

CONFLICT OF INTEREST – GOVERNING BOARD POLICY #108

Policy Administrator:	Executive Director or designee
Authority:	Section 89900 of the Education Code and Section 42400 of Title 5 of the California Code of Regulations
Effective Date:	12/08/11
Updated:	04/25/19 (approved 06/20/19)
Cross References:	Policies #208, #308

Policy Statement: The California Education Code has specific requirements for the governing board of an auxiliary organization regarding conflict of interest. This policy addresses those requirements.

§89906: No member of the governing board of an auxiliary organization shall be financially interested in any contract or other transaction entered into by the board of which he is a member, and any contract or transaction entered into in violation of this section is void.

§89907: No contract or other transaction entered into by the governing board of an auxiliary organization is void under the provisions of Section 89906, nor shall any member of such board be disqualified or deemed guilty of misconduct in office under said provisions, if the circumstances specified in the following subdivisions exist:

- (a) The fact of such financial interest is disclosed or known to the governing board and noted in the minutes, and the governing board thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such financially interested member or members, and
- (b) The contract or transaction is just and reasonable as to the auxiliary organization at the time it is authorized or approved

§89908: The provisions of Section 89907 shall not be applicable if the circumstances specified in any of the following subdivisions exist:

- (a) The contract or transaction is between an auxiliary organization and a member of the governing board of that auxiliary organization.
- (b) The contract or transaction is between an auxiliary organization and a partnership or unincorporated association of which any member of the governing board of that auxiliary organization is a partner or in which he is the owner or holder, directly or indirectly, of a proprietorship interest.

(c) The contract or transaction is between an auxiliary organization and a corporation in which any member of the governing board of that auxiliary organization is the owner or holder, directly or indirectly, of 5 percent or more of the outstanding common stock.

(d) A member of the governing board of an auxiliary organization is interested in a contract or transaction within the meaning of Section 89906, and without first disclosing such interest to the governing board at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

§89909: It is unlawful for any person to utilize any information, not a matter of public record, which is received by him by reason of his membership on the governing board of an auxiliary organization, for personal pecuniary gain, regardless of whether he is or is not a member of the governing board at the time such gain is realized.

Disclosure: All Board members are required to disclose any business or financial relationship they, or members of their immediate families, have or propose to have with the ASC, either directly or through another entity in which they have a significant interest. If at any time a Board member determines that a conflict of interest exists, he/she will immediately, or as soon as actually possible, disclose the circumstances to the Executive Director of the ASC.

Each year Board members are required to review the applicable portion of the California Education Code and attest that they do not have any conflicting financial interests.

Conflict Resolution: In the event that a conflict, or potential conflict, exists and cannot be resolved, the disputed matter will be reviewed by the Executive Committee. In the absence of a resolution, the Executive Committee will refer the matter to the Board of Directors, and the Board of Directors will review and take final action on the matter.

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