

**Gravenstein Union School District
Board of Trustees
Regular Board Agenda
5:00 p.m. – Open Session
Closed Session to follow Open Session
Gravenstein Campus – Room 11
Wednesday, May 9, 2012**

If you need an accommodation for the Board Meeting, contact Superintendent Linda LaMarre at (707) 823-7008 or llmarre@grav.k12.ca.us
Agenda documents are available for inspection at the Gravenstein District Office
3840 Twig Avenue, Sebastopol, CA

I. CALL TO ORDER - ROLL CALL

Time: _____ Members present/absent: _____

II. PUBLIC INPUT ON ITEMS NOT ON THE AGENDA

This section is a time for members of the audience to address the Board regarding items not on the agenda. Board action cannot take place at this meeting, as a result of the input given. There will be a limit of 3 minutes for each person speaking under this section.

III. APPROVAL OF CONSENT AGENDA

- A. Approval of Agenda Order
- B. Approval of Minutes: Regular Meeting Minutes April 11, 2012, and Special Meeting Minutes of April 16, 2012
- C. Vendor Warrants

Motion _____ Second _____ Vote _____

IV. REPORTS/CORRESPONDENCE

- A. Board Reports
- B. Superintendent Report:
 - 1. Enrollment 2011-12/Projection for 2012-13
 - 2. Mental Health AB3632/Special Education Funding Update
 - 3. Gravenstein School Updates
 - 4. Master Plan Update
- C. Hillcrest Report
- D. GUTA Report

V. BUSINESS

- A. Transitional Kindergarten/Preschool Progress Report for 2012-13 School Year

- B. Charter Schools configuration for 2012-13

Motion _____ Second _____ Vote _____

- C. Home to School Transportation Update

Motion _____ Second _____ Vote _____

- D. Adoption of 2012-13 School Calendar

Motion _____ Second _____ Vote _____

E. Resolution Regarding Specifications of the Election Order for General Election November 6, 2012

Motion _____ Second _____ Vote _____

F. Acceptance of "Piggyback" Bid from Enviroplex for Modular Building at Hillcrest

Motion _____ Second _____ Vote _____

VI. BOARD POLICIES AND ADMINISTRATIVE REGULATIONS

A. BB 9270 Conflict of Interest

Motion _____ Second _____ Vote _____

VII. FUTURE MEETING DATES AND AGENDA ITEMS

Next regularly scheduled meeting – June 13, 2012—Tier III Flexibility Approval

Schedule a Special June Meeting for Adoption of 2012-13 Budget-

VIII. PUBLIC COMMENT ON ITEMS IN CLOSED SESSION

IX. ADJOURN TO CLOSED SESSION

Time _____ Motion _____ Second _____ Vote _____

A. Conference with Labor Negotiator, District - Mrs. LaMarre, Name of Organization -
Gravenstein Union Teachers Association

Motion _____ Second _____ Vote _____

B. Potential Litigation – per GC54956.9 (b)(3)(c)

Motion _____ Second _____ Vote _____

C. Superintendent Evaluation

Motion _____ Second _____ Vote _____

X. RECONVENE TO OPEN SESSION

Time _____ Motion _____ Second _____ Vote _____

A. Announce Action Taken in Closed Session

XI. ADJOURNMENT

Time _____ Motion _____ Second _____ Vote _____

**GRAVENSTEIN UNION SCHOOL DISTRICT
REGULAR BOARD MEETING
MINUTES
April 11, 2012**

CALL TO ORDER

Pres. Horn calls to order at 6:01 PM. Members Weaver, Zlotnick, Crocker, Clerk Wickland and President Horn present.

PUBLIC INPUT ON ITEMS NOT ON THE AGENDA

None

APPROVAL OF CONSENT AGENDA

A. Approval of Agenda Order

**B. Approval of Minutes:
Regular Meeting Minutes 3-14-12; Special Board Meetings 2-7-12, 3-8-12, 3-9-12, 3-14-12**

C. Vendor Warrant

**D. Williams Quarterly Report
January 1 – March 31, 2012**

E. Acknowledge Resignation of Probationary Certificated Employee – Jolene Johnson

F. Acknowledge Resignation of Probationary Certificated Employee – Heidi Doughty

Mem Crocker moved to approve the consent agenda, Clerk Wickland seconded, 5-0 yes.

BOARD REPORTS

SUPERINTENDENT REPORTS

Enrollment 2011-2012/Projection for 2012-13

Supt. LaMarre reported on projected numbers for Gravenstein and Hillcrest for the 2012-13 school year.

Mental Health AB3632/Special Education Funding Update

Gravenstein School Updates

Mural at Hillcrest

Supt. LaMarre reported that Nancy Ricciardi is creating a mural project at Hillcrest with all students.

Gravenstein Track Update

Supt. LaMarre reported that two architects have donated their time to do the DSA work needed for installing a track at Gravenstein.

HILLCREST REPORT

Principal Fichera reported on athletics, Open House and plans for the Apple Blossom Parade.

GUTA REPORT

Linda Helton read a letter from teacher Sally Redfern requesting that the board consider offering free pre-school to staff members.

BUSINESS

Open Public Hearing: Charter School Conversion – Gravenstein School K-5

President Horn moved to open and close the hearing at 6:22 PM, Zlotnick seconded 5-0 yes.

Open Public Hearing: Charter School Conversion – Hillcrest Middle School Grades 6-8

President Horn moved to open and close the hearing at 6:23 PM, Zlotnick seconded 5-0 yes.

Discussion/Action Charter School Conversion – Hillcrest Middle School 6-8

Supt. LaMarre presented a budget projection for 2012-13 comparing the current revenue limit funding source and the charter revenue source.

Discussion/Action Charter School Conversion – Gravenstein in Elementary K-5

Mem. Crocker moved to take action to convert Hillcrest Middle to a charter school, Mem. Zlotnick seconded 5-0 yes.

Mem. Crocker moved to take action to convert Gravenstein Elementary school to a charter school, Mem. Zlotnick seconded 5-0 yes.

Discussions of Possible General Obligation Bond for projects at Gravenstein and Hillcrest Schools

There was a kickoff meeting for the development of the Master Plan on 4/10/12.

No action taken.

Home to School Transportation Update

No action taken

Preschool Budget Discussion/Action

Mem. Crocker moved to direct Supt. LaMarre to monitor the preschool/transitional-kindergarten program to give priority to students in the order of transitional-kindergarten, four-year-olds, then three-year-olds and that the program be cash neutral. Mem. Zlotnick seconded 3-2 yes. Mem. Weaver, Clerk Wickland - no

5 Year Deferred Maintenance Plan

Mem. Crocker moved to approve, Mem. Zlotnick seconded 5-0 yes.

MPF/GUSD MOU

Mem. Crocker moved to approve, Mem. Zlotnick seconded 5-0 yes.

