

Emailed to Michele Y. 10-1-20

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OCT -1 2020

## 2020 Local Agency Biennial Notice

Name of Agency: Lassen County Office of Education

JULIE GUNDELSON  
LASSSEN COUNTY CLERK

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Deputy

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Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that (check one BOX):

☒ An amendment is required. The following amendments are necessary:

(Check all that apply.)

- ☐ Include new positions
- ☒ Revise disclosure categories
- ☒ Revise the titles of existing positions
- ☒ Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- ☐ Other (describe) \_\_\_\_\_

☐ The code is currently under review by the code reviewing body.

☐ No amendment is required. (If your code is over five years old, amendments may be necessary.)

### Verification (to be completed if no amendment is required)

*This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.*

Patricia A. Gunderson  
Signature of Chief Executive Officer

10-1-2020  
Date

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 1, 2020**, or by the date specified by your agency, if earlier, to:

(PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE)

**PLEASE DO NOT RETURN THIS FORM TO THE FPPC.**

## CONFLICT OF INTEREST

The County Board of Education desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the Lassen County Office of Education (LCOE) and the public. In accordance with law, County Board members shall disclose any conflict of interest and, as necessary, shall abstain from participating in any decisions or discussions that could affect or be effected by those interests, especially, as prohibited by Government Code 1090, those interests related to contracts. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

The County Board shall adopt a resolution that specifies the terms of its conflict of interest code, designates any consultant positions required to complete conflict of interest reporting, and establishes disclosure categories required for each position. The conflict of interest code must be approved by the appropriate code reviewing body. Upon request by the code reviewing body, the County Board shall review the conflict of interest code and submit any changes to the code reviewing body.

When a change in the conflict of interest code is necessitated due to changed circumstances, such as the hiring of a new consultant in a position that is not already designated in the conflict of interest code or a change to an existing consultant's scope of work in a manner that changes the consultant's position to a designated position, the amended code shall be submitted to the code reviewing body within 90 days. (Government Code 87306)

When reviewing and preparing the conflict of interest code, the County Board shall provide members of the community, the County Superintendent of Schools, LCOE staff, and consultants of the County Board adequate notice and a fair opportunity to present their views. (Government Code 87311)

County Board members shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the conflict of interest code. A County Board member who leaves office shall, within 30 days, file a revised statement covering the period of time between the closing date of the last required statement and the date of leaving office. (Government Code 87302, 87302.6)

### Conflict of Interest under the Political Reform Act

A County Board member 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 conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the County Board member's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the County Board member's participation is legally required. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

**CONFLICT OF INTEREST**

A County Board member is involved in making a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or commits the County Board to any course of action, or votes to enter into or approve any contractual agreement on behalf of the County Board. (2 CCR 18704)

A County Board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the County Board shall abstain from voting on the matter. Although he/she may remain on the dais, if they do choose to stay their presence shall not be counted towards achieving a quorum for that matter. A County Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the County Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue. (2 CCR 18700)

Conflict of Interest under Government Code 1090 - Financial Interest in a Contract

County Board members shall not be financially interested in any contract made by the County Board and shall not be included in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids for such contracts. If a County Board member has such a financial interest, the County Board is barred from entering into the contract. (Government Code 1090; Klistoff v. Superior Court, (2007) 157 Cal.App. 4th 469)

A County Board member shall not be considered to be financially interested in a contract if his/her interest is a "noninterest" as defined in Government Code 1091.5.

A County 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 and if the remote interest is disclosed during a County Board meeting and noted in the official County Board minutes. The affected County Board member shall not vote or debate on the matter or attempt to influence any other County Board member's vote. (Government Code 1091)

To avoid the appearance of impropriety, County Board members may decide not to participate in any discussion or action involving contracts where his/her interest is a "noninterest" or "remote interest" as described in Education Code 1091 and 1091.5.

Common Law Doctrine Against Conflict of Interest

A County Board member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties. The County Board shall consult legal counsel whenever an actual or potential conflict of interest arises.

