CALIFORNIA CHARTER SCHOOLS ASSOCIATION

25TH ANNUAL CHARTER SCHOOLS CONFERENCE

LESSONS LEARNED FROM
CHARTER SCHOOL FRAUD
AND MISMANAGEMENT

MARCH 27, 2018

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PRESENTATION - LESSONS LEARNED FROM
CHARTER SCHOOL FRAUD AND MISMANAGEMENT

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**Board of Directors**
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FAILURE TO PLAN AHEAD
Growth, Risk Management, Construction Problems

FAILURE TO COMPLY WITH GOVERNMENT AGENCIES
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Understand your areas of risk

WHAT COULD LEAD AN ORGANIZATION TO FAIL?
- Charter Compliance Issues
- Legal Status of the Non-Profit Organization
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HOW IS FRAUD DEFINED?

WHAT ARE THE DIFFERENT TYPES OF FRAUD?

WHAT IS MISMANAGEMENT?

WHAT CAUSES MISMANAGEMENT?

Do you have an established weekly review schedule?

Have you developed school site systems and procedures to ensure segregation of duties?
Avoid Mismanagement and Revocation
Key Compliance Areas

1. Authorizing Agency
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What are Internal Controls?

Systems of policies and procedures designed to prevent fraud, waste and misappropriation.

- Efficient Operations
- Reliable Reporting
- Regulatory Compliance
- Protect Assets

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- Reliable Reporting
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What are Internal Controls

Systems of policies and procedures designed to prevent fraud, waste and misappropriation.
Who needs internal controls?

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Fraud Risk Assessment

The most cost-effective way to limit fraud losses is to prevent fraud from occurring. This risk assessment is designed to help organizations review the effectiveness of their fraud prevention measures.

- Is ongoing anti-fraud training provided to all employees of the organization?

- Is an effective fraud reporting mechanism in place?

- To increase employees' perception of detection, are the following proactive measures taken and publicized to employees?

- Is the management climate/tone at the top one of honesty and integrity?
Protecting Yourselves

Where does financial misconduct most often occur?
The Fraud Diamond: Considering the Four Elements of Fraud

**Incentive / Pressure**
Management or other employees may have an incentive or be under pressure, which provides a motivation to commit fraud.

**Opportunity**
Circumstance exist – for example, the absence of controls, ineffective controls, or the ability of management to override controls – that provide an opportunity for fraud to be perpetrated.

**Rationalization / Attitude**
Those involved in a fraud are able to rationalize a fraudulent act as being consistent with their personal code of ethics. Some individuals possess an attitude, character, or set of ethical values that allows them to knowingly and intentionally commit a dishonest act.

**Capability**
Personal traits and abilities that play a major role in whether fraud may actually occur even with the presence of the other three elements.
ACFE Report to the Nations - 2016

Fraud schemes in the USA by industry

- Sorted for government and educational industries

- Shows frequency of different schemes among these industries compared to all cases
  - Billing (much higher %)
  - Skimming (much higher %)
  - Cash on Hand & Cash Larceny (much higher %)
ACFE Report to the Nations - 2016

Frequency of Anti-Fraud Controls

What controls do entities rely on the most to prevent fraud from occurring?

• #1 rely on external audit to prevent fraud from occurring

How effective are these controls at actually deterring fraud?
Of note, is the large discrepancies between the anti-fraud controls in place and how most frauds are ultimately detected.

- **External audit** #1 fraud controls organizations use but only responsible for 3% of detection.

This information can assist organizations in determining what procedures might be most effective when addressing fraud risks.

- Allowing for tips/reporting, internal audit, and management review are highest detection of fraud.
Where do you have the least comfort?

