

Executive Council Bylaws

CONFLICT OF INTEREST

The Executive Council desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. Accordingly, no Executive Council member, or other person in a designated position shall participate in the making of any decision for the Leroy Greene Academy when the decision will or may be affected by his/her financial, family, or other personal interest or consideration. The Executive Council adopts this Conflict of Interest Code and the District's policies and bylaws referenced in it to ensure its decisions are free from conflicts of interest.

(cf. 9005 - Governance Standards)

Even if a conflict of interest does not exist, an Executive Council member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, an Executive Council member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which his/her relative belongs. Relative means an adult who is related to the Executive Council member by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree. (Education Code 35107)

A relationship within the third degree includes the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse/registered domestic partner unless the individual is widowed or divorced.

The Executive Council shall adopt for the Leroy Greene Academy a conflict of interest code that incorporates the provisions of 2 CCR 18730 by reference, specifies the Leroy Greene Academy's designated positions, and provides the disclosure categories required for each position. The conflict of interest code shall be submitted to the Leroy Greene Academy's code reviewing body for approval, in accordance with Government Code 87303 and within the deadline for submission established by the code reviewing body. (Government Code 87303)

Upon direction by the code reviewing body, the Executive Council shall review the Leroy Greene Academy conflict of interest code and submit any changes to the code reviewing body or, if no change is required, the Executive Council shall submit a written statement to that effect. (Government Code 87306.5)

When a change in the Leroy Greene Academy's conflict of interest code is necessitated by changed circumstances such as the creation of new designated positions, changes to the duties assigned to existing positions, amendments or revisions, the amended code shall be submitted to the code reviewing body within 90 days after the changed circumstances necessitating the amendments have become apparent. (Government Code 87306)

When reviewing and preparing the Leroy Greene Academy's conflict of interest code, the charter school administration shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

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(cf. 9320 - Meetings and Notices)

Executive Council members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the Leroy Greene Academy's conflict of interest code. An Executive Council member who leaves office or a designated employee who leaves Leroy Greene Academy employment 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 or Leroy Greene Academy employment. (Government Code 87302, 87302.6)

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

Conflict of Interest under the Political Reform Act

An Executive Council member, designated employee, or other person in a designated position 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 disqualifying conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect," which is distinguishable from the effect on the public generally, on the Executive Council member, designated employee, or other person in a designated position, his/her immediate family, or any financial interest described in 2 CCR 18700. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

An Executive Council member, designated employee, or other person in a designated position makes a governmental decision when he/she, acting within the authority of his/her office or position, authorizes or directs any action on a matter, votes or provides information or opinion on it, contacts or appears before a Leroy Greene Academy official for the purpose of affecting the decision, or takes any other action specified in 2 CCR 18704.

However, an Executive Council member shall participate in the making of a contract in which he/she has a financial interest if his/her participation is required by the rule of necessity or legally required participation pursuant to Government Code 87101 and 2 CCR 18705.

Additional Requirements for Executive Council Members that Manage Public Investments

Any Executive Council member who manages public investments pursuant to Government Code 87200 and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, do all of the following: (Government Code 87105; 2 CCR 18707)

1. Publicly identify each financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

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2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. The Executive Council member shall not be counted toward achieving a quorum while the item is discussed.

However, the Executive Council member may speak on the issue during the time that the general public speaks on it and may leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion and deliberations of the matter with members of the public.

3. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

If the item is on the consent calendar, the Executive Council member must recuse himself/herself from discussing or voting on that matter, but the Executive Council member is not required to leave the room during consideration of the consent calendar.

4. If the Executive Council's decision is made during closed session, disclose his/her interest orally during the open session preceding the closed session. This disclosure shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 87100. He/she shall not be present when the item is considered in closed session and shall not knowingly obtain or review a recording or any other nonpublic information regarding the Executive Council's decision.

(cf. 3430 - Investing)

(cf. 9321 - Closed Session Purposes and Agendas)

(cf. 9321.1 - Closed Session Actions and Reports)

Statements of economic interests submitted to the Leroy Greene Academy by designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction. (Government Code 81008)

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

Executive Council members, employees, or Leroy Greene Academy consultants shall not be financially interested in any contract made by the Executive Council on behalf of the Leroy Greene Academy, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If an Executive Council member has such a financial interest in a contract made by the Executive Council, the contract is void. (Government Code 1090)

An Executive Council member shall not be considered to be financially interested in a contract if he/she has only a remote interest as specified in Government Code 1091, if the interest is disclosed during an Executive Council meeting and noted in the official Executive Council minutes. The affected Executive Council member shall not vote or debate on the matter or attempt to influence any other Executive Council member or Leroy Greene Academy official to enter into the contract. (Government Code 1091)

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In addition, an Executive Council 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. Noninterest includes an Executive Council member's interest in being reimbursed for his/her actual and necessary expenses incurred in the performance of his/her official duties, in the employment of his/her spouse/registered domestic partner who has been a Leroy Greene Academy employee for at least one year prior to the Executive Council member's election or appointment, or in any other applicable circumstance specified in Government Code 1091.5.

Common Law Doctrine Against Conflict of Interest

An Executive Council member shall abstain from any official action in which his/her private or personal interest may conflict with his/her official duties.

Incompatible Offices and Activities

Executive Council 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 Executive Council member's duties as an officer of the Leroy Greene Academy. (Government Code 1099, 1126)

(cf. 4136/4236/4336 - Nonschool Employment)

Gifts

Executive Council members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The 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)

In addition, the limitation on gifts does not apply to informational materials such as books, reports, pamphlets, calendars, and periodicals. (Government Code 82028)

Gifts of travel and related lodging and subsistence shall be subject to the prevailing gift limitation except when: (Government Code 89506.)

