

Board of Trustees Agenda Item

Board Meeting Date: August 2, 2010

Title of Item: Revisions to Board Policy 9200 – Conflict of Interest

Background and Analysis:

Every two years, as required by the Fair Political Practices Commission, public agencies must update their Conflict of Interest policies which includes a list of the designated positions within the reporting requirements for annual statements of economic interest.

The Santa Clara County Office of the County Counsel has specified amendments that must be made to the district's policy to bring it into compliance with the Political Reform Act. The revisions have been reviewed by the district's general counsel. Both the current board policy and the revised policy are included for your information and comparison. The revised policy is presented for a first reading.

Once approved by the Board, the revised policy must be submitted to the Santa Clara County Office of the County Counsel by October 29, 2010. It is important to note that final approval of the district's policy rests with the County Board of Supervisors.

Recommendation: (specify if information only)

Information only

Submitted by:	Linda Thor
Additional contact names:	
Is backup provided?	Yes

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Conflict of Interest

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The Political Reform Act, California Government Code section 81000 et seq., requires State and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, Title 2, California Code of Regulations, Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearing. Therefore, the terms of Title 2, California Code of Regulations, section 18730, and any amendments to it, duly adopted by the Fair Political Practices Commission, along with the Appendix, below, in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Foothill De Anza Community College District.

Designated Position
Trustee
Chancellor
President
Vice President
Associate Vice President
Vice Chancellor of Business Services
Vice Chancellor of Human Resources & Equal Opportunity
Vice Chancellor of Technology
Executive Director of Facilities, Operations & ConstructionManagement
Director of Bond Management
Budget Director
Controller
Director of Purchasing & Material Services
Senior Buyers
Director of Risk Management
Director of Bookstore
Director of Campus Center
Executive Director of Foundation
Dean of Student Affairs and Activities
Dean of Library Services, De Anza
Manager, Benefits
Consultants
Director of Flint Center

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APPENDIX A

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

1. Persons occupying the following positions are designated employees in Category 1:

Trustee
Chancellor
President
Vice President
Vice Chancellor of Business Services
Vice Chancellor of Human Resources & Equal Opportunity
Vice Chancellor of Technology
Associate Vice President
Executive Director of Facilities, Operations & Construction Management
Controller
Budget Director
Executive Director of Foundation

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 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.

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

Director of Purchasing & Material Services
Senior Buyer
Assistant Buyer
Director of Bond Management
Director of Bookstore
Director of Campus Center
Director of Risk Management
Dean of Student Affairs and Activities
Dean of Library Services, De Anza
Manager, Benefits

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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 Central Services manager's department is the entire District and a campus manager's department is the entire campus.

3. Persons occupying the following positions are designated employees in Category 3:

Consultants

Consultants are designated employees or contractors who must disclose financial interests as determined on a case-by-case basis by the Chancellor or designee. Consultants shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The Chancellor or designee may determine, in writing, that a particular consultant, although a "designated position", is hired to perform a range of duties that are limited in scope and thus is not required to comply fully with the disclosure requirements of the broadest category, but instead must comply with a more tailored disclosure requirements specific to that consultant. Such a 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:

- (i) Approve a rate, rule, or regulation;
- (ii) Adopt or enforce a law;
- (iii) Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
- (iv) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval;
- (v) Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract;
- (vi) Grant agency approval to a plan, design, report, study, or similar item;
- (vii) Adopt, or grant agency approval of, District policies, standards, or guidelines.

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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 regulation 2 CCR 18702.2 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.

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

A Board member shall not engage in any activity that is inconsistent with, incompatible with, in conflict with or inimical to his or her duties as an officer of the District.

Whenever required by law concerning such conflicts, Board members shall not vote or debate on any matter, or attempt to influence any other Board member regarding such matter, which is before the Board, and which implicates such a conflict.

Board members, employees of the District and other individuals in designated positions shall comply with the provisions of Fair Political Practices Commission Regulation 18730 and file statements of economic interest annually with the District's filing officer as required by law. Guidelines for proper reporting will be made available to Board members and all employees and other individuals in the following designated positions:

Designated Position	Required Schedules					
	A1	A2	B	C	D	E
Trustees	X	X	X	X	X	X
Chancellor	X	X	X	X	X	X
Presidents	X	X	X	X	X	X
Vice Presidents	X	X	X	X	X	X
Vice Chancellor of Business Services	X	X	X	X	X	X
Vice Chancellor of Human Resources & Equal Opportunity	X	X	X	X	X	X
Vice Chancellor of Technology	X	X	X	X	X	X
Executive Director of Facil., Operations & Constr. Mgmt.	X	X	X	X	X	X
Director of Bond Management	X	X	X	X	X	X
Controller	X	X	X	X	X	X
Director of Purchasing & Material Services	X	X	X	X	X	X
Senior Buyers	X	X	X	X	X	X
Director of Risk Management	X	X	X	X	X	X
Director of Bookstore	X	X	X	X	X	X
Director of Campus Center, De Anza	X	X	X	X	X	X
Director of Foundation	X	X	X	X	X	X
Dean of Learning Resources, De Anza	X	X	X	X	X	X
Dean of Faculty and Staff, Foothill	X	X	X	X	X	X
Consultants (Group 1: Attorneys)	X	X	X	X	X	X
Consultants (Group 2: Construction Management)	X	X	X	X	X	X
Director of Flint Center	X	X	X	X	X	X

Explanation of Schedules

A1=Investments (less than 10% ownership)

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A2=Investments (greater than 10% ownership)

B=Real Property

C=Income & Business Positions (other than loans, gifts, travel)

D=Income – Loans

E=Income – Gifts

Approved 2/18/03

Revised 8/2/04, 8/28/06; 8/25/08; 10/20/08