- Conflict of Interest
- Collection/Depositing of Cash
- Bank Accounts
- Payroll
- Purchasing & Credit Cards
- Weak Supervision
- Lack of accountability
- Lack of transparency in decision making
Dealing with The Fraudster

DEVELOP GAME PLAN & FACT FINDING

1. Secure documents and records associated with the alleged fraud
2. Cancel checking accounts
3. Monitor payroll for suspicious activity
4. Delete subject’s password and access to computers and school
5. Notify vendors involved
6. Keep a log of events with dates and people involved
7. Contact Insurance Carrier to file possible claim

INTERVIEW THE FRAUDSTER AND OTHER POSSIBLE PARTICIPANTS

Ensure management and witness involvement
Consider involving a Certified Fraud Examiner

POSSIBLE HUMAN RESOURCE ACTIONS

Placing on administrative leave
Other discipline
Termination for cause
Charter School Insurance

Know your Insurance policy

- Review coverage limits every year
- Key employees and accounting personnel covered/bonded
- Assess events that can trigger additional coverage
- Is student accident included (playground, sports, etc.)
- Weekend events
- Construction projects

PROACTIVE

ExED | vtd | MUSICK PEELER
Thank you for attending!
ExED’s “DO’S” AND “DON'TS” OF CHARTER SCHOOL FISCAL RESPONSIBILITY

**DO:**

- Have a truly independent school Board and adopt a conflict of interest policy
- Pay all payroll taxes properly
  - Pay taxes to Federal and State Agencies within set deadline
  - File quarterly and annual payroll tax filings
- Submit timely retirement payments to STRS and PERS
  - Talk to County representatives about requirements, proper formats, and timelines
  - Maintain $-for-$ reserve for all money owed to STRS and PERS
- Adopt sound fiscal policies and follow them
- Set up proper segregation of duties
- Maintain proper supporting documentation for all expenditures.
- Have board approved loan documents for all loans made to the school.

**DON'T:**

- Do not have employees, relatives of employees, or paid vendors on the school Board
- Do not pay Executive Directors way above industry standards or give excessive benefits
- Do not make personal loans to school employees
- Do not have weak internal controls, with the same person responsible for purchasing, deposits, and check writing.
- Do not use school credit card for personal expenditures.
- Do not write checks out to “Cash”.
- Do not write checks to the same person who then signs the checks.
- Do not reimburse employees for purchases without receipts.
WHERE DOES FINANCIAL MISCONDUCT MOST OFTEN OCCUR?

✓ CONFLICT OF INTEREST
  o BOARD AND/OR ADMINISTRATION

✓ COLLECTION / DEPOSITING OF CASH
  o INADEQUATE RECEIPTING
  o NO SEPARATION OF DUTIES

✓ BANK ACCOUNTS
  o UNTIMELY RECONCILIATIONS
  o UNKNOWN ACCOUNTS
  o WEAK CONTROLS OVER DEBIT AND CREDIT CARDS

✓ PAYROLL
  o FAKE EMPLOYEES
  o OVER-REPORTING HOURS

✓ PURCHASING
  o FALSE VENDORS
  o KICKBACKS
  o PURCHASE IRREGULARITIES

✓ WEAK SUPERVISION
  o SMALL ORGANIZATIONS
  o SUPERVISOR WORK OVERLOAD
  o UNWARRANTED TRUST
  o CLOSE FRIENDSHIPS
  o COLLUSION
Tips for Proper Segregation of Duties

- The person that cuts the checks does not reconcile the bank accounts. If this is not possible, management needs to formally approve and review reconciliation on a monthly basis.

- The person that cuts the checks does not sign the checks.

- The person that reconciles the bank account(s) does not open the bank statements.

- The person that receives goods does not purchase them or process payments for goods.

- The person that processes payroll does not receive payroll if outsourced or distribute checks.

- Ensure that all cash is counted by two people. We recommend a two-key lockbox, available at any office supply store.

- The person that makes the bank deposits does not reconcile the bank account(s).
Fraud Risk Assessment

Performing a fraud risk assessment for an entity is a process aimed at proactively identifying and addressing an organization’s vulnerabilities to internal and external fraud and can be a valuable tool for entities to use in identifying and addressing their vulnerabilities. The objective of a fraud risk assessment is to help an organization identify what makes it most vulnerable to fraud. This tool can be used to assist organizations in identifying fraud risks and developing a fraud risk response.