1. The travel is in connection with a speech given by an Executive Council member or designated employee, provided the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech and the travel is within the United States.

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2. The travel is provided by a person or agency specified in Government Code 89506, including a government, governmental agency or authority, bona fide public or private educational institution, as defined in Revenue and Taxation Code 203, or nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Gifts of travel exempted from the gift limitation, as described in items #1 and 2 above, shall nevertheless be reportable on the recipient's Statement of Economic Interest/Form 700 as required by law.

A gift of travel does not include travel provided by the Leroy Greene Academy for Executive Council members and designated employees. (Government Code 89506)

Honoraria

Executive Council members and 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 conference, convention, meeting, social event, meal, or like gathering. (Government Code 89501, 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 Leroy Greene Academy for donation into the general fund without being claimed as a deduction from income for tax purposes

In addition, an Executive Council 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)

An Executive Council member may enter into a contract if the rule of necessity or legally required participation applies as defined in Government Code 87101.

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office

35107 School district employees

35230-35240 Corrupt practices

35233 Prohibitions applicable to members of governing boards

41000-41003 Moneys received by school districts

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Legal Reference (continued)

41015 Investments

FAMILY CODE

297.5 Rights, protections, and benefits of registered domestic partners_

GOVERNMENT CODE

1090-1098 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

81000-91015 Political Reform Act of 1974, especially:

82011 Code reviewing body

82019 Definition of designated employee

82028 Definition of gifts

82030 Definition of 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

89506 Ethics; travel

91000-91014 Enforcement

PENAL CODE

85-88 Bribes

REVENUE AND TAXATION CODE

203 Taxable and exempt property - colleges.

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)

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Management Resources:

WEB SITES

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>

**LEROY GREENE ACADEMY
EXECUTIVE COUNCIL**

Resolution No. 18-01

IN THE MATTER OF: Adopting a Conflict of Interest Code, including its Appendix of Designated Employees and Disclosure Categories

The following RESOLUTION was duly passed by the Executive Council at a meeting held on December 7, 2018 by the following roll call vote:

Scott Fitzgerald	_____
Steve Meyer	_____
Norma Castro	_____
Chris Evans	_____
William Young	_____

Signed and approved by me after its passage:

Steve Meyer, President

Attest:

Scott Fitzgerald, Acting Principal

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 Executive Council of the Leroy Greene Academy (“Executive Council”) has agreed to comply with all laws generally applicable to the Natomas Unified School District’s Board of Trustees, including, but not limited to the Political Reform Act; and

WHEREAS, past and future amendments to the Political Reform Act and implementing regulations may require conforming amendments to be made to the Executive Council’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, any earlier resolutions, bylaws, and/or appendices containing the Executive Council’s conflict of interest code shall be rescinded and superseded by this resolution and Appendix.

NOW THEREFORE BE IT RESOLVED that the Executive Council adopts the following Conflict of Interest Code including its Appendix of Designated Employees and Disclosure Categories.

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**Conflict of Interest Code of the
Leroy Greene Academy**

The provisions of 2 CCR 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with the attached Appendix specifying designated positions and disclosure categories, are incorporated by reference and shall constitute the district's conflict of interest code.

Leroy Greene Academy Executive Council ("Executive Council") members and designated employees shall file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories listed in the attached Appendix. The Statement of Economic Interest shall be filed with the Leroy Greene Academy's filing officer and/or, if so required, with the Leroy Greene Academy's code reviewing body. The Leroy Greene Academy filing officer shall make the statements available for public review and inspection.

**APPENDIX
DISCLOSURE CATEGORIES**

1. **Category 1:** A person designated Category 1 shall disclose:
 - a. Interests in real property located entirely or partly within District boundaries, or within two miles of Natomas Unified School District ("District") boundaries, or of any land owned or used by the District or Leroy Greene Academy.
 - b. Investments or business positions in or income from sources which are engaged in the acquisition or disposal of real property within the District, 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 Leroy Greene Academy, or manufacture or sell supplies, books, machinery, or equipment of the type used by the District or Leroy Greene Academy.
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. For the purposes of this category, a principal's department is his/her entire school.

Full Disclosure: Because it has been determined that the Executive Council members

3. "manage public investments," they and other persons designated for "full disclosure" shall disclose, in accordance with Government Code 87200:

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- 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 or Leroy Greene Academy.
- b. Investments, business positions, and sources of income, including gifts, loans, and travel payments.

Designated Positions

<u>Designated Position</u>	<u>Disclosure Category</u>
Executive Council Members	Full Disclosure
Principal	2
Assistant Principal	2
Director	2
Coordinator	2
Supervisor	2

Disclosures for Consultants

Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Leroy Greene Academy's administration. The Superintendent or designee's written 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 Leroy Greene Academy, makes a governmental decision whether to: (2 CCR 18701)

1. Approve a rate, rule, or regulation
2. Adopt or enforce a law
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement
4. Authorize the Leroy Greene Academy to enter into, modify, or renew a contract that requires Executive Council approval
5. Grant Leroy Greene Academy approval to a contract that requires Executive Council approval and in which the Leroy Greene Academy is a party, or to the specifications for such a contract

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6. Grant Leroy Greene Academy approval to a plan, design, report, study, or similar item
7. Adopt or grant Leroy Greene Academy approval of Leroy Greene Academy policies, standards, or guidelines

A consultant is also an individual who, pursuant to a contract with the Leroy Greene Academy, serves in a staff capacity with the Leroy Greene Academy and in that capacity participates in making a governmental decision as defined in 2 CCR 18704, subsections (a) and (b), or performs the same or substantially all the same duties for the Leroy Greene Academy that would otherwise be performed by an individual holding a position specified in the district's Conflict of Interest Code. (2 CCR 18700.3)