Board Policies and Administrative Regulations

BB 9720 Conflict of Interest

Pres. Horn moved to table this to the May meeting, Mem. Zlotnick seconded, 5-0 yes.

FUTURE MEETING DATES AND AGENDA ITEMS

Member Jeff Weaver left at 8:05 pm

PUBLIC COMMENT ON ITEMS IN CLOSED SESSION

ADJOURN TO CLOSED SESSION

Action was taken by Pres. Horn and seconded by Member Crocker to adjourn to Closed Session at 8:06 pm

A. Conference with Labor Negotiator, District – Mrs. LaMarre, Name of Organization – Gravenstein Union Teachers Association

B. Potential Litigation – per GC54956.9 (b)(3)(c)

C. Hiring of Boy's 7/8 Volleyball

**Team Coach 2012 – Linda
Helton**

**D. Personnel
Public Employee-Discipline/
Dismissal/Release**

E. Superintendent Evaluation

RECONVENE TO OPEN SESSION

Pres. Horn moved and seconded by Member Crocker to reconvene to Open Session at 8:35 pm.

**Announce action taken in Closed
Session**

Pres. Horn moved and Member Zlotnick seconded to approve Linda Helton as the 7/8 Volleyball Coach for 2012.

Pres. Horn moved and Member Zlotnick seconded to adopt the resolution to release a temporary certificated employee at the end of the current year.

ADJOURNMENT

Member Zlotnick moved and Member Crocker seconded to adjourn at 8:36 pm

**GRAVENSTEIN UNION SCHOOL DISTRICT
SPECIAL BOARD MEETING
MINUTES
April 16, 2012**

CALL TO ORDER-ROLL CALL

President Horn called the meeting to order at 8:05 a.m. Members Horn, Weaver, Crocker and Wickland were present. Member Zlotnick was absent.

BUSINESS

**A. Approval: Rejection of all
Bids Submitted for the
Upcoming Hillcrest Modular
Project**

President Horn moved and Member Crocker seconded the motion to reject all bids. The vote was 4-0.

ADJOURNMENT

President Horn moved and Member Crocker seconded to adjourn the meeting at 8:16 a.m. The vote was 4-0.

Checks Dated 04/06/2012 through 05/04/2012

Check Number	Check Date	Pay to the Order of	Fund Object	Expensed Amount	Check Amount
1189904	04/09/2012	Allison Post	01-5880		25.00
1189905	04/09/2012	AXIA	40-5830		2,607.42
1189906	04/09/2012	David Fichera	01-4350		48.00
1189907	04/09/2012	J.w. Pepper & Son Inc.	01-4310		133.74
1189908	04/09/2012	Joseph Pandolfo	01-5830		599.00
1189909	04/09/2012	Linguisystems Inc	01-4310		362.42
1189910	04/09/2012	Michelle Sprinkle	01-4310		72.01
1189911	04/09/2012	Nature Bridge	01-5826		5,004.00
1189912	04/09/2012	Oregon Shakespeare Festival	01-5826		1,742.00
1189913	04/09/2012	Resig	01-9570		3,606.00
1189914	04/09/2012	Ricoh Americas Corporation	01-5600		312.47
1189915	04/09/2012	Standard Insurance Company Cb	01-9572		704.55
1189916	04/09/2012	Stephanie Stevenson	12-4310		108.76
1189917	04/09/2012	United Forest Products Inc.	01-4380		1,155.30
1189918	04/09/2012	West County Transportation	01-7142		1,363.00
1189919	04/09/2012	West Sonoma County Disposal	01-5560		533.58
1190135	04/11/2012	Acsig Edge	01-9573		6,637.76
1190136	04/11/2012	At&t Mobility	01-5912		67.22
1190137	04/11/2012	Clover-stornetta Farms Inc.	13-4710		375.70
1190138	04/11/2012	Employment Development Dept.	01-9555		12,743.60
1190139	04/11/2012	Kasey Hillier	01-5826		120.00
1190140	04/11/2012	Marin Shakespeare Company	01-4310		100.00
1190141	04/11/2012	Middleton, Young & Minney LLP	01-5823		3,997.25
1190142	04/11/2012	Sonoma County Office Of Ed.	01-5817		3,064.00
1190143	04/11/2012	Villa Santa Maria, Inc	01-5810		11,289.30
1191710	04/20/2012	Business Card	01-4350	33.46	
			01-4362	183.26	
			01-4380	148.80	
			01-5200	125.00	
			01-5560	673.61	
			13-6400	45.69	1,209.82
1191711	04/20/2012	Department Of Justice	01-5862		160.00
1191712	04/20/2012	Miller Pacific Eng Group	40-5830		5,000.00
1191713	04/20/2012	Nature Bridge	01-5826		5,338.50
1191714	04/20/2012	Office Depot	01-4310	102.93	
			01-4350	96.82	
			01-4359	73.83	
			12-4310	16.57	290.15
1191715	04/20/2012	Preferred Meal Systems	13-4710		1,839.71
1191716	04/20/2012	Ricoh Americas Corporation	01-5600		310.93
1191717	04/20/2012	Sonoma County Office Of Ed.	01-5862		154.00
1191718	04/20/2012	Sonoma Technology Partners	01-5840		609.90
1191719	04/20/2012	Troop 27	01-8699		120.00
1191720	04/20/2012	West County Athletic League	01-5300		105.00
1191721	04/20/2012	West County Transportation	01-4310	315.00	
			01-5826	811.68	1,126.68
1192214	04/23/2012	Analytical Sciences	01-5530		157.00

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

ESCAPE ONLINE

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Checks Dated 04/06/2012 through 05/04/2012

