

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



**ITEM**  
2.18  
(ID # 3498)

**MEETING DATE:**

Tuesday, March 7, 2017

**FROM :** COUNTY COUNSEL:

**SUBJECT:** COUNTY COUNSEL: Approval of the Conflict of Interest Code of the Perris Elementary School District [District 5] [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the Conflict of Interest Code submitted by the Perris Elementary School District; and
2. Direct the Clerk of the Board to notify the Perris Elementary School District of the action taken.

**ACTION:** Consent

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington and Ashley  
Nays: None  
Absent: None  
Date: March 7, 2017  
xc: Co.Co., District, COBcm

Kecia Harper-Ihem  
Clerk of the Board

By: Cecilia G. G.  
Deputy

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

**BACKGROUND:**

**Summary**

Government Code section 87306.5 requires that all local agencies review their Conflict of Interest Code, and the listings of designated positions for employees who must disclose along with the types of disclosure required, and make appropriate amendments to each as required.

Government Code Section 82011 identifies the Board of Supervisors for the County of Riverside as the code reviewing body for a local government agency within its county. A local government agency, as defined by Government Code Section 82041, includes Perris Elementary School District.

Perris Elementary School District recently revised its Conflict of Interest Code and has submitted it to the Board of Supervisors as the code reviewing body.

This office has reviewed the revised Conflict of Interest Code (appendix) and has found that it complies with statutory requirements. A copy of Perris Elementary School District's revised Conflict of Interest Code (appendix) is attached.

It is recommended that the Board of Supervisors approve Perris Elementary School District's Code as revised and that the Clerk of the Board notify the Agency of the action taken.

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: N/A</b>			<b>Budget Adjustment:</b>	N/A
			<b>For Fiscal Year:</b>	N/A

**C.E.O. RECOMMENDATION:** Approve

**Impact on Residents and Businesses**

N/A

**SUPPLEMENTAL:**

**Additional Fiscal Information**

N/A

**Contract History and Price Reasonableness**

N/A

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

**ATTACHMENTS:**

**ATTACHMENT A. Conflict of Interest Code of the Perris Elementary School District**

**ATTACHMENT B. Resolution of the Perris Elementary School District Adopting A  
Conflict of Interest Code**

  
\_\_\_\_\_  
Gregory V. Priamos, Director County Counsel 2/17/2017

### Conflict Of Interest

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. Accordingly, no Board member, designated employee, or other person in a designated position shall participate in the making of any decision for the district when the decision will or may be affected by his/her financial, family, or other personal interest or consideration.

(cf. 9005 - Governance Standards)

Even if a prohibited conflict of interest does not exist, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs. Relative means an adult who is related to the Board member 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 an individual's parents, grandparents, great-grandparents, children, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, nieces, nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced.

The Board shall adopt for the district a conflict of interest code that incorporates the provisions of 2 CCR 18730 by reference, specifies the district's designated positions, and provides the disclosure categories required for each position. The conflict of interest code shall be submitted to the district's code reviewing body for approval, in accordance with Government Code 87303 and within the deadline for submission established by the code reviewing body. (Government Code 87303)

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code and submit any changes to the code reviewing body or, if no change is required, the Board shall submit a written statement to that effect. (Government Code 87306.5)

When a change in the district's conflict of interest code is necessitated due to changed circumstances, such as the creation of new designated positions, changes to the duties assigned to existing positions, amendments, or revisions, the amended code shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. (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, designated employee, and other person in a designated position 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

FORM APPROVED COUNTY COUNSEL

BY: Elena M. Boeva 1-24-17  
ELENA M. BOEVA DATE

between the closing date of the last required statement and the date of leaving office or district employment. (Government Code 87302, 87302.6)

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

#### Conflict of Interest under the Political Reform Act

A Board member, designated employee, or other person in a designated position shall not make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a disqualifying conflict of interest. A disqualifying conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect," which is distinguishable from the effect on the public generally, on the Board member, designated employee, or other person in a designated position, his/her immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

A Board member, designated employee, or other person in a designated position makes, participates in making, or influences a governmental decision when he/she, acting within the authority of his/her office or position, authorizes or directs any action on a matter, votes or provides information or opinion on it, contacts or appears before a district official for the purpose of affecting the decision, or takes any action specified in 2 CCR 18704.