Below are some samples of possible areas to consider and questions to ask when performing a fraud risk assessment

Management Climate and Tone at the Top

- Are employees required to complete an annual disclosure document that includes business ownership, income, and investment information?
- Does the organization require vendors to sign an agreement allowing vendor audits?
- Does management support the ethics and anti-fraud policies?
- Does the organization educate employees about the importance of ethics and anti-fraud programs?
- Does the organization promptly investigate incidents of suspected or reported fraud?

Fraud Training and Policies

- Is there a formal policy covering approval authority for financial transactions, such as purchasing or travel?
- Does the charter have an ethics statement?
- Does the charter have written fraud policies and procedures?
- Do employees understand what constitutes fraud and how to report it?
- Is there a charter policy that addresses the receipt of gifts, discounts, and services offered by a supplier or customer?
- Are there policies and procedures that address dishonest or unethical behavior?

Effective Reporting Mechanism and Perception of Detection

- Does the organization provide an anonymous way to report suspected violations of the ethics and anti-fraud programs?
- Are fraud incidents promptly and thoroughly investigated?
- Do reporting policies and mechanisms extend to outside parties such as vendors, customers, or other outside parties?
- Is possible fraudulent activity sought out dealt with aggressively rather than dealt with passively?
• Are surprise audits over higher fraud risk areas conducted in addition to the normal audit or review process in place?
• Does the organization have a reporting procedure for personnel to report their concerns about vendors receiving favored treatment?

Employees/ Management/ Key Employee Assessment

• Are the duties related to authorization, custody of assets, and recording or reporting of transactions segregated?
• Do any employees have outside business interests that might conflict with their duties at the charter?
• Do any of the key employees appear to have a close association with a vendor?
• Does the charter conduct pre-employment background checks?

Physical Controls

• Does the organization restrict access to areas containing sensitive documents (such as invoices, receipts, journals, ledgers, and checks) and maintain a system for providing an audit trail of access?
• Does the organization restrict access to computer systems with sensitive documents (such as accounting software, inventory, and payroll) and create a system to provide an audit trail of access?
• Does the organization restrict access to areas with high value assets, such as shipping, receiving, storerooms, and cash?
• Does the organization use CCTV and recording equipment to monitor entries, exits, areas with sensitive or high value assets, and sales areas?
AU-C Section 240

Consideration of Fraud in a Financial Statement Audit

Source: SAS No. 122; SAS No. 128.

Effective for audits of financial statements for periods ending on or after December 15, 2012.

Introduction

Scope of This Section

.01 This section addresses the auditor’s responsibilities relating to fraud in an audit of financial statements. Specifically, it expands on how section 315, Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement, and section 330, Performing Audit Procedures in Response to Assessed Risks and Evaluating the Audit Evidence Obtained, are to be applied regarding risks of material misstatement due to fraud.

Characteristics of Fraud

.02 Misstatements in the financial statements can arise from either fraud or error. The distinguishing factor between fraud and error is whether the underlying action that results in the misstatement of the financial statements is intentional or unintentional.

.03 Although fraud is a broad legal concept, for the purposes of generally accepted auditing standards (GAAS), the auditor is primarily concerned with fraud that causes a material misstatement in the financial statements. Two types of intentional misstatements are relevant to the auditor—misstatements resulting from fraudulent financial reporting and misstatements resulting from misappropriation of assets. Although the auditor may suspect or, in rare cases, identify the occurrence of fraud, the auditor does not make legal determinations of whether fraud has actually occurred. (Ref: par. .A1—.A8)

Responsibility for the Prevention and Detection of Fraud

.04 The primary responsibility for the prevention and detection of fraud rests with both those charged with governance of the entity and management. It is important that management, with the oversight of those charged with governance, places a strong emphasis on fraud prevention, which may reduce opportunities for fraud to take place, and fraud deterrence, which could persuade individuals not to commit fraud because of the likelihood of detection and punishment. This involves a commitment to creating a culture of honesty and ethical behavior, which can be reinforced by active oversight by those charged with governance. Oversight by those charged with governance includes considering the potential for override of controls or other inappropriate influence over the financial reporting process, such as efforts by management to manage earnings in order to influence the perceptions of financial statement users regarding the entity’s performance and profitability.
Overview

