RESOLUTION - ACTION REQUESTED 2012-199

MEETING: April 24, 2012
TO: The Board of Supervisors
FROM: Keith Williams, Treasurer/Tax Collector
RE: Sierra Foothill Charter School Conflict of Int.

RECOMMENDATION AND JUSTIFICATION:

Adopt the Sierra Foothill Charter School Conflict of Interest Code Pursuant to Government Code 87303. Designate the County Clerk as the Filing Officer Pursuant to Government Code 82027.

The Sierra Foothill Charter School is a new local agency within the County. They have adopted their own Conflict of Interest Code which requires approval by the Board of Supervisors. The Sierra Charter School Conflict of Interest Code meets the applicable requirements of the Fair Political Practices Act.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

Currently, all Local Agencies are included in the Mariposa County Conflict of Interest Code. This will be the first separate Conflict of Interest Code Adopted by the Board.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Government Code 87303 outlines the options for Board action.

ATTACHMENTS:
20120221 BOS Conflict of Interest code (PDF)
Conflict of Interest Policy Section 1090 100511 (PDF)
Government Code Reviewing Body (PDF)

CAO RECOMMENDATION
Requested Action Recommended
RESULT: ADOPTED [UNANIMOUS]
MOVER: Jim Allen, District V Supervisor
SECONDER: Lyle Turpin, District II Supervisor
AYES: Stetson, Turpin, Bibby, Cann, Allen
MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: Keith Williams, Treasurer-Tax Collector-County Clerk

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: Items pulled from Consent Agenda

RES. 12-199

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on April 24, 2012

ACTION AND VOTE:

Chair Bibby advised that action on item CA 4/adoption
of the Sierra Foothill Charter School Conflict of Interest Code includes a change that the
Statements are to be filed with the County Clerk versus the Board of Supervisors

CA4. **Treasurer-Tax Collector-County Clerk RES-2012-199**
Adopt the Sierra Foothill Charter School Conflict of Interest Code Pursuant to
Goverment Code 87303. Designate the County Clerk as the Filing Officer
Pursuant to Government Code 82027.

Cc: File
February 21, 2012

Mariposa County Board of Supervisors
PO Box 784
Mariposa, CA 95338

Dear Mariposa County Board of Supervisors,

Sierra Foothill Charter School was provisionally approved by the Mariposa County Unified School District on December 19, 2011. At that time, SFCS became a public agency requiring a Conflict of Interest Code per the California Political Reform Act.

Codes are not effective until they have been approved by a public agency’s code reviewing body (section 87303). The code reviewing body for an agency wholly within a county is the county board of supervisors.

Therefore, I am attaching for your approval the Conflict of Interest Code adopted by the Sierra Foothill Charter School Board of Directors on October 29, 2011.

SFCS will forward copies of signed Form 700 forms within 30 days of BOS approval of the Conflict of Interest Code.

Thank you for your consideration,

Jill Harry
Board Chair

Enclosure
SIERRA FOOTHILL CHARTER SCHOOL

CONFLICT OF INTEREST CODE

I. ADOPTION

In compliance with the Political Reform Act of 1974, California Government Code Section 87100, et seq., Sierra Foothill Charter School hereby adopts this Conflict of Interest Code ("Code"), which shall apply to all governing board members, candidates for member of the governing board, and all other designated employees of Sierra Foothill Charter School ("Charter School"), as specifically required by California Government Code Section 87300. As the Charter School has agreed to comply with Government Code Section 1090, in addition to the Political Reform Act, this Code also conforms with the requirements of Section 1090.

II. DEFINITION OF TERMS

As applicable to a California public charter school, the definitions contained in the Political Reform Act of 1974, the regulations of the Fair Political Practices Commission, specifically California Code of Regulations Section 18730, and any amendments or modifications to the Act and regulations are incorporated by reference to this Code.

III. DESIGNATED EMPLOYEES

Employees of this Charter School, including governing board members and candidates for election and/or appointment to the governing board, who hold positions that involve the making or participation in the making, of decisions that may foreseeably have a material effect on any financial interest, shall be "designated employees." The designated positions are listed in "Exhibit A" attached to this policy and incorporated by reference herein.

IV. STATEMENT OF ECONOMIC INTERESTS: FILING

Each designated employee, including governing board members and candidates for election and/or appointment to the governing board, shall file a Statement of Economic Interest ("Statement") at the time and manner prescribed by California Code of Regulations, title 2, section 18730, disclosing reportable investments, interests in real property, business positions, and income required to be reported under the category or categories to which the employee's position is assigned in "Exhibit A."

An investment, interest in real property or income shall be reportable, if the business entity in which the investment is held, the interest in real property, the business position, or source of income may foreseeably be affected materially by a decision made or participated in by the designated employee by virtue of his or her position. The specific disclosure responsibilities assigned to each position are set forth in "Exhibit B."

Statements Filed With the Charter School. All Statements shall be supplied by the Charter
V. DISQUALIFICATION

No designated employee shall make, participate in making, or try to use his/her official position to influence any Charter School decision which he/she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family.

