflict of Interest Codes

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code Section 87300 or the amendment of a conflict of interest code within the meaning of Government Code Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 81000 et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained

in Government Code Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Sections 18100 et seq.), and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

Section 3. Public Officials Who Manage Public Investments

The members of the Board of Education are considered "public officials who manage public investments" under Government Code section 87200. Members of the Board of Education must file Form 700 Statement of Economic Interests pursuant to the reporting requirements of Government Code section 87200 through Section 87210. Members of the Board of Education shall disclose their financial interests as described in the Form 700 Statement of Economic Interests and in the Appendix.

Section 4. Statements of Economic Interests

(A) Initial Statements. All persons occupying newly added designated positions shall file statements within 30 days after the adoption of the amended Conflict of Interest Code in which said designated positions have been added.

(B) Assuming Office Statements. All persons assuming designated positions or office shall file statements within 30 days after assuming the designated positions or office.

(C) Annual Statements. All designated employees and members of the Board of Education shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions or office shall file statements within 30 days.

Section 5. Statements for Persons Who Resign Prior to Assuming Office

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive

any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

1. File a written resignation with the appointing power; and
2. File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the District or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements. Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the amended Conflict of Interest Code and income received during the 12 months prior to the effective date of the amended Code.

(B) Contents of Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's or Board of Education member's first annual statement shall begin on the effective date of the Code or the date of assuming office, whichever is later.

(D) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the District, and shall contain the following information:

(A) Investments and Real Property Disclosure. When an investment or an interest in real property is required to be reported, the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;

4. A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000) exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) Personal Income Disclosure. When personal income is required to be reported, the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), or greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee or member of the Board of Education shall list the name and address of each business entity in which he/she is a director, officer, partner, trustee, employee, or in which he/she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's or Board of Education member's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

Section 8. Legally Required Participation by Member of Board of Education.

No member of the Board of Education shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

Section 9. Prohibition on Receipt of Honoraria.

No member of the Board of Education shall accept any honorarium. No designated employee shall accept any honorarium from any source, if the employee would be required to report the receipt of income or gifts from that source on his or her Form 700 Statement of Economic Interests. Subdivisions (a), (b), and (c) of Government Code section 89501 shall apply to the prohibitions of this section. This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

Section 9.1. Prohibition on Receipt of Gifts of \$320 or More.

No member of the Board of Education shall accept any gifts with a total value of more than three hundred twenty dollars (\$320) in a calendar year from any single source. No designated employee shall accept gifts with a total value of more than three hundred twenty dollars (\$320) in a calendar year from any single source, if the employee would be required to report the receipt of income or gifts from that source on his or her Form 700 Statement of Economic Interests. Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

(9) Section 10. Manner of Disqualification.

When a member of the Board of Education determines that he/she should not make a governmental decision because he/she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. This determination and disclosure shall be made part of the minutes of the Board of Education. When a designated employee determines that he/she should not make a governmental decision because he/she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

Section 11. Assistance of the Commission and Counsel.

Any member of the Board of Education or designated employee who is unsure of his/her duties under this Code may request assistance from the Fair Political Practices Commission pursuant to Government Code section 83114 or from the attorney for his/her District, provided that nothing in this section requires the attorney for the District to issue any formal or informal opinion.

Section 12. Violations.

This code has the force and effect of law. Designated employees and members of the Board of Education violating any provision of this Code are subject to the administrative, criminal and

civil sanctions provided in the Political Reform Act, Government Code sections 81000-91015. In addition, a decision in relation to which a violation of the disqualification provisions of this Code or of Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.

CONFLICT OF INTEREST CODE FOR THE VAL VERDE UNIFIED SCHOOL DISTRICT

APPENDIX A

1.0 Filing of Statements

Designated employees and officials shall file statements with the Val Verde Unified School District who will make the statements available for public inspection and reproduction. (Government code Section 81001).

1.1 It has been determined that the positions listed below manage public investments and will file a Statement of Economic Interest pursuant to Government Code section 87200 and the disclosable financial interests set forth in Section 3.0 below.

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Board of Education

Members of the Board of Education

1.2 Designated Positions and disclosure categories are as follows:

DESIGNATED POSITIONS DISCLOSURE CATEGORIES

Superintendent's Office

Superintendent 1, 2, 3

Education Services

Deputy Superintendent, Education Services 1, 2, 3

Assistant Superintendent, Education Services 1, 2, 3

Assistant Superintendent, Student Services 2

Director, Educational Services 2

Director, Special Education 2

Business Services

Deputy Superintendent, Business Services 1, 2, 3

Director, Business Services 2

Director, Purchasing 2

Director, Information Technology 2

Director, Food Services 2

Director, Facilities 2, 3

Director, Maintenance & Operations 2
Manager, Maintenance & Operations 2
Director, Risk Management 2
Director, District Security 2
Manager, District Security 2

Personnel Services

Deputy Superintendent, Human Resources 1, 2, 3
Administrator, Human Resources 1, 2, 3

Schools

Principals 1, 2, 3

2.0 Consultants

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest category in this Conflict of Interest Code subject to the following limitations:

The Superintendent may determine in writing that a particular consultant, although a “designated position”, is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Superintendent’s determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

3.0 Officials Who Manage Public Investments

Subject to the provisions of Government Code Sections 87200 through 87210, an official in this category shall disclose:

- (a) Interests in real property located within the jurisdiction of the district.
- (b) Business positions or investments in business entities or income from sources which plan to do business, are currently doing business, or have done business within the jurisdiction of the District during the previous two years.

4.0 Disclosure Categories

4.1 Designated employees whose duties are broad and undefinable.

A designated employee in this category shall disclose:

- (1) Interests in real property located within the jurisdiction of the district.
- (2) Business positions and investments in business entities, or income from sources of the type which plan to do business, are currently doing business, or have done business with the district within the previous two years.

4.2 Designated employees whose duties involve contracting or purchasing.

A designated employee in either of the two following sub-categories shall disclose:

(1) Contracts or makes purchases for entire district.

Investments and business positions in business entities, and income from sources which provide services, supplies, materials, machinery or equipment of the type utilized by the district.

(2) Contracts or makes purchases for specific department.

Investments and business positions in business entities, and income

from sources which provide services, supplies, materials, machinery or equipment of the type utilized by the designated employee's department or division.

4.3 Designated employees whose decisions may affect real property interests.

A designated employee in this category shall disclose:

Investments and business positions in business entities, and sources of income, which engage in land development, construction or the acquisition, lease or sale of real property, and all interests in real property located within the jurisdiction of the district.

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>

Adopted: August 9, 2004

Revised: June 13, 2006