Under California’s charter school law, a charter school may operate as or elect to be operated by a nonprofit public benefit corporation. Various external laws and policies govern the conduct of directors, officers and employees of a nonprofit public benefit corporation that operates a charter school. These laws and policies may prohibit a director, officer or employee of a charter school from making, participating in, or influencing or attempting to influence a decision of the charter school concerning a transaction in which the director, officer or employee or a member of his or her immediate family has a financial interest.

Corporations Code § 5231

Section 5231 of the California Corporations Code requires a director of a nonprofit public benefit corporation to perform the duties of a director in good faith in a manner that the director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Section 5231 itself does not prohibit a director of a charter school from making, participating in making, or attempting to influence decisions of the charter school concerning a transaction between the school and a third party of which the director or a member of the director’s immediate family is a director, officer or employee, so long as the director believes in good faith that the director is acting in the best interests of the school.

Corporations Code § 5233

Section 5233 of the Corporations Code effectively prohibits a nonprofit public benefit corporation from entering into a “self-dealing transaction,” which is one in which one or more of its directors has a material financial interest, unless, among other exceptions, (A) the corporation entered into the transaction for its own benefit; (B) the transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction; (C) prior to consummating the transaction or any part thereof, the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director’s interest in the transaction; and (D) (i) prior to authorizing or approving the transaction the board considered and in good faith determined after reasonable investigation under the circumstances that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or (ii) the corporation in fact could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

For purposes of section 5233, a director of a charter school may be deemed to have a material financial interest in a transaction between the school and a third party of which the director or a member of the director’s immediate family is a director, officer or employee. Section 5233 itself, however, does
not prohibit a director of a charter school from making, participating in making, or attempting to influence decisions of the charter school concerning a transaction in which the director has a material financial interest, provided that the transaction falls within one of the approved types of self-dealing transactions.

**Government Code §1090 et seq.**

Section 1090 of the Government Code provides, “Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.”

Section 35233 of the Education Code provides:

The prohibitions contained in Article 4 (commencing with Section 1090) and Article 4.7 (commencing with Section 1125) of Division 4 of Title 1 of the Government Code are applicable to members of governing boards of school districts and to members of citizens’ oversight committees appointed by those governing boards pursuant to Chapter 1.5 (commencing with Section 15264) of Part 10.

Section 47610 of the Education Code provides:

A charter school shall comply with this part and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts, except all of the following:

(a) As specified in Section 47611 [relating to participation in the State Teachers’ Retirement System or the Public Employees Retirement System].

(b) As specified in Section 41365 [relating to the Charter School Revolving Loan Fund].

(c) All laws establishing minimum age for public school attendance.

(d) The California Building Standards Code (Part 2 (commencing with Section 101) of Title 24 of the California Code of Regulations), as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located.

(e) Charter school facilities shall comply with subdivision (d) by January 1, 2007.

Whether Government Code sections 1090 et seq. apply to charter school officials and employees as a matter of law is open to question. In an opinion letter dated August 14, 2015, the Legislative Counsel for the California Legislature opined that charter schools are subject to Government Code sections 1090 et seq., as well as to the Ralph M. Brown Act, the California Public Records Act, and the conflict-of-interest provisions of the Political Reform Act of 1974.

Under section 1091(a) of the Government Code, an officer (which would include a director of a charter school, if the law applies to charter school officials) shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member if the officer has only a remote interest in the contract and if the fact of that interest is disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or
ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

For purposes of section 1091, a "remote interest" includes that of an officer or employee of a nonprofit entity exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code or a nonprofit corporation, except as provided in paragraph (8) of subdivision (a) of section 1091.5 (relating to noncompensated officers of certain nonprofit corporations).

Section 1091, however, is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.