Check Number	Check Date	Pay to the Order of	Fund Object	Expensed Amount	Check Amount
1192215	04/23/2012	At&t Calnet2	01-5911		645.86
1192216	04/23/2012	Fran Guerinoni	01-5880		15.00
1192217	04/23/2012	Greenacre Homes, Inc	01-5810		1,983.79
1192218	04/23/2012	John Imschweiler	01-5880		65.00
1192219	04/23/2012	Nick Pulley	01-4310		809.41
1192220	04/23/2012	Office Depot	12-4310		59.00
1192221	04/23/2012	Phyllis Fitzgerald	01-5830		6,080.13
1192222	04/23/2012	Protech Proj. Sys	01-4359	178.20	
			01-4400	1,085.00	1,263.20
1193428	04/27/2012	1000bulbs.com	01-4380		703.65
1193429	04/27/2012	Andy Noonan	01-5880		35.00
1193430	04/27/2012	Arch's Glass Inc.	01-5630		322.00
1193431	04/27/2012	At&t Calnet2	01-5911		184.94
1193432	04/27/2012	California's Valued Trust	01-9572		39,924.00
1193433	04/27/2012	Classic Fx	01-4310		50.76
1193434	04/27/2012	Fran Guerinoni	01-5880		40.00
1193435	04/27/2012	Hailey Grantham	01-5880		15.00
1193436	04/27/2012	Kaiser Foundation Health Plan File Number 73030	01-9571		10,463.82
1193437	04/27/2012	Mark Hoback	01-5880		35.00
1193438	04/27/2012	Mci Comm Service	01-4310		12.41
1193439	04/27/2012	Nancy Ricciardi	01-5830		4,270.00
1193440	04/27/2012	Office Depot	01-4350	53.79	
			01-4359	311.09	364.88
1193441	04/27/2012	Pacific Gas & Electric	01-5520		20.18
1193442	04/27/2012	Preferred Meal Systems	13-4710		1,225.92
1193443	04/27/2012	Richard Andersen	01-5880		35.00
1193444	04/27/2012	Southern Oregon University	01-5826		230.00
1193445	04/27/2012	Vision Service Plan	01-9574		1,658.80
1193446	04/27/2012	Weeks Drilling & Pump Co. Inc.	01-5530		420.00
1193447	04/27/2012	West County Transportation	01-7142		986.00
1193448	04/27/2012	West Sonoma County Union High	01-5800		7,000.00
1193866	04/30/2012	AXIA	40-5830		1,424.10
1193867	04/30/2012	Daniel O. Davis, Inc.	40-5830		14,900.00
1193868	04/30/2012	Dave's Music Workshop	01-5630		60.00
1193869	04/30/2012	Fishman Supply Company	01-4370		613.47
1193870	04/30/2012	Grays Harbor Historical Seaprt	01-5826		56.00
1193871	04/30/2012	Kelley Lannon	01-5826		164.00
1193872	04/30/2012	Mark Hoback	01-5880		35.00
1193873	04/30/2012	Nick Pulley	01-4310		51.00
1193874	04/30/2012	Preferred Meal Systems	13-4710		397.83
1193875	04/30/2012	Science Works Hands On Museum	01-5826		190.00
1193876	04/30/2012	Sonoma County Office Of Ed.	01-5826		120.00
1193877	04/30/2012	Stephanie Stevenson	12-4310		80.00
1193878	04/30/2012	Suzi Mattish	01-5826		78.50

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

ESCAPE ONLINE

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Checks Dated 04/06/2012 through 05/04/2012

Check Number	Check Date	Pay to the Order of	Fund Object	Expensed Amount	Check Amount
Total Number of Checks				80	<u>170,282.42</u>

Fund Summary

Fund	Description	Check Count	Expensed Amount
01	General Fund	69	142,201.72
12	Child Development Fund	4	264.33
13	Cafeteria Fund	5	3,884.85
40	Special Reserve-capital Proj	4	23,931.52
Total Number of Checks		80	170,282.42
Less Unpaid Sales Tax Liability			.00
Net (Check Amount)			<u>170,282.42</u>

The preceding Checks have been issued in accordance with the District's Policy and authorization of the Board of Trustees. It is recommended that the preceding Checks be approved.

ESCAPE **ONLINE**

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May, 2012										Totals
Teachers	K	1	2	3	4	5	6	7	8	
Olivares - ENRICH!	19									19
Hanchey	22									22
Crandall - ENRICH!	20									20
Redfern	12	9								21
Clark	7									7
Sprinkle		21								21
Lannon - ENRICH!		21								21
Candau - ENRICH!		20								20
Imholz -ENRICH!			13	8						21
DeBolt - ENRICH!			21							21
Johnson			12							12
Gruner			15							15
Carlson				14						14
Hillier -ENRICH!				21						21
Mattish - ENRICH!				20						20
Brown - ENRICH!					25					25
Kelley					24					24
Doughty					12	12				24
Lands - ENRICH!						22				22
Radford						24				24
Oakley				3	1	1				5
Pugno - ENRICH!						26				26
Helton							21			21
Dexter							20			20
Latham -ENRICH!							20			20
Rich - ENRICH!							26			26
Gorman -ENRICH!								24		24
Collins - ENRICH!								17	9	26
Qualls									24	24
Pell									15	15
Sporrer - ENRICH!									25	25
Blanco								27		27
Lewis								27		27
Fisher									6	6
Parsons - CDS							2			2
Gravenstein Total	80	71	61	66	62	85				425
Hillcrest Total							87	95	79	261
District Total 5-4-12	80	71	61	66	62	85	89	95	79	688
April-11	67	57	61	51	84	74	84	77	93	648
April-10	56	60	49	76	70	71	66	84	96	628

RESOLUTION
School District

On motion by _____, seconded _____, the resolution set forth below was adopted by the following vote:
AYES: _____ NOES: _____ ABSENT: _____

SPECIFICATIONS OF THE ELECTION ORDER

RESOLVED, that pursuant to Education Code Sections 5304 and 5322 – the authority for the specifications of the election order – I hereby specify the following with respect to the governing board member election in the _____ School District.

Date of Election: November 6, 2012

Purpose of Election: To elect _____ member(s) to complete the 2012-2016 full term
_____ member(s) to serve the 2012-2014 short term

***Term of Office to be Filled (Check One)**

Name of Current Incumbent _____ **2-Year** (To complete the 2010-2014 term) **4-Year** (2012-2016)

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

*Four-year terms on the governing board are staggered. The November 6, 2012 election will fill regular openings on the governing board for the 2012-2016 term as well as filling current 2010-2014 term vacancies, or those previously filled by appointment. If a vacancy has been filled during the first 2 years of a term, candidates must file for election to complete that term. If a vacancy has been filled during the last 2 years of a term, candidates will file for the new 4-year term.

IT IS HEREBY RESOLVED, that the _____ School District will hold an election on November 6, 2012 to elect member(s) to the governing board as listed in the **Specifications of the Election Order**.

STATEMENT OF QUALIFICATIONS/TIE VOTE

THAT the * (candidate district) is responsible for cost incurred in publishing a Statement of Qualifications if such a statement is desired. If payment is the responsibility of the candidate, each candidate will pay the cost of publication *(before after) the statement is printed in the voter pamphlet portion of the sample ballot. Payments for statements are to be made **to the district**. Following the election, the district will be billed for all costs incurred in conducting the district's election. Statements shall not exceed *(200 400) words, based on standard word count.

THAT any tie vote which results in said election will be resolved by *(run off drawing lots).

* Select one option

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a full, true and correct excerpt from the minutes of the governing board of said school district, pertaining to the adoption of the above resolution, at a meeting held on _____, 2012.

