

ETHICS
CONFLICT OF INTEREST DISCLOSURES

BBFA
(LEGAL)

SUBSTANTIAL
INTEREST AFFIDAVIT
AND ABSTENTION

If a local public official or a person related to a local public official in the first degree by either affinity or consanguinity has a substantial interest in a business entity or in real property, the local public official before a vote or decision on any matter involving the business entity or the real property, shall file an affidavit with the official Board recordkeeper stating the nature and extent of the interest and shall abstain from further participation in the matter if:

1. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

Local Gov't Code 171.004

CONTRACTS
PERMITTED

A Board may contract with a business entity in which a Trustee has a substantial interest if the Trustee follows the disclosure and abstention procedure set out above. *Atty. Gen. Op. JM-424 (1986)*

DEFINITIONS
SUBSTANTIAL
INTEREST

A person has a "substantial interest" in a business entity if any of the following is the case:

1. The person owns at least:
 - a. Ten percent of the voting stock or shares of the business entity, or
 - b. Either ten percent or \$15,000 of the fair market value of the business entity.
2. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.

A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

The local public official is considered to have a substantial interest if a person related in the first degree by either affinity or consanguinity to the local public official, as determined under Government Code, Chapter 573, Subchapter B [see DBE], has a substantial interest as defined above.

Local Gov't Code 171.002

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LOCAL PUBLIC OFFICIAL	“Local public official” shall mean a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any College District (including a College District), central appraisal district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature. <i>Local Gov’t Code 171.001(1)</i>
BUSINESS ENTITY	“Business entity” means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law. <i>Local Gov’t Code 171.001(2)</i>
MAJORITY CONFLICT	If a Trustee is required to file and does file an affidavit, that Trustee shall not be required to abstain from further participation in the matter or matters requiring such an affidavit if a majority of the Trustees are likewise required to file and do file affidavits of similar interests on the same official action. <i>Local Gov’t Code 171.004</i>
SEPARATE VOTE ON BUDGET	A Board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a Trustee has a substantial interest. The affected Trustee shall not participate in that separate vote, but may vote on a final budget if he or she filed the affidavit and the matter in which he or she is concerned has been resolved. <i>Local Gov’t Code 171.005</i>
VIOLATIONS	Except as provided above, the local public official shall not knowingly: <ol style="list-style-type: none">1. Participate in a vote or decision on a matter involving a business entity or real property in which the local public official has a substantial interest if it is reasonably foreseeable that an action on the matter will have a special economic effect on the business entity or value of the property that is distinguishable from the effect on the public.2. Act as surety for a business entity that has a contract, work, or business with a College District.3. Act as surety on any official bond required of an officer of a College District. <i>Local Gov’t Code 171.003</i>
VOIDABLE ACTIONS	The finding by a court of a violation of Local Government Code Chapter 171 does not render an action of a Board voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed without the vote of the person who violated the chapter. <i>Local Gov’t Code 171.006</i>

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CONFLICTS
DISCLOSURE
STATEMENT

A local government officer shall file the required conflicts disclosure statement, as adopted by the Texas Ethics Commission, with respect to an applicable vendor if the vendor enters into a contract with the College District or the College District is considering entering into a contract with the vendor; and the vendor:

1. Has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that a contract has been executed or the College District is considering entering into a contract with the person; or
2. Has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that such a contract has been executed; or the College District is considering entering into a contract with the vendor.

A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

1. Given by a family member of the person accepting the gift;
2. A political contribution as defined by Title 15, Election Code; or
3. Food, lodging, transportation, or entertainment accepted as a guest.

A local government officer shall file the conflicts disclosure statement with the records administrator of the College District not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

VIOLATIONS

A local government officer commits a Class C misdemeanor if the officer knowingly violates this law. It is an exception to the application of the penalty that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after receiving notice from the College District of the alleged violation.

Local Gov't Code 176.003--004

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DEFINITIONS	
LOCAL GOVERNMENT OFFICER	“Local government officer” means a member of the governing body of a College District: a director, superintendent, administrator, president, or other person designated as the executive officer of the College District; an employee of a College District who has the authority to approve contracts on behalf of the College District, including a person designated as the representative of the College District for purposes of Chapter 271, and with respect to whom the College District has, in accordance with Local Government Code 176.005, extended the requirements of Local Government Code 176.003 and 176.004. <i>Local Gov’t Code 176.001(4)</i>
FAMILY MEMBER	“Family member” shall mean a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code, except that the term does not include a person who is considered to be related to another person by affinity only as described by Government Code 573.024(b). <i>Local Gov’t Code 176.001(2)</i>
RECORDS ADMINISTRATOR	“Records administrator” means the director, superintendent, or other person responsible for maintaining the records of the College District or another person designated by the College District to maintain statements and questionnaires filed under Local Government Code 176 and perform related functions. <i>Local Gov’t Code 176.001(5)</i> [See CPC]
INVESTMENT INCOME	“Investment income” means dividends, capital gains, or interest income generated from: <ol style="list-style-type: none">1. A personal or business:<ol style="list-style-type: none">a. Checking or savings account,b. Share draft or share account, orc. Other similar account;2. A personal or business investment; or3. A personal or business loan. <i>Local Gov’t Code 176.001(2-b)</i>
INTERNET POSTING REQUIREMENT	A College District that maintains an Internet Web site shall provide access on the College District’s Internet Web site to the conflicts disclosure statements and questionnaires required to be filed with the records administrator. <i>Local Gov’t Code 176.009</i>
AFFIDAVIT DISCLOSING INTEREST IN PROPERTY	If a public servant has a legal or equitable interest in any property that is to be acquired with public funds, and has actual notice of the acquisition or intended acquisition of the property, the public servant shall file an affidavit as follows:

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1. The affidavit shall be filed with the county clerk(s) of the county or counties in which the property is located and of the county in which the public servant resides within ten days before the date on which the property is to be acquired by purchase or condemnation.
2. The affidavit must:
 - a. State the name of the public servant and the public office title or job designation held or sought.
 - b. Fully describe the property.
 - c. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest and the date the interest was acquired.
 - d. Include a verification of the truth of the information in the affidavit. [See BBFA(EXHIBIT)]
 - e. Include an acknowledgment of the same type required for recording a deed in the deed records of a county.

Gov't Code 553.002, 553.003

VIOLATIONS

A public servant who fails to file the affidavit when required is presumed to have the intent to commit an offense. An offense under this section is a Class A misdemeanor. *Gov't Code 553.003*

DEFINITION OF
PUBLIC SERVANT —
GOVERNMENT
CODE

“Public servant” shall mean a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as:

1. A candidate for nomination or election to public office, or
2. An officer of government.

Gov't Code 553.001

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(EXHIBIT)

See the following pages for forms that may be used for compliance with disclosure requirements.

Exhibit A: Affidavit Disclosing Substantial Interest in a Business Entity or Real Property, as defined in Local Gov't Code Sec. 171.002 — 2 pages

Exhibit B: Affidavit Disclosing Interest in Property under Gov't Code, Ch. 553, Subch. A — 2 pages

ADDITIONAL DISCLOSURE: The conflicts disclosure statement required of members of the Board and the College President by Local Government Code 176.003–.004 is available on the Texas Ethics Commission Web site at <http://www.ethics.state.tx.us/forms/CIS.pdf>.

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(EXHIBIT)

EXHIBIT A

AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST
IN A BUSINESS ENTITY OR REAL PROPERTY

STATE OF TEXAS
COUNTY OF _____

I, _____ (*name*), as a local public official of the
_____ College District, make this affidavit and hereby on oath state
the following: I, or a person(s) related to me in the first degree, have a substantial interest in:

- a business entity, as those terms are defined in Local Government Code Sections 171.001–171.002, that would experience a special economic effect distinguishable from its effect on the public by a vote or decision of the Board.

or

- real property for which it is reasonably foreseeable that the Board's action or my action will have a special economic effect on the value of the property distinguishable from its effect on the public.

The business entity or real property is (name/address of business or description of property):
_____.

("I" or name of relative and relationship) _____ (have)(has) a substantial interest in this business entity or real property as follows: (check all that apply)

- Ownership of ten percent or more of the voting stock or shares of the business entity.
- Ownership of ten percent or more of the fair market value of the business entity.
- Ownership of \$15,000 or more of the fair market value of the business entity.
- Funds received from the business entity exceed ten percent of (*my, her, his*) gross income for the previous year.
- Real property is involved and (*I, she, he*) (have)(has) an equitable or legal ownership with a fair market value of at least \$2,500.

The statements contained herein are based on my personal knowledge and are true and correct.

Upon the filing of this affidavit with the Board's secretary, I affirm that I shall abstain from participation in any decision involving this business entity or real property, unless permitted according to Loc. Gov't Code Sec. 171.004(c).

Southwest Texas Junior College
232501

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(EXHIBIT)

Signed this _____ day of _____ (month), _____ (year).

Signature of Official

Title

STATE OF TEXAS

COUNTY OF _____

Sworn to and subscribed before me on this _____ day of _____ (month), _____ (year).

Notary Public in and for the state of Texas

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EXHIBIT B

AFFIDAVIT DISCLOSING OF INTEREST IN PROPERTY

STATE OF TEXAS
COUNTY OF _____

I, _____ (*name of affiant*),

(*Check one of the following:*)

_____ as an officer of, or

_____ as a Board candidate for,

the _____ College District make this affidavit and
hereby on oath state the following:

I have a legal or equitable interest in property to be acquired with public funds, either by purchase or condemnation.

The property is fully described as follows:

_____.

The nature, type, and amount of interest, including percentage of ownership, I have in the property is:

_____.

(including, but not limited to, the percent of ownership)

I acquired my interest in the property on _____ (*date*).

I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code.

Signed this _____ day of _____ (*month*), _____ (*year*).

Signature of Affiant

_____ (*office or public title*)

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF _____

BEFORE ME, _____ (*here insert the name and character of the officer administering the oath*) on this day personally appeared _____ (*affiant*) known to me (or proved to me on the oath of _____) or through _____ (*description of identity card or other document*) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____ (*month*), _____ (*year*).

Notary Public in and for the state of Texas

Instructions:

This affidavit shall be filed with the county clerk(s) of the county or counties in which the property is located and of the county in which the public servant resides within ten days before the date on which the property is to be acquired by purchase or condemnation.