

**Board Policy