

## **Administrative Procedure 2710**

### **Conflict of Interest**

#### **I. Prohibition on Conflict of Interests for Employees**

- a. A “conflict of interest” exists when a Peralta Community College District employee, in their role as an employee, participates in a decision or transaction or provides services where the employee personally benefits from the decision, transaction, or service.
- b. A “conflict of interest” also exists when a Peralta Community College District employee, in their role as an employee, participates in a decision or transaction or provides services where a member of the employee’s immediate family personally benefits from the decision, transaction, or services.
- c. A benefit may either be financial or non-financial.
  - i. A financial benefit exists when an employee or a member of their immediate family receives a monetary benefit or their existing financial interests are materially affected by the decision, transaction, or services.
  - ii. A non-financial benefit exists when an employee or a member of their immediate family receives a non-monetary benefit (for example, the employee or family member receives a grade, a service, priority enrollment, or special treatment) by the decision, transaction, or services.
  - iii. Where the benefit received in the transaction is indirect and immaterial, a conflict of interest does not exist.
- d. The immediate family of an employee is defined as: mother, father, grandparent, or grandchild of the employee or of the employee’s spouse or domestic partner; stepmother, step-father, spouse, domestic partner, son, mother-in-law, father-in law, son in-law, step-son, daughter, daughter-in-law, step-daughter; brother, brother-in-law, sister, sister-in-law, aunt, or uncle of the employee; child of a domestic partner, sibling of a domestic partner; wife or husband of a domestic partner’s child; or any person living in the immediate household of the employee.
- e. An employee “participates in a decision” when the employee, in their role as an employee, makes or participates in the making of a decision. An employee “participates in a transaction” or “provides services” when the employee, in their role as an employee, participates in, executes, processes, reviews, or approves a transaction or services.
- f. “Financial interest” means an employee’s investment in or position with business entities, interests in real property, sources of income, sources of gifts, the personal finances of the employee, or the personal finances of a member of the immediate family of the employee.

#### **II. Prohibition on Conflict of Interest for Board Members**

Board members shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as members of the Board.

- A. A Board member shall not be considered to be financially interested in a contract if their interest meets the definitions contained in applicable law.
- B. A Board member shall not be deemed to be financially interested in a contract if they 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 subdivision (b); they include, but are not limited to, the interest of a parent in the earnings of their minor child.

**III. Incompatible Activities**

A Board member shall not simultaneously hold two public offices that are incompatible. When two offices are incompatible, a Board member shall be deemed to have forfeited the first office upon acceding to the second.

**IV. No Employment Allowed**

An employee of the District may not be sworn in as an elected or appointed member of the Governing Board unless and until they resign 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 subdivision (b)).

**V. Outside Employment**

An employee shall not engage in any outside employment or self-employment, activity, or enterprise which is inconsistent, incompatible, or in conflict with or inimical to their District duties, functions, responsibilities, or that of the department in which they are employed by the District. In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must disclose any outside employment to the Vice Chancellor of Human Resources or designee.

**VI. Financial Interest in a Decision (This does not apply to Govt. Code Section 1090 Conflicts)**

If a Board member or employee determines that they have a financial interest in a decision, as 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.

**VII. Gifts**

- A. Board members and any employees who manage public investments shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law.
- B. Designated employees shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law if the employee would be required to report the receipt of income or gifts from that source on their statement of economic interests.
- C. The above 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.
- D. Gifts of travel and related lodging and subsistence shall be subject to the above limitations except as described in Government Code Section 89506.

- E. A gift of travel does not include travel provided by the District for Board members and designated employees.
- F. Board members and any employees who manage public investments 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 (Government Code Sections 89501 and 89502).
- G. Designated employees 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 employee would be required to report the receipt of income or gifts from that source on their statement of economic interests. The term "honorarium" does not include:
  - i. 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.
  - ii. 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.

VIII. **Representation** Elected officials and the 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.

IX. **Contracts Supported by Federal Funds**

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 they have a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, Board member, or agent, any member of their immediate family, 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.

**References:**

Government Code Sections 1126, 1090, 1099, 87105, and 87200-87210;  
Government Code Section 87406.3  
Government Code Sections 89501 and 89502  
Government Code Section 89503  
Government Code Section 89506  
Government Code Sections 87100  
Education Code Section 72103  
Title 2 Sections 18700 et seq.;  
2 Code of Federal Regulations Part 200.318 subdivision (c)(1)

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