Clerk, Governing Board
School District

Pricing Matrix
Hillcrest Middle School - Gravenstein Union School District
(1) 50x32 Classroom Building
Foundation by Others
Subject to Confirmation upon Final Design and Finish Schedule

04/24/2012

Enviroplex Building -- Price Breakdown					
Piggyback Available				Yes	
Building Size				50x32	
Square Footage ft ²				1600	
P-back Item #	Description	Unit	Qty	Piggyback Price	Total
1-STORY RIGID STEEL FRAME BUILDINGS					
1002	32x30 Typical Classroom [With no floor Coverings: With Ceiling Tiles; T-8 light fixtures with dual level control; 9' floor to ceiling height in all modules; 2x4 fixed grid, lay in panel ceiling system (no suspension wires); (1) 3070 steel door w/Schlage lever hardware (3) 6040 windows, (1) porcelain/steel marker board, battery wall clock, walls-full height tackboard; (9) duplex receptacles; (1) 125 amp single-phase panel; (1) 4 ton Bard exterior HVAC with ducted air and programmable T-Stat; Standard bi-pitch roof design, approximately .25:12 dual slope, 5' overhang in front 2'6" rear overhang; MDO siding w/ 2 color paint scheme (body and trim colors)	each	1	\$44,152	\$44,152
1004	add 10x32 center module	each	2	\$15,025.00	\$30,050
INTERIOR OPTIONS					
3000	Interior wall, 2x4, standard finish (tack board) Décor or equal)	Lft	50	\$43.80	\$2,190
3007	8x4 porcelain / steel markerboard	each	1	\$269.00	\$269
3011	Blocking only, wall mounted accessories	Lft	80	\$11.00	\$880
3014	Fire extinguisher w/wall bracket (5lb 3A-40BC)	each	1	\$89.00	\$89
DOORS (KD Frames standard)					
3102	3070 steel door w/Schlage D93 (classroom lockdown) lever hardware, Norton 7500 door closer with hold open	each	1	\$1,403.00	\$1,403
WINDOWS (DG, Low E, clear anodized frames with screens)					
3201	6040 xo	each	2	\$636.00	\$1,272
ELECTRICAL OPTIONS (Panels)					
3300	125 amp 1-phase panel	each	1	\$562.00	\$562
ELECTRICAL INFRASTRUCTURE					
3504	GFI receptacle	each	1	\$65.00	\$65
3505	Dedicated Circuit	each	1	\$144.00	\$144
HVAC SYSTEMS					

Pricing Matrix
Hillcrest Middle School - Gravenstein Union School District
(1) 50x32 Classroom Building
Foundation by Others
Subject to Confirmation upon Final Design and Finish Schedule

04/24/2012

4000	Bard 3 ton TH, "Quiet Climate series" - Single stage high efficiency (11.3 EER for 4 ton) wall mount HP w/CRV	each	1	\$6,742.00	\$6,742
PLUMBING					
5001	Sink, classroom, SS, w/bubbler, cold only	each	2	\$2,152.00	\$4,304
5201	Ice maker supply box (metal)	each	1	\$436.00	\$436
WATER HEATERS					
5104	Water Heater, point of use (Insta-hot or 2.5 gal storage) (in Staff Room)	each	1	\$1,058.00	\$1,058
FLOOR COVERINGS					
5600	Bigelow, New Basics II, 26oz, w/unitary backing (or equal)	ft2	1284	\$3.58	\$4,597
5700	Burke 4" top set base	Lft	264	\$3.29	\$869
6000	Armstrong Excelon or equal (VCT)	ft2	216	\$4.22	\$912
CASEWORK					
6509	WIC #102 30x34x24 double door	each	1	\$649.00	\$649
6510	WIC #102 36x34x24 double door	each	6	\$698.00	\$4,188
6521	WIC #153 36x34x24 ADA sink base	each	2	\$758.00	\$1,516
6572	WIC #301 18x30x12 wall hung/1 door	each	2	\$358.00	\$716
6574	WIC #302 36x12x12 over refrigerator	each	1	\$403.00	\$403
6578	WIC #302 36x18x12 wall hung/2 door	each	2	\$422.00	\$844
6594	WIC #402 36x24x84 tall 3 door / lock	each	2	\$912.00	\$1,824
6602	WIC #531 48x84x24 teacher's wardrobe w/file	each	1	\$1,263.00	\$1,263
6622	Laminate top / 4" backsplash (Wilsonart or equal)	Lft	28	\$67.00	\$1,876
Sub-Total Piggyback Line Items					\$113,272

ADDITIONAL ITEMS NECESSARY					
1	On-Site Labor (project close-out)	hour	60	\$45.00	\$2,700
2	On-Site Plumbing (project close-out)	hour	8	\$135.00	\$1,080
Sub Total Additional Line Items					\$3,780
Delivery and Installation (includes crane)					\$19,100
Estimated Taxes (8.0% @ 40% School Rate) & Bonds					\$4,624
Grand Total					\$140,776

ADDITIONAL VALUE ADDED ITEMS FOR CONSIDERATION					
1100	125lb floor load, standard wood subfloor	per mod	5	\$278.00	\$1,390
1301	Insulation, wall, R-19 (R-13 standard)	ft2	2,033	\$0.37	\$752
2405	2x6 exterior wall studs in lieu of 2x4 (for continuous siding - no exposed steel columns)	lft	164	\$2.05	\$336
2700	Shed roof design	per mod	5	\$250.00	\$1,250
Sub Total Additional Line Items					\$3,728



**Architecture
Planning
Interiors**

Peter Witter, AIA
William Dodson, AIA
Shannon Kelleher
Karen Pregler, AIA
Douglas Hilberman, AIA

**Gravenstein Union School District
Unit Based Cost Estimate
Hillcrest Middle School Modular Building**

April 27, 2012

Project Description – Modular Building and Site Improvements

Hillcrest Middle School would like to replace the existing modular buildings on the west side of campus with a new 1,600 SF modular building (32'x50'). Scope of Work shall generally include the following:

New building:

1. Comprised of a 960 SF classroom and 640 SF staff room
2. Site work, utilities, and concrete foundations prepared for the modular building
3. Installation of modular building
4. Construction of concrete ramp and walk at modular
6. Upgrades to fire alarm system

The modular classroom will include cabinetry similar to the other classrooms. The staff room will have basic limited cabinetry.

Project Budget

A.	Construction Cost	
1.	Estimated Hard Costs	
	a. Demolition	By Owner
	b. Site work (600sf x \$30/sf)	\$105,000
	c. Ramp and Walk	\$ 30,000
	d. Concrete Foundations	\$ 35,000
	e. Modular Building (Piggyback)	\$145,000
2.	Change Order Contingencies (10%)	<u>\$ 31,500</u>
3.	Total Construction Costs	<u>\$ 346,500</u>

Soft Costs

Architect's Fee (Lump Sum)	\$ 31,500
Site Topographical Survey	\$ 2,500
Geotechnical Report (\$4K Allow. during Const.)	\$ 6,000
Printing + Reimb. Exp.	\$ 2,000
Advertisements	\$ 4,000
Project Inspector (Est.)	\$ 8,000
Special Testing Agent (Compaction)	\$ 3,000
DSA Application Fee (Est.)	\$ 2,500
Contingency (10%)	<u>\$ 6,000</u>
Total Soft Costs	\$ 65,500

Total Estimated Hard and Soft Costs: \$ 412,000

Note:

- B. The DSA CALGreen Building requirements may add modest additional cost.
- C. No building demolition, hazardous materials testing or abatement has been accounted for in this cost estimate.
- D. No work in the administrative offices is included.

