

## **Lewis Center for Educational Research**

**BP 9270: BOARD BYLAWS  
CONFLICT OF INTEREST**

**Adopted: February 7, 2002**

**Revised: December 12, 2016,  
April 13, 2020**

The Lewis Center for Educational Research (“LCER”) Board (“Board”) members and designated employees shall not engage in any employment or activity which is inconsistent with, or incompatible with the board member’s duties as an officer of the school.

### **Political Reform Act**

The Board has adopted a Conflict of Interest Code (the “Code”) pursuant to the requirements of the Political Reform Act of 1974, Government Code Section 81000 et seq. (the “Act”). The Code sets forth the required provisions for the disclosure of assets and income, designates the positions subject to the disclosure provisions of the Code, establishes the list of disclosure categories specifying the types of assets and income required to be disclosed by each designated employee to which they are assigned, and provides for the disqualification of designated employees from acting where a conflict of interest exists.

The requirements of the Code are in addition to other requirements of the Political Reform Act and to other state and local laws pertaining to conflicts of interest and have the force and effect of law. Designated positions violating any provision of the Code are subject to the administrative, criminal and civil sanctions provided by the Act. Additionally, a decision in relation to which a violation of the disqualification provisions of the Code or Government Code section 87100 has occurred may be set aside as void pursuant to Government Code section 91003.

All officers and designated positions are directed to refer to the LCER’s Conflict of Interest Code for these specific requirements. The Conflict of Interest Code is held in the office of the President/CEO Executive Assistant as the LCER’s Filing Officer/Official and is available for review and copying during regular business hours. (Gov. Code § 81008)

## **Financial Interest in Contracts**

A board member, officer, or employee shall not make a contract in which he or she is financially interested. Any participation by a board member, officer, or employee in the process by which such a contract is developed, negotiated and executed is a violation of section 1090. A board member is conclusively presumed to have made any contract executed by the Board or an agency under its jurisdiction, even if the board member has disqualified himself or herself from any and all participation in the making of the contract. (Government Code 1090)

Non-Interests. A board member shall not be deemed to be financially interested in a contract if his/her interest is including, but not limited to, any of the following: (Government Code 1091.5)

1. That of an officer who is being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty.
2. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the Board.
3. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial or other public school of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which event his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091.
4. That of a spouse of an officer or employee of a public agency if his/her spouse's employment or office holding has existed for at least one year prior to his/her election or appointment.
5. That of a non-salaried member of a nonprofit corporation, provided that such interest is disclosed to the Board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records.
6. That of a non-compensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the Board or to which the Board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records.

7. That of an attorney of the contracting party or that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agency, or real estate broker if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm.
8. In addition, a board member or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his/her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrowers or depositor, debtor or creditor. (Government Code 1091.5)

Remote Interests. A board member shall not be deemed to be financially interested in a contract if he or she has only a remote interest in the contract and if the remote interests is disclosed during a board meeting and noted in the official board minutes. The affected board member shall not vote or discuss the matter or attempt to influence any other board members to enter into the contract. Remote interests include the following: (Government Code 1091)

1. That of an officer or employee of a nonprofit corporation in the contracts, purchases, and sales of the corporation.
2. That of an employee or agent of a private contracting party in its contracts when (1) the private party has 10 or more other employees and (2) the official/employee has been an employee or agent of that party for at least three years.
3. That of a parent in the earnings of his or her minor child for personal services.
4. That of a landlord or tenant of a contracting party in the contracts of that party.
5. That of an attorney of a contracting party or (2) an owner officer, employee, or agent of a firm which renders or has rendered service to the contracting party in the capacity of stockbroker, insurance agent/broker, or real estate agent/broker, under specified conditions set forth in Government Code 1091(b)(6)
6. That of an official in a party that seeks to contract with the official's governmental agency when the official has been a supplier of goods or

services to the contracting party for at least five years prior to the official's election or appointment to office.

7. That of an official who is a director, or holds a 10 percent interest or greater in a bank or savings and loan in the contracts of parties who are depositors or borrowers at the official's institution.
8. That of an engineer, geologist, or architect in a consulting, engineering, or architectural firm if he or she does not serve as an officer, director, or in a primary management capacity.

## **Gifts**

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 (Government Code 89503)

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 his or her statement of economic interests. (Government Code 89503)

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. (Government Code 89503)

Gifts of travel and related lodging and subsistence shall be subject to the above limitations. A gift of travel does not include travel provided by the Lewis Center for board members and designated employees or travel otherwise falling within the exceptions in Government Code 89506. (Government Code 89506)

## **Honoraria**

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 89501, 89502)

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 gathering, if the employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. (Government Code 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 school for donation into the general fund without being claimed as a deduction from income for tax purposes.

### **Incompatible Offices**

No board member shall simultaneously occupy another public office where there exists a potential conflict or overlap in the functions or responsibilities of the two offices. To determine whether there is an incompatibility of public offices, the following issues should be addressed: (1) Whether there is a potential for a significant clash of duties or loyalties between the officers; (2) whether considerations of public policy make it improper for one person to hold both offices; and (3) whether either officer exercises a supervisory, auditory, appointive, or removal power over the other.