## **CONFLICT OF INTEREST**

County Board members shall abstain from voting on personnel matters that uniquely affect relatives. Relative means an adult who is related to the County Board member by blood, affinity, or adoptive relationship within the third degree.

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.

### Rule of Necessity or Legally Required Participation

On a case-by-case basis and upon advice of legal counsel, a County Board member with a financial interest in a contract may participate in the making of the contract if the rule of necessity or legally required participation applies pursuant to Government Code 87101 and 2 CCR 18705.

### Incompatible Offices and Activities

County 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 County Board member's duties as an officer of the COE. (Government Code 1099, 1126)

### Gifts

County Board members 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)

Gifts of travel and related lodging and subsistence shall be subject to the current gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the County Board for its members. (Government Code 89506)

### Honoraria

County Board members 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)

**CONFLICT OF INTEREST**

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 COE for donation into the general fund without being claimed as a deduction from income for tax purposes

*Legal Reference: (see next page)*

## CONFLICT OF INTEREST

*Legal Reference:*

EDUCATION CODE

1006 *Qualifications for holding office*

35230-35240 *Corrupt practices, especially:*

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:*

82003 *Agency definition*

82011 *Code reviewing body*

82019 *Definition, designated employee*

82028 *Definition, gift*

82030 *Definition, income*

82033 *Definition, interest in real property*

82034 *Definition, investment*

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:*

18700-18707 *General prohibitions*

18722-18740 *Disclosure of interests*

18750.1-18756 *Conflict of interest codes*

COURT DECISIONS

*McGee v. Balfour Beatty Construction, LLC, et al. (4/12/16, No. B262850)*

*Davis v. Fresno Unified School District (2015) 237 Cal.App.4th 261*

*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)*

**CONFLICT OF INTEREST**

*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>*



**CONFLICT OF INTEREST**

RESOLUTION 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 Lassen County Board of Education has previously 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 County Board'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 that regulation, 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

**WHEREAS**, the County Board 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 County Board's conflict of interest code shall be rescinded and superseded by this resolution and Appendix.

**NOW THEREFORE BE IT RESOLVED** that the Lassen County Board of Education adopts the following Conflict of Interest Code, including its Appendix of Designated Positions and Disclosure Categories.

**PASSED AND ADOPTED** by the Lassen County Board of Education this 14th day of October, 2020, by the following vote:

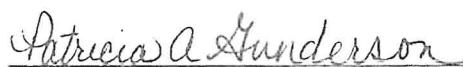
**AYES:** Bushong, Davie, Fitzer, Hagata, Owens

**NAYS:** None

**ABSTENTIONS:** None

**ABSENT:** None (two current vacancies)

I, Patricia A. Gunderson, Secretary to the Lassen County Board of Education, do hereby certify that the foregoing is a full, true, and correct copy of a resolution passed and adopted by said Board at a regular meeting thereof held on said date.



Patricia A. Gunderson, Superintendent/Secretary  
Lassen County Board of Education



CONFLICT OF INTEREST

APPENDIX

Disclosure Categories

1. *Category 1:* A person designated Category 1 shall disclose:
  - a. Interests in real property located entirely or partly within county boundaries, or within two miles of the county boundaries, or of any land owned or used by the County Board.
  - b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the county, 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 County Board, or manufacture or sell supplies, books, machinery, or equipment of the type used by the County Board.
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.

DESIGNATED POSITIONS

DISCLOSURE CATEGORIES

Members of the County Board of Education	1, 2
County Superintendent of Schools	1, 2
Superintendent's Cabinet, which includes:	
Associate Superintendent	1, 2
Assistant Superintendent	1, 2
Director of Business Services	1, 2
Assistant Director of Business Services	1, 2
Executive Assistant to the County Supt.	1, 2

**CONFLICT OF INTEREST**

Disclosures for Consultants

Consultants who are hired pursuant to Education Code 1042 may be designated individuals who are required to disclose financial interests as determined on a case-by-case basis. The determination shall be in writing 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 County Board, makes a governmental decision pursuant to 2 CCR 18700.3.