CONFLICT OF INTEREST

Incompatible Activities

Note: Government Code 1126 prohibits district officers and employees from engaging in any employment or activity which is inconsistent, incompatible, in conflict with or inimical to their duties with the district. Such incompatible service or assumption of office results in termination of the prior incompatible office. Attorney General opinions have indicated that it would be incompatible for Governing Board members to serve on other elected or appointed boards, councils or commissions that have interests which may conflict with the interests of the district. (68 Ops. Cal. Atty. Gen. 171 (1985), 65 Ops. Cal. Atty. Gen. 606 (1982)) The determination as to whether an activity or office is incompatible is complex and requires a case-by-case analysis of the particular activities or duties of the office; therefore it is recommended that district legal counsel be consulted as appropriate.

Governing Board members shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the district. (Government Code 1126)

Note: Pursuant to Education Code 35107, an employee of a school district may not be sworn into office as an elected or appointed member of that district's Board unless he/she resigns as an employee. If the employee does not resign, the employment automatically terminates when he/she is sworn into office.

Conflict of Interest Code

Note: The Board is required to adopt a conflict of interest code in compliance with Government Code 87300-87313. Pursuant to 2 CCR 18730, Government Code requirements are satisfied if a district incorporates that regulation by reference along with a designation of employees and the formulation of disclosure categories in an Appendix, as provided for in this bylaw. The following paragraph provides for the incorporation of 2 CCR 18730, and any subsequent amendments adopted by the Fair Political Practices Commission (FPPC), as the terms of the district's conflict of interest code. In some counties, the county provides the conflict of interest code to be used.

The district's conflict of interest code shall comprise of the terms of California Code of Regulations, Title 2, Section 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a district attachment specifying designated positions and the specific types of disclosure statements required for each position.

Note: Pursuant to Government Code 87303, the district's conflict of interest code must be approved by the appropriate code reviewing body as specified in Government Code 82011. For school districts located entirely in one county the code reviewing body is the Board of Supervisors of the county in which the district is located. The FPPC is the code reviewing body for school districts with jurisdiction in more than one county. Those districts that submit their code to the FPPC for review are not required to submit this entire bylaw to the FPPC but should submit: (1) the "incorporation" paragraph above and (2) the list of designated employees with corresponding disclosure categories (see the Appendix to this bylaw).

CONFLICT OF INTEREST (continued)

BB 9270 (b)

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code in even-numbered years. If no change in the code is required, the district shall submit by October 1 a written statement to that effect to the code reviewing body. If a change in the code is necessitated by changed circumstances, the district shall submit an amended code to the code reviewing body. (Government Code 87306.5)

When a change in the district's conflict of interest code is necessitated by changed circumstances such as the creation of new designated positions, amendments or revisions shall be submitted to the code reviewing body within 90 days. (Government Code 87306)

When reviewing and preparing conflict of interest codes, the district shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

If a Board member or designated employee determines that he / she has a financial interest in a decision, as described in Government Code 87103, this determination shall be disclosed. The member shall be disqualified from voting unless his/her participation is legally required. (2 CCR 18700)

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

Financial Interest

Note: Pursuant to Government Code 1092, if any one Board member or designated employee has a financial interest in a contract, it is an absolute bar for that Board to enter into the prohibited contract. The Attorney General has opined in 69 Ops. Cal. Atty. Gen 255 (1986) that these prohibitions cannot be avoided by having the financially interested Board member abstain from participating in the matter. The determination of whether a financial interest exists involves a review of statutes, court decisions and attorney general opinions as they apply to the particular facts at issue. The analysis can be complex and legal counsel should be consulted as appropriate.

Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as Board members or designated employees. (Government Code 1090)

A Board member shall not be considered to be financially interested in a contract if his/her interest includes, but is 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

CONFLICT OF INTEREST (continued)

BB 9270 (c)

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 district 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 even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091

Note: In Thorpe v. Long Beach Community College District, the court held that the promotion of an employee, whose spouse was a member of the district's Board of Trustees, to a new position constituted a new employment and thus was a prohibited conflict of interest under Government Code 1090 and 1091.5. This decision is consistent with several Attorney General opinions. In 80 Ops. Cal. Atty. Gen. 320 (1997), the Attorney General found that a Board member's spouse who has no previous contractual relationship with the district could not be hired by the district, whether as a substitute teacher or in any other employment capacity. While this opinion involved the initial hiring of the substitute teacher by the district, the Attorney General has previously interpreted the phrase employment for at least one year to mean the employment with the district. This opinion, 69 Ops. Cal. Atty. Gen. 255 (1986), stated that a spouse employed by the district at the time the Board member was elected or appointed may continue annual employment as a substitute teacher, since the status quo with respect to the spouse's employment would continue. However, if the spouse were to attempt to become a permanent employee, the Board would be required to make a new contract, an action which would be prohibited under Government Code 1090. In 81 Ops. Cal. Atty. Gen. 327 (1998), the Attorney General opined that a first-year probationary teacher whose spouse becomes a board member during the teacher's first year of probation, may not return the following year as a second-year probationary teacher since a new contract would be required for the following year.

4. That of a spouse of an officer or employee of the district 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 nonsalaried 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 noncompensated officer of a nonprofit, tax-exempt corporation which, as one of its primary purposes, supports the functions of the nonprofit board or to which the school Board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records
7. That of a person receiving salary, per diem, or reimbursement for expenses from a governmental entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that such interest is disclosed to the Board at the time of consideration of the contract, and provided further that such interest is noted in its official records

CONFLICT OF INTEREST (continued)

BB 9270 (d)

8. 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 agent, 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.

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)

A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and if the remote interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member to enter into the contract. Remote interests are specified in Government Code 1091(b); they include, but are not limited to, the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

Note: Pursuant to Government Code 87101, even if no exception in Government Code 1091.5 applies, an official may still enter into a contract if the rule of necessity or legally required participation applies. In general, this rule will permit a district to acquire an essential supply or service. The rule also permits a Board member to carry out an essential duty of his/her office where he/she is the only one who may legally act and there is no alternative source of decision-making authority other than to permit the conflicted official to participate in accordance with 2 CCR 18708, as amended and renumbered in Register 2001, No. 2.

It is recommended that the district consult legal counsel when situations arise involving financial interests in contracts or the rule of necessity.

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

Note: Board members who willfully fail to disclose a remote interest in a contract may be subject to a fine or imprisonment pursuant to Government Code 1097.