Under section 1091.5(a)(7) of the Government Code, an officer or employee shall not be deemed to be interested in a contract if his or her interest is that of a nonsalaried member of a nonprofit corporation, provided that this interest is disclosed to the body or board at the time of the first consideration of the contract, and provided further that this interest is noted in its official records.

Under section 1091.5(a)(8) of the Government Code, an officer or employee shall not be deemed to be interested in a contract if his or her interest is that of a noncompensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the body or board or to which the body or board has a legal obligation to give particular consideration, and provided further that this interest is noted in its official records.

For purposes of sections 1091.5(a)(7) and 1091.5(a)(8), an officer is "noncompensated" even though he or she receives reimbursement from the nonprofit, tax-exempt corporation for necessary travel and other actual expenses.

Under section 1092 of the Government Code, every contract made in violation of any of the provisions of section 1090 may be avoided at the instance of any party except the officer interested therein, and, under section 1097 of the Government Code, every officer or person prohibited by the laws of California from making or being interested in contracts, including any member of the governing board of a school district, who willfully violates any of the provisions of those laws, is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the state prison, and is forever disqualified from holding any office in California.

The willful failure of an officer to disclose the fact of his or her remote interest in a contract pursuant to section 1091 is punishable as provided in section 1097. That violation does not void the contract unless the contracting party had knowledge of the fact of the remote interest of the officer at the time the contract was executed.

**Incompatible Offices.**

Section 1099 of the Government Code provides:

(a) A public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, shall not simultaneously hold two public offices that are incompatible. Offices are incompatible when any of the following circumstances are present, unless simultaneous holding of the particular offices is compelled or expressly authorized by law:
(1) Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body.

(2) Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices.

(3) Public policy considerations make it improper for one person to hold both offices.

(b) When two public offices are incompatible, a public officer shall be deemed to have forfeited the first office upon acceding to the second. This provision is enforceable pursuant to Section 803 of the Code of Civil Procedure.

(c) This section does not apply to a position of employment, including a civil service position.

(d) This section shall not apply to a governmental body that has only advisory powers.

(e) For purposes of paragraph (1) of subdivision (a), a member of a multimember body holds an office that may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over another office when the body has any of these powers over the other office or over a multimember body that includes that other office.

(f) This section codifies the common law rule prohibiting an individual from holding incompatible public offices.

We are unaware of any assertion by any public authority that a person’s simultaneous service as an officer or director of a charter school and as an officer or director of an organization, such as an organization formed to support the charter school, that is controlled by the charter school violates section 1099, but such a claim could be asserted if both the charter school and the controlled organization are deemed to be public agencies.

**Government Code §87100 et seq. (Political Reform Act of 1974)**

Section 87100 of the Government Code provides, “No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.” Section 82048 of the Government Code defines a “public official” as “every member, officer, employee or consultant of a state or local government agency ....”

Whether Government Code sections 81700 *et seq.* apply to charters schools as a matter of law also is open to question. As noted above, the Legislative Counsel for the California Legislature has opined that charter schools are subject the conflict-of-interest provisions of the Political Reform Act of 1974. In written advice letters, the California Fair Political Practices Commission has taken the position that all charter schools organized pursuant to Education Code section 47600 *et seq.* are local government agencies for purposes of the Political Reform Act, and therefore the board members of a charter school are public officials subject to the conflict-of-interest provisions and the Form 700 filing requirements of the Act. Presumably, the FPPC would hold that all officers and employees of a charter school are public
officials as well. In other contexts, however, other state agencies and the Internal Revenue Service have
taken the position that a nonprofit public benefit corporation is not a government agency simply by reason
of its operation of a charter school.

The California Fair Political Practices Commission has adopted regulations interpreting the
provisions of sections 87100 *et seq.* of the Government Code. Section 18704 of the regulations provides, in part:

(a) Making a Decision. A public official makes a governmental decision if the
official authorizes or directs any action, votes, appoints a person, obligates or commits his
or her agency to any course of action, or enters into any contractual agreement on behalf of
his or her agency.