However, on a case-by-case basis and upon advice of legal counsel, a Board member with a financial interest in a contract may participate in the making of the contract in which he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

#### Additional Requirements for Boards that Manage Public Investments

Any Board member who manages public investments pursuant to Government Code 87200 and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest, after the item is announced, but before discussion or vote on the matter begins do all of the following: (Government Code 87105; 2 CCR 18707)

1. Publicly identify each financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public. The following details shall be included:
  - a. For investments, the name of the business entity in which the investment is held;
  - b. For business positions, a general description of the business activity in which the entity is engaged and the name of the business entity;
  - c. For real property, address or other indication of the location of the property, except if the property is the public official's personal residence, the street address does not have to be provided, but the property should be identified as a residence;
  - d. For income or gifts, identification of the source; and
  - e. For personal financial effect, identification of the expense, liability, asset or income affected
2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. The Board member shall not be counted toward achieving a quorum while the item is discussed.

However, the Board member may speak on the issue during the time that the general public speaks on it and may leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion and deliberations of the matter with members of the public.

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 consent calendar.

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 consideration of the consent calendar.

4. If the Board's decision is made during closed session, disclose his/her interest orally during the open session preceding the closed session. This disclosure shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 87100. He/she shall not be present when the item is considered in closed session and shall not knowingly obtain or review a recording or any other nonpublic information regarding the Board's decision.

(cf. 3430 – Investing)

(cf. 9321 – Closed Session Purposes and Agendas)

(cf. 9321.1 – Closed Session Actions and Reports)

#### Conflict of Interest under Government Code 1090 – Financial Interest in a Contract

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest, the district shall not enter into the contract and such contract is void and voidable. (Government Code 1090 and 1092)

A Board member shall not be considered to be financially interested in a contract if he/she has only a "remote interest" in the contract as specified in Government Code 1091, if the 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 or district official to enter into the contract. (Government Code 1091)

In addition, a Board member shall not be considered to be financially interested in a contract in which his/her interest is a "noninterest" as defined in Government Code 1091.5. Noninterest includes a Board member's interest in being reimbursed for his/her actual and necessary expenses incurred in the performance of his/her official duties, in the employment of his/her spouse/registered domestic partner who has been a district employee for at least one year prior to the Board member's election or appointment, or in any other applicable circumstance specified in Government Code 1091.5.

#### Common Law Doctrine Against Conflict of Interest

A Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

#### Incompatible Offices and Activities

Board members shall not engage in any employment or activity or hold any office which is inconsistent with, incompatible with, in conflict with, or inimical to the Board member's duties as an officer of the district. (Government Code 1099, 1126)

(cf. 4136-4236-4336 – Nonschool Employment) 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 limitation on gifts 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. (Government Code 89503)

In addition, the limitation on gifts does not apply to informational materials such as books, reports, pamphlets, calendars, and periodicals. (Government Code 82028)

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation except when: (Government Code 89506)

1. The travel is in connection with a speech given by a Board member or designated employee provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.
2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Gifts of travel exempted from the gift limitation, as described in items #1 and 2 above, shall nevertheless be reportable on the recipient's Statement of Economic Interest/Form 700 as required by law.

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 conference, convention, meeting, social event, meal, or like gathering (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

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office

35107 School district employees

35230-35240 Corrupt practices, especially:

35233 Prohibitions applicable to members of governing boards

41000-41003 Moneys received by school districts

FAMILY CODE

297.5 Rights, protections, and benefits of registered domestic partners

GOVERNMENT CODE

1090-1099 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

81000-91014 Political Reform Act of 1974, especially:

82011 Code reviewing body

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

PENAL CODE

85-88 Bribes

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission, especially:



18702.5 Public identification of a conflict of interest for Section 87200 filers

#### COURT DECISIONS

Klistoff v. Superior Court, (2007) 157 Cal.App.4th 469

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

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

Can I Vote? A Basic Overview of Public Officials' Obligations Under the Conflict-of-Interest Rules, 2005

#### INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Understanding the Basics of Public Service Ethics: Personal Financial Gain Laws, 2009

Understanding the Basics of Public Service Ethics: Transparency Laws, 2009

WEB SITES

CSBA: <http://www.csba.org>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute of Local Government: <http://www.ca-ilg.org>