Even if there is no prohibited or remote interest, a Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the person 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)

CONFLICT OF INTEREST (continued)

BB 9270 (e)

Note: The following paragraph reflects the common law definition of "relative within the third degree".

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 unless the individual is widowed or divorced.

Gifts

Note: Pursuant to 2 CCR 18730, the prevailing gift limitation is currently \$320. This amount is adjusted on odd-numbered years by the FPPC.

Board 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)

Gifts of travel and related lodging and subsistence shall be subject to the prevailing gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the district for Board members and designated employees. (Government Code 89506)

Honoraria

Board 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 gathering, in accordance with law. (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 district for donation into the general fund without being claimed as a deduction from income for tax purposes

Note: Exceptions exist within the Government Code's definitions of gifts. Income, interest in real property and investment; see Government Code 82028, 82030, 82033 and 82034.

APPENDIX
DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

Note: It's important that the district's Conflict of Interest Code contain the following appendix listing **designated positions**. **This appendix should be modified to reflect the specific reporting requirements and positions within the district.** Those districts in which the FPPC is their code reviewing body are required to submit their designated positions and disclosure categories to the FPPC along with a copy of the district's incorporation statement; see page (a).

The following paragraph is for use only by districts where Board members and/or the Superintendent or designee are considered to be "officials who manage public investments" and who are required to file a full financial disclosure statement in accordance with Government Code 87200. According to the FPPC, "officials who manage public investments" are Board members and/or superintendents and/or other officials who manage investments in districts that have surplus or special reserve funds to invest in permitted securities and investments pursuant to Education Code 41015 and are defined in 2 CCR 18701. Individuals, who direct the investment of these funds, formulate or approve policies for the investment of these funds, or approve investment transactions involving these funds are considered "officials who manage public investments." Even if the Board delegates day-to-day investment decisions to the Superintendent or designee, Board members are considered "officials who manage public investments" if they set or approve policy as to the investment of these funds. In such districts, Board members must be listed below, even if the Superintendent or designee makes all day-to-day decisions. If investments are managed by a person other than or in addition to the Superintendent, that person's title should be added to the list.

Districts in which Board members and the Superintendent do not "manage public investments" should delete the following paragraph and move the items in the list ("Governing Board Members" and "Superintendent of Schools") to Category 1 below. These are districts in which (1) the district does not have any surplus or special reserve funds to invest and merely deposits all funds it receives in the county treasury pursuant to Education Code 41001-41002.5 or (2) the district participates in a fund where a Tax and Revenue Anticipation Note (TRANs) is issued. Board members and superintendents in these types of situations are not considered to have discretion regarding the investment of the district's money and are therefore not "public officials who manage public investments. Instead of being required to file full financial disclosure statements, they are subject to their district's conflict of interest code and should be listed as designated employees

Note: This remainder of this appendix is for use by all districts. Government Code 87302 requires the district conflict of interest code to identify the district positions that require the disclosure of financial interests and the specific types of disclosure required for each position. Positions listed below are examples only and should be modified to reflect district practice. If the district's Board members and Superintendent are not "officials who manage public investments," they are subject to the district's conflict of interest code and their titles should be added to Category 1.

1. Persons occupying the following positions are designated employees in Category 1:
Governing Board Members
Superintendent of Schools

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

CONFLICT OF INTEREST (continued)

BB 9270 (g)

- (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

Note: The definition of designated employees in Government Code 82019 includes consultants. To preclude amending the code whenever retaining a consultant in a decision-making capacity, the following section provides that the Superintendent or designee shall make case-by-case determinations of the disclosures necessary, depending on the range of duties to be performed by the consultant.

- 2. Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. 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.

Note: As amended and renumbered in Register 2001, No. 2, 2 CCR 18701 provides the following definition of "consultant".

A consultant is an individual who, pursuant to a contract with the district, makes a governmental decision whether to: (2 CCR 18701)

- a. Approve a rate, rule or regulation
- b. Adopt or enforce a law
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement
- d. Authorize the district to enter into, modify or renew a contract that requires district approval
- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party
- f. Grant district approval to a plan, design, report, study or similar item
- g. Adopt or grant district approval of district policies, standards or guidelines

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 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. (2 CCR 18701)

CONFLICT OF INTEREST (continued)

BB 9270 (h)

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.

GOVERNMENT CODE

1 090-1098 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
87100-87103.6 General prohibitions
87200-87210 Disclosure
87300-87313 Conflict of interest code
87500 Statements of economic interests
89501-89503 Honoraria and gifts 91000-91014 Enforcement

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission

COURT DECISIONS

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

82 Ops. Cal. AttyGen. 83 (1999)
81 Ops. Cal. AttyGen. 327 (1998)
80 Ops. Cal. AttyGen. 320 (1997)
69 Ops. Cal. AttyGen. 255 (1986)
68 Ops. Cal. AttyGen. 171 (1985)
65 Ops. Cal. AttyGen. 606 (1982)

Management Resources:

WEB SITES

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Adopted: 3-11-04

**GRAVENSTEIN UNION SCHOOL DISTRICT
Sebastopol, California**

CSBA Sample

Board Bylaw

Conflict Of Interest

BB 9270

Board Bylaws

***Note: The determination as to whether a conflict of interest exists must be analyzed under two separate sets of statutes: (1) the conflict of interest provisions of the Political Reform Act (PRA) (Government Code 87100-87500.1), detailed in the section below entitled "Conflict of Interest under the Political Reform Act," and (2) Government Code 1090-1098, detailed in the section below entitled "Financial Interest in Contracts under Government Code 1090." However, even when a conflict does not exist pursuant to those statutes, the Attorney General has found that special situations may still exist under the common law doctrine against conflict of interest; see the section below entitled "Common Law Doctrine Against Conflict of Interest. ***"

***Note: Because the law and definitions are quite complex, it is strongly recommended that districts consult with legal counsel and staff from the Fair Political Practices Commission (FPPC) as soon as a potential conflict is presented. ***

The Governing Board desires to maintain the highest ethical standards and help ensure that decisions are made in the best interest of the district and the public. In accordance with law, Board members and designated employees shall disclose any conflict of interest and, as necessary, shall abstain from participating in the decision.