(b) Participating in a Decision. A public official participates in a governmental
decision if the official provides information, an opinion, or a recommendation for the
purpose of affecting the decision without significant intervening substantive review.

(c) Using Official Position to Attempt to Influence a Decision. A public official
uses his or her official position to influence a governmental decision if he or she:

(1) Contacts or appears before any official in his or her agency or in an agency
subject to the authority or budgetary control of his or her agency for the purpose of
affecting a decision; or

(2) Contacts or appears before any official in any other government agency for the
purpose of affecting a decision, and the public official acts or purports to act within his or
her authority or on behalf of his or her agency in making the contact.

Section 87103 of the Government Code describes when a public official has a financial interest in
a decision:

A public official has a financial interest in a decision within the meaning of Section
87100 if it is reasonably foreseeable that the decision will have a material financial effect,
distinguishable from its effect on the public generally, on the official, a member of his or
her immediate family, or on any of the following:

(a) Any business entity in which the public official has a direct or indirect
investment worth two thousand dollars ($2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest
worth two thousand dollars ($2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution
made in the regular course of business on terms available to the public without regard to
official status, aggregating five hundred dollars ($500) or more in value provided or
promised to, received by, the public official within 12 months prior to the time when the
decision is made.

(d) Any business entity in which the public official is a director, officer, partner,
trustee, employee, or holds any position of management.
(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars ($250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.

For purposes of section 87103, a “business entity” excludes a nonprofit corporation.

Section 87105 of the Government Code provides:

(a) A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

(1) Publicly identify the financial interest that gives rise to the conflict of interest 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 or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

(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.

(4) Notwithstanding paragraph (3), a public official described in subdivision (a) may speak on the issue during the time that the general public speaks on the issue.

(b) This section does not apply to Members of the Legislature.

Section 87105 does not apply to charter school officials (unless a charter school official is deemed to be a public official who manages public investments), but it establishes a standard of behavior that charter school officials may wish to observe.

Any person who knowingly or willfully violates section 87100 is guilty of a misdemeanor and subject to a fine of up to the greater of ten thousand dollars ($10,000) or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received. If it is ultimately determined that a violation has occurred and that the official action might not otherwise have been taken or approved, the court may set the official action aside as void.

Section 87407 of the Government Code provides that no public official shall make, participate in making, or use his or her official position to influence, any governmental decision directly relating to any person with whom he or she is negotiating, or has any arrangement concerning, prospective employment.

**LAUSD Policy for Charter School Authorizing**

LAUSD’s Policy for Charter School Authorizing revised February 7, 2012, provides, in pertinent part:
C. Conflicts Of Interest

An important responsibility for charter schools is effective and ethical governance. All charter schools authorized by LAUSD commit to the highest level of ethical standards. Charter schools authorized by LAUSD shall comply with all applicable conflict of interests requirements and are subject to, and must comply with, LAUSD’s Lobbying Disclosure Code, policies, and procedures in their dealings with LAUSD officials. As a general guide, members of the charter school’s executive board; any administrators, managers or employees; and any other committees of the school shall establish and abide by policies and procedures that comply with applicable federal and state laws and regulations, nonprofit integrity standards, and LAUSD Charter School policies and regulations regarding conflicts of interest as part of a reasonably comprehensive description of school governance.

In accordance with the Political Reform Act, as part of compliance with the LAUSD Conflict of Interest Code, every member of a public charter school board of directors and each public charter school officer, employee, or consultant meeting the three-pronged criteria established under state law shall file a state-mandated Form 700 Statement of Economic Interests with the local public school district (1) within 30 days of assuming office, (2) annually thereafter, and (3) within 30 days after leaving office. Each individual’s Form 700 Statement of Economic Interest shall remain on file at the charter school’s primary administrative office and the LAUSD Ethics Office. Form 700s must be made available, upon request, for inspection by any member of the public. The charter school will ensure that their list of filer positions is current and further ensure that filers understand not only filing requirements but also the requirements regarding conflicts of interest, self-dealing, and incompatible activities, which should be reasonably set forth in the governance provisions of the charter.