Bylaw PERRIS ELEMENTARY SCHOOL DISTRICT

adopted: January 19, 2017 Perris, California

**PERRIS ELEMENTARY SCHOOL DISTRICT**

**RESOLUTION # 13 16-17:**

**ADOPTING A CONFLICT OF INTEREST CODE**

**WHEREAS**, the Political Reform Act, Government Code 87300-87313, requires each public agency in California to adopt a conflict of interest code; and

**WHEREAS**, the Governing Board of the Perris Elementary School District is required to adopted a local conflict of interest code; and

**WHEREAS**, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to the district's conflict of interest code; and

**WHEREAS**, a regulation adopted by the Fair Political Practices Commission, 2 CCR 18730, provides that incorporation by reference of the terms of a standard model of conflict of interest code, along with an agency-specific appendix designating positions and disclosure categories shall constitute the adoption and amendment of a conflict of interest code in conformance with Government Code 87300 and 87306; and that conforms to the Political Reform Act; and

**WHEREAS**, adoption of the FPPC's model conflict of interest code will result in the district's conflict of interest code automatically being updated and amended in accordance with the FPPC's requirements; and

**WHEREAS** all affected employees and officials of the district will familiarize themselves with the provisions of the conflict of interest code adopted pursuant to this resolution.

**WHEREAS**, the Perris Elementary School District has recently reviewed its positions, and the duties of each position, and has determined that changes to the current conflict of interest code are necessary; and

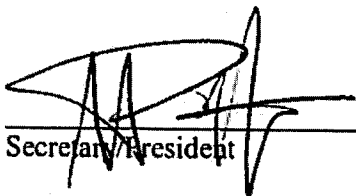
**WHEREAS**, any earlier resolutions, bylaws, and/or appendices containing the district's conflict of interest code shall be rescinded and superseded by this resolution and Appendix; and

**NOW THEREFORE BE IT RESOLVED** that the Perris Elementary School District Governing Board adopts the following Conflict of Interest Code including its Appendix of Designated Employees and Disclosure Categories.

**PASSED AND ADOPTED THIS 9<sup>th</sup> day of February, 2016 at a meeting, by the following vote:**

**AYES:** 51 **NOES:** 0 **ABSENT:** 0

Attest:

  
Secretary/President

**Conflict of Interest Code of the  
Perris Elementary School District**

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the district's conflict of interest code.

Governing Board members and designated employees shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the district's filing officer and/or, if so required, with the district's code reviewing body. The district's filing officer shall make the statements available for public review and inspection.

**APPENDIX**

**Disclosure Categories**

1. **Category 1: A person designated Category 1 shall disclose:**
  - 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.**
  - b. **Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the district, 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 manufacture or sell supplies, books, machinery, or equipment of the type used by the district.**
2. **Category 2: A person designated Category 2 shall disclose:**
  - a. **Investments or business positions in or income from sources which are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs.**
  - b. **Investments or business positions in or income from sources which 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.**

3. **Full Disclosure:** Because it has been determined that the district's Board members and/or Superintendent "manage public investments," they and other persons designated for "full disclosure" shall disclose, in accordance with Government Code 87200:

- 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.
- b. Investments, business positions, and sources of income, including gifts, loans, and travel payments.

**Designated Positions**

**Designated Position and Disclosure Category**

Governing Board Members	Full Disclosure
Superintendent	Full Disclosure
Assistant Superintendent	Full Disclosure
Chief Business Official	Full Disclosure
Consultants	Full Disclosure
Director Classified	2
Director Certificated	2
Principal	2
Assistant Principal	2
Facilities Director	2
Program Coordinator	2

**Disclosures for Consultants**

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 district, makes a governmental decision whether to: (2 CCR 18700.3)

- 1. Approve a rate, rule, or regulation
- 2. Adopt or enforce a law
- 3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement

4. Authorize the district to enter into, modify, or renew a contract that requires district approval
5. Grant district approval to a contract that requires district approval and in which the district is a party, or to the specifications for such a contract
6. Grant district approval to a plan, design, report, study, or similar item
7. Adopt or grant district approval of district policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the district, serves in a staff capacity with the district and in that capacity participates in making a governmental decision as defined in 2 CCR 18704, subsections (a) and (b), or performs the same or substantially all the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's conflict of interest code. (2 CCR 18700.3)

(7/10) \_\_\_\_\_ Date 2-9-17