

Lewis Center for Educational Research

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

Adopted: February 7, 2002

Revised: December 12, 2016

The Lewis Center for Educational Research 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

Public officials of the Lewis Center for Educational Research (“LCER”) shall comply with the requirements of the Political Reform Act of 1974 as set forth in Government Code 81000 et seq. which is incorporated herein by reference. “Public officials” includes every member, officer, employee or consultant as defined, that makes, or is involved in making, governmental decisions.

The Board has adopted and shall maintain a Conflict of Interest Code pursuant to the requirements of the Political Reform Act of 1974, Government Code section 81000 et seq. (the “Act”), which Code is attached as Appendix A and incorporated herein by reference. The Conflict of Interest Code sets forth the required provisions for the disclosure of assets and income of designated employees, the disqualification of designated employees from acting where a conflict of interests exists, the list of designated employees subject to the disclosure provisions of the Code, and the list of disclosure categories specifying the types of assets and income required to be disclosed by each of the designated employees. The requirements of the Conflict of Interest Code have the force and effect of law. All officers and employees are directed to refer to the Lewis Center’s Conflict of Interest Code for these specific requirements.

If a board member or designated employee determines that he or she has a financial interest in a decision, as described in Government Code 87103, and as set forth in the Conflict of Interest Code attached as Appendix A, the board member must refrain from making, or participate in making, any governmental decision in which he or she has the financial interest.

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)

**CONFLICT OF INTEREST CODE
OF THE
LEWIS CENTER
FOR EDUCATIONAL RESEARCH**

CONFLICT OF INTEREST CODE FOR THE LEWIS CENTER FOR EDUCATIONAL RESEARCH

(Amended September 28, 2016)

The Political Reform Act (Gov. Code § 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 (2 Cal. Code of Regs. § 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, regulation and the attached Appendix designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the **Lewis Center For Educational Research** (the "**Center**").

All officials and designated positions required to submit a statement of economic interests shall file their statements with the **President/CEO Executive Assistant** as the Center's Filing Officer. The **President/CEO Executive Assistant** shall make and retain a copy of all statements filed by Members of the Board of Directors and the President, and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of San Bernardino. The **President/CEO Executive Assistant** shall retain the originals of the statements filed by all other officials and designated positions and make all statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

APPENDIX

CONFLICT OF INTEREST CODE OF THE LEWIS CENTER FOR EDUCATIONAL RESEARCH

(Amended September 28, 2016)

PART “A”

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Center Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18700.3, are NOT subject to the Center’s Code but must file disclosure statements under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments¹:

Members of the Board of Directors

President/CEO

Director, Financial Officer

Financial Consultants

¹ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Bridge Coordinator	5, 6
Director, Facilities	4
Director, Information Technology	5
General Counsel	1, 2
Athletics Director	5
Principal (ALL)	5
Psychologist, Director, Special Needs	5
Consultants and New Positions ²	

² Individuals providing services as a Consultant defined in Regulation 18700.3 or in a new position created since this Code was last approved that makes or participates in making decisions shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The President may determine that due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.). The President's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.³ "Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in or doing business in the jurisdiction, are planning to do business in the jurisdiction, or have done business during the previous two years in the jurisdiction of the Center.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the jurisdiction of the Center.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Center.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Center.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the Center.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, or income from a nonprofit organization, if the source is of the type to receive grants or other monies from or through the Center or its subdivisions.

³ This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions of the position. (Reg. 18730.1)

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 borrower 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 and set forth in the Code attached as Appendix A. (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, and set forth in the Code attached as Appendix 1, 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.