AUTHORITY: California Education Code sections 35160, 47600 et seq. and all sections cited within those provisions;
California Government Code sections 1090, 6250 et seq., 54950 et seq., 81000 et seq.

LAUSD Administrative Procedures for Charter School Authorizing

LAUSD’s Administrative Procedures for Charter School Authorizing revised September 10, 2013 provides, in pertinent part:

Conflicts of Interest

An important responsibility for charter schools is effective and ethical governance. All charter schools authorized by LAUSD commit to the highest level of ethical standards. Charter schools authorized by LAUSD shall comply with all applicable conflict of interest requirements and are subject to, and must comply with, LAUSD’s Lobbying Disclosure Code, policies, and procedures in their dealings with LAUSD officials. As a general guide, members of the charter school’s executive board; any administrators, managers or employees; and any other committees of the school shall establish and abide by policies and procedures that comply with applicable federal and
state laws and regulations, nonprofit integrity standards, and LAUSD charter school policies and regulations regarding conflicts of interest as part of a reasonable comprehensive description of school governance.

I. Political Reform Act

Enacted in 1974, the Political Reform Act was passed by California voters to promote integrity and transparency in state and local government agencies by helping agency decision makers avoid conflicts between their personal interests and official duties. Under the Act, these individuals are required to disclose certain financial interests on their Form 700 filings.

A. Form 700s

In accordance with the Political Reform Act, as part of compliance with the LAUSD Conflict of Interest Code, every member of a public charter school board of directors and each public charter school officer, employee, or consultant meeting the three-pronged criteria established under state law shall file a state-mandated Form 700 Statement of Economic Interests with the local public school district (1) within 30 days of assuming office, (2) annually thereafter, and (3) within 30 days after leaving office. Each individual’s Form 700 Statement of Economic Interest shall remain on file at the charter school’s primary administrative office and the original forwarded to CSD. Form 700s must be made available, upon request, for inspection by any member of the public.

LAUSD Conflict of Interest Code

- “Charter School Providers” have been adopted under the “Non-Employee Filer’s” section of LAUSD’s Conflict of Interest Code. The position was designated “Disclosure Category 8.” For further review and exact language, LAUSD’s Conflict of Interest Code can be found on LAUSD’s Ethics Office website: www.lausd.net/ethics.

Liaison Process & List of Charter School Filers

- April 1 is the statutory deadline for annual filing of the Form 700 SEIs. Prior to April 1 of each year, the Charter Schools Division will notify charter school officials of the requirement to file and provide filing instructions. Each charter school or CMO should identify a Form 700 liaison to collect and mail its original SEIs to the Charter Schools Division,

The three-pronged criteria established under the Act for determining Form 700 filing positions are: 1) Is the position involved in making governmental decisions on behalf of the charter school?, 2) Is the position involved in making financial decisions on behalf of the charter school?, and 3) Is the position involved in advising decision-makers regarding governmental and financial decisions on behalf of the charter school? If the answer is yes to any of the three questions above, the position is a Form 700 filing position.
or submit them in person. Originals must be sent as the state law prohibits e-mails and faxes. Each charter school or CMO should also submit an organizational chart and roster of their designated filers.

Notifications

- Charter school filers that fail to meet the annual April 1 deadline will receive two reminder notices from the Innovation and Charter Schools Division. The Innovation and Charter Schools Division will report to the California Fair Political Practices Commission any filers that remain delinquent thirty (30) days after the date of the second reminder notice.

Late Fines

- The California Fair Political Practices Commission may impose fines on charter school officials that fail to file Form 700 SEIs in the manner described above.

Beyond what is outlined above, it is the responsibility of the charter provider to ensure that charter school employees understand not only filing requirements but also the requirements regarding conflicts of interest, self-dealing, and incompatible activities, which should be reasonably set forth in the governance provisions of the charter.

AUTHORITY: California Education code sections 35160, 47600 et seq. and all sections cited within those provisions;

California Government Code sections 1090, 6250 et seq., 54950 et seq., 81000 et seq.