(cf. 9005 - Governance Standards)

***Note: The Governing Board is required to adopt a conflict of interest code in compliance with Government Code 87300-87313. Board members and employees designated in the district's conflict of interest code are required by Government Code 87500 to annually file a Statement of Economic Interest/Form 700 to disclose any assets and income which may be materially affected by official actions. Under the PRA, there are two separate categories of Form 700 disclosure requirements. For the first category pursuant to Government Code 87302, which is applicable to most school districts, the disclosure requirements are determined by the district and set forth in the district's conflict of interest code. The second category, pursuant to Government Code 87200, is only applicable to Board members and designated employees who "manage public investments"; see section below entitled "Additional Requirements for Boards that Manage Public Investments." Those Board members and designated employees, referred to by the FPPC as Government Code 87200/Article 2 filers, must file broader disclosure statements pursuant to the disclosure requirements specified in law and FPPC regulation. ***

***Note: Pursuant to Government Code 87303, the district's conflict of interest code must be approved by the appropriate code reviewing body. For districts located entirely in one county, the code reviewing body is the board of supervisors of the county in which the district is located. The FPPC is the code reviewing body for those school districts located in more than one county. ***

***Note: Pursuant to 2 CCR 18730, the requirements of the Government Code are satisfied if a district adopts a conflict of interest code that incorporates 2 CCR 18730 by reference, along with a list of designated positions and disclosure categories. The accompanying exhibit (E 9270) contains a sample resolution which includes an appendix with designated positions and disclosure categories which, once adopted by the Board, will comprise the terms of the district's conflict of interest code that should be submitted to the code reviewing body. Districts that do not wish to adopt a resolution as their conflict of interest code should modify the following paragraph accordingly. ***

The Board shall adopt a resolution that specifies the terms of the district's conflict of interest code, the district's designated positions, and the disclosure categories required for each position.

Upon direction by the code reviewing body, the Board shall review the district's conflict of interest code and submit any changes to the code reviewing body.

When a change in the district's conflict of interest code is necessitated due to 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. (Government Code 87306)

When reviewing and preparing the district's conflict of interest code, the Superintendent or designee shall provide officers, employees, consultants, and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

(cf. 9320 - Meetings and Notices)

Board members and designated employees shall annually file a Statement of Economic Interest/Form 700 in accordance with the disclosure categories specified in the district's conflict of interest code. A Board member who leaves office or a designated employee who leaves district employment shall, within 30 days, file a revised statement covering the period of time between the closing date of the last statement and the date of leaving office or district employment. (Government Code 87302, 87500)

(cf. 4117.2/4217.2/4317.2 - Resignation)

(cf. 9222 - Resignation)

Conflict of Interest under the Political Reform Act

*****Note:** The FPPC has adopted an eight-step analysis, detailed in Government Code 87100-87500, 2 CCR 18700-18755, and interpretive opinions, to determine whether a conflict of interest exists under the PRA. When such a conflict exists, the affected Board member must disclose the interest and disqualify himself/herself from participating in the decision, as specified below. Because Family Code 297.5 grants a registered domestic partner the same rights, protections, and benefits as a spouse under state law, analysis of a conflict of interest with regards to a Board member's spouse is also applicable to a registered domestic partner. *******

A Board member or designated employee 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 conflict of interest exists if the decision will have a "reasonably foreseeable material financial effect" on one or more of the Board member's or designated employee's "economic interests," unless the effect is indistinguishable from the effect on the public generally or the Board member's or designated employee's participation is legally required. (Government Code 87100, 87101, 87103; 2 CCR 18700-18709)

A Board member or designated employee makes a governmental decision when, acting within the authority of his/her office or position, he/she votes on a matter, appoints a person, obligates or commits the district to any course of action, or enters into any contractual agreement on behalf of the district. (2 CCR 18702.1)

A Board member who has a disqualifying conflict of interest on an agenda item that will be heard in an open meeting of the Board shall abstain from voting on the matter. He/she may remain on the dais, but his/her presence shall not be counted towards achieving a quorum for that matter. A Board member with a disqualifying conflict of interest shall not be present during a closed session meeting of the Board when the decision is considered and shall not obtain or review a recording or any other nonpublic information regarding the issue. (2 CCR 18702.1)

Additional Requirements for Boards that Manage Public Investments

*****Note:** The following optional section is for use only by districts in which the Board and/or the Superintendent or designee are considered to be "officials who manage public investments" and who are required to file a full financial disclosure statement in accordance with Government Code 87200. It should be deleted by all other districts. See the accompanying exhibit for further information. *******

*****Note:** According to the FPPC, officials who manage public investments are Boards or designated employees who manage the investment of district surplus or special reserve funds in permitted securities and investments pursuant to Education Code 41015. Those Boards that direct the investment of these funds, formulate or approve policies for the investment of these funds, or approve investment transactions involving these funds are considered officials who manage public investments. Even if the Board delegates day-to-day investment decisions to district staff, Board members are considered officials who

manage public investments if they set or approve policy as to the investment of these funds. ***

***Note: The Board does not manage public investments when the district does not have any surplus or special reserve funds to invest and merely deposits all funds it receives (1) in the county treasury pursuant to Education Code 41001-41002.5 or (2) in a fund where a Tax and Revenue Anticipation Note (TRANs) is issued. Board members and Superintendents in these types of situations are not considered to have discretion regarding the investment of the district's money and are therefore not officials who manage public investments. ***

A Board 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 18702.5)

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

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

4. If the Board'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 Board's decision.

(cf. 3430 - Investing)

Conflict of Interest under Government Code 1090

***Note: Pursuant to Government Code 1090, if a Board member has a financial interest in a contract, it is an absolute bar for that district to enter into the contract. The Attorney General has opined in 69 Ops.Cal.Atty.Gen. 255 (1986) that, unlike the PRA, the prohibitions in Government Code 1090 cannot be resolved by having the financially interested Board member abstain from participating in the matter. However, there are two categories of exceptions. If a financial interest meets the definition of a "noninterest" as specified in Government Code 1091.5, then the restrictions in Government Code 1090 do not apply and the district can enter into the contract. Secondly, if a Board member's interest is deemed a "remote interest" pursuant Government Code 1091, then the district can enter into the contract as long as certain conditions are satisfied, as specified below. ***

***Note: While the prohibitions in the PRA only apply to designated employees, the prohibitions in Government Code 1090 apply to all district employees and consultants. However, the Attorney General has opined in 63 Ops.Cal.Atty.Gen. 868 (1980) that an employee's financial interest would not prohibit the district from entering into a contract as long as the employee has not participated in the making of the contract, such as in discussions and planning, as detailed below. ***

***Note: Government Code 1090 does not define financial interest, but courts have held that, for the purposes of this statute, the definition of "financial interest" is not the same as the definition in the PRA which requires a "material financial effect" in order for a conflict to exist. Because the determination of whether a financial interest exists involves a review of statutes, court decisions, and Attorney General opinions as they apply to the particular facts at issue, the analysis can be complex and legal counsel should be consulted as appropriate. ***

Board members, employees, or district consultants shall not be financially interested in any contract made by the Board on behalf of the district, including in the development, preliminary discussions, negotiations, compromises, planning, reasoning, and specifications and solicitations for bids. If a Board member has such a financial interest, the district is barred from entering into the contract. (Government Code 1090; Klistoff v. Superior Court, (2007) 157 Cal.App. 4th 469)