VI. MANNER OF DISQUALIFICATION

A. Non-Governing Board Member Designated Employees

When a non-Governing Board member designated employee determines that he/she should not make a decision because of a disqualifying interest, he/she should submit a written disclosure of the disqualifying interest to his/her immediate supervisor. The supervisor shall immediately reassign the matter to another employee and shall forward the disclosure notice to the Charter School Teaching Principal, who shall record the employee’s disqualification. In the case of a designated employee who is head of an agency, this determination and disclosure shall be made in writing to his/her appointing authority.

B. Governing Board Member Designated Employees

Financial interest in a contract: Where a Governing Board member has a personal, material financial interest in a contract, the financial interest will be reviewed under Government Code Section 1090, to determine whether the remote or non-interest exceptions apply. Should the Board determine that no applicable remote or noninterest exceptions apply, the Board must either: (1) not enter into the contract, as Government Code Section 1090 prevents the entire board from voting on the contract; or (2) prior to the Board of Director’s discussion of and/or taking any action on the contract at issue, the Board member must resign from the Board of Directors. The resignation shall be made part of the Board’s official record.

All other financial interests: Governing Board members shall disclose a disqualifying interest at the meeting during which consideration of the decision takes place. This disclosure shall be made part of the Board’s official record. The Board member shall refrain from participating in the decision in any way (i.e., the Board member with the disqualifying interest shall refrain from voting on the matter and shall leave the room during Board discussion and when the final vote is taken) and comply with any applicable provisions of the Charter School bylaws.
EXHIBIT A

Designated Positions

I. Persons occupying the following positions are designated employees and must disclose financial interests in all categories defined in "Exhibit B" (i.e., categories 1, 2, and 3).

   A. Members of the Governing Board and their alternates (if applicable)
   B. Candidates for Member of the Governing Board
   C. Corporate Officers (e.g., CEO/President, CFO/Treasurer, Secretary, etc.)
   D. Principal
   E. Office Manager
   F. Consultants¹

II. Persons occupying the following positions are designated employees and must disclose financial interests defined in Categories 2 and 3 of "Exhibit B."

   A. Contractor

¹ The Charter School Principal may determine, in writing, that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Charter School Principal's determination is a public record and shall be retained for public inspection in the same manner and location of interest code.
EXHIBIT B

Disclosure Categories

Category 1 Reporting:

A. Interest in real property which is located in whole or in part either (1) within the boundaries of the District, or (2) within two miles of the boundaries of the District, including any leasehold, beneficial or ownership interests or option to acquire such interest in real property.

(Interests in real property of an individual include a business entity’s share of interest in real property of any business entity or trust in which the designated employee or his or her spouse owns, directly, indirectly, or beneficially, a 10% interest or greater.)

B. Investments in or income from persons or business entities which are contractors or sub-contractors which are or have been within the previous two-year period engaged in the performance of building construction or design within the District.

C. Investments in or income from persons or business entities engaged in the acquisition or disposal of real property within the jurisdiction.

(Investment includes any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership interest or other ownership interests.)

(Investments of any individual include a pro rata share of investments of any business entity or trust in which the designated employee or his or her spouse owns, directly, indirectly or beneficially, a ten percent interest or greater.)

(Investment does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, or any bond or other debt instrument issued by any government or government agency.)

Category 2 Reporting:

A. Investments in or income from business entities which manufacture or sell supplies, books, machinery or equipment of the type utilized by the department for which the designated employee is Manager or Charter School Teaching Principal. Investments include interests described in Category 1.

Category 3 Reporting:

A. Investments in or income from business entities which are contractors or sub-contractors engaged in the performance of work or services of the type utilized by the department for which the designated employee is Manager or Charter School Teaching Principal. Investments include the interests described in Category 1.
Government Code

82011. "Code reviewing body" means all of the following:

(b) The board of supervisors, with respect to the conflict-of-interest code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, with jurisdiction wholly within the county.

87303. No conflict of interest code shall be effective until it has been approved by the code reviewing body. Each agency shall submit a proposed conflict of interest code to the code reviewing body by the deadline established for the agency by the code reviewing body. The deadline for a new agency shall be not later than six months after it comes into existence. Within 90 days after receiving the proposed code or receiving any proposed amendments or revisions, the code reviewing body shall do one of the following:

(a) Approve the proposed code as submitted.
(b) Revise the proposed code and approve it as revised.
(c) Return the proposed code to the agency for revision and resubmission within 60 days. The code reviewing body shall either approve the revised code or revise it and approve it. When a proposed conflict of interest code or amendment is approved by the code reviewing body, it shall be deemed adopted and shall be promulgated by the agency.

82027. "Filing officer" means the office or officer with whom any statement or report is required to be filed under this title. If copies of a statement or report are required to be filed with more than one office or officer, the one first named is the filing officer, and the copy filed with him shall be signed in the original and shall be deemed the original copy.