***Note: Pursuant to Government Code 1091.5, certain financial interests are defined as "noninterests," meaning a conflict of interest does not exist and the district can enter into the contract. One of the noninterests listed in Government Code 1091.5 is when a Board member's spouse has been employed by the district for at least one year prior to the Board member's election or appointment. If the spouse has not been employed by the district for at least one year prior the Board member's election or appointment, the exception does not apply and Government Code 1090 prohibits the district from entering into a new contract to hire the spouse. (80 Ops.Cal.Atty.Gen. 320 (1997)) ***

***Note: Attorney General opinions and case law have further clarified the application of

this noninterest exception when a previously employed spouse changes to a different position during the Board member's term. Generally, these opinions have held that a lateral transfer or change of classification that does not require Board approval (e.g., second year probationary teacher automatically achieving permanent status, step increase) is the same employment not requiring a new contract and thus constitutes a noninterest. (92 Ops.Cal.Atty.Gen. 26 (2009), 87 Ops.Cal.Atty.Gen. 23 (2004)) However, when a new contract is involved (e.g., promotion from classroom teacher to principal, substitute employee becoming a probationary employee), the exception in Government Code 1091.5 does not apply and the action would be prohibited under Government Code 1090 because Board approval of the contract is required. (Thorpe v. Long Beach Community College District, 69 Ops.Cal.Atty.Gen. 255 (1986)) ***

***Note: Because this area of law is complex, it is strongly recommended that district legal counsel be consulted if a Board member's spouse is an employee of the district or when analyzing whether an interest is a noninterest or remote interest. ***

A Board 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. One such noninterest is when a Board member's spouse/registered domestic partner has been a district employee for at least one year prior to the Board member's election or appointment. (Government Code 1091.5)

***Note: The district may enter into a contract when a Board member's interest is a "remote interest" as defined in Government Code 1091. Generally, this issue arises when the district wishes to enter into a contract with the Board member's employer. When the conditions specified in Government Code 1091 are satisfied (e.g., Board member is an employee of a nonprofit organization, the employer has at least 10 employees, and the Board member has been employed more than three years), then the district may enter into the contract as long as the affected Board member discloses the remote interest and abstains from the matter. ***

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

***Note: Board members who willfully fail to disclose a remote interest in a contract may be subject to a fine or imprisonment pursuant to Government Code 1097. ***

Even if there is not a prohibited conflict of interest, a Board member shall abstain from voting on personnel matters that uniquely affect his/her relatives. However, a Board 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 Board 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)

***Note: The following paragraph reflects the common law definition of "relative within the third degree." ***

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

Common Law Doctrine Against Conflict of Interest

***Note: Even when there is not a conflict pursuant to the PRA (Government Code 87100-87500.1) or Government Code 1090, the Attorney General has found that special situations may still exist under the common law doctrine against conflict of interest which, unlike the statutes, extends to noneconomic interests. In 92 Ops.Cal.Atty.Gen. 19 (2009), the Attorney General opined that a redevelopment board member should abstain from voting on a loan agreement where the recipient of the loan was a corporation owned by the board member's adult son. Although the board member was not financially interested in the contract under the PRA or Government Code 1090, the Attorney General determined that abstention was necessary in order to avoid a conflict between the member's official and personal interests and to avoid the appearance of impropriety. ***

***Note: Districts are encouraged to consult legal counsel if situations arise that raise the question as to whether such a conflict exists. ***

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

Rule of Necessity or Legally Required Participation

***Note: Pursuant to Government Code 87101, when a conflict exists under the PRA, the district may still enter into a contract if the rule of necessity or legally required participation applies. In general, this rule will permit a district to acquire an essential supply or service. The rule also permits a Board member to carry out an essential duty of his/her office in accordance with 2 CCR 18708, where he/she is the only one who may legally act and there is no alternative source of decision-making authority. It is recommended that legal counsel be consulted when situations arise involving the rule of necessity. ***

On a case-by-case basis and upon advice of legal counsel, a Board member with a financial interest in a contract may participate in the making of the contract if the rule of necessity or legally required participation applies pursuant to Government Code 87101 and 2 CCR 18708.

Incompatible Offices and Activities

***Note: Government Code 1099 and 1126 prohibit Board members and employees from engaging in any employment or activity which is inconsistent, incompatible, in conflict with, or inimical to their duties with the district. Government Code 1126 mandates the district to adopt procedures regarding this prohibition. See BP 4136/4236/4336 - Nonschool Employment for language implementing this mandate relative to employees. ***

***Note: Attorney General opinions have indicated that it would be incompatible for Board members to serve on other elected or appointed boards, councils, or commissions that have interests which may conflict with the interests of the district (85 Ops.Cal.Atty.Gen. 60 (2002); 68 Ops.Cal.Atty.Gen. 171 (1985); 65 Ops.Cal.Atty.Gen. 606 (1982)). If a Board member is sworn into an incompatible office, then his/her position in the prior office is automatically terminated. ***

***Note: Pursuant to Education Code 35107, an employee of a school district may not be sworn into office as an elected or appointed member of that district's Board unless he/she resigns as an employee. If the employee does not resign, the employment automatically terminates when he/she is sworn into office. See BB 9220 - Governing Board Elections. ***

***Note: The determination as to whether an activity or office is incompatible is complex and requires a case-by-case analysis of the particular activities or duties of the office; therefore, it is recommended that district legal counsel be consulted as appropriate. ***

Board 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 Board member's duties as an officer of the district. (Government Code 1099, 1126)

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

Gifts

***Note: Pursuant to 2 CCR 18730, the gift limitation is currently \$420. This amount is adjusted in odd-numbered years by the FPPC. However, this limit may not be applicable to gifts from every source. For those Board members who file a Form 700 based on the disclosure categories specified in the district's conflict of interest code pursuant to Government Code 87302 (see the accompanying exhibit), the gift limit is only applicable to those individuals and entities that are disclosed on the Form 700. ***

***Note: Exceptions exist within the Government Code's definitions of gifts, income, interest in real property, and investment; see Government Code 82028, 82030, 82033, and 82034. ***

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

The limitation on gifts does 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 current gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the district for Board members and designated employees. (Government Code 89506)

Honoraria

Board 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 gathering, in accordance with law. (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 district for donation into the general fund without being claimed as a deduction from income for tax purposes

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office

35107 School district employees

35230-35240 Corrupt practices, especially:

35233 Prohibitions applicable to members of governing boards

41000-41003 Moneys received by school districts

FAMILY CODE

297.5 Rights, protections, and benefits of registered domestic partners

GOVERNMENT CODE

1090-1099 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

81000-91014 Political Reform Act of 1974, especially:

82011 Code reviewing body

87100-87103.6 General prohibitions
87200-87210 Disclosure
87300-87313 Conflict of interest code
87500 Statements of economic interests
89501-89503 Honoraria and gifts
91000-91014 Enforcement

PENAL CODE

85-88 Bribes

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission, especially:
18702.5 Public identification of a conflict of interest for Section 87200 filers

COURT DECISIONS

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)

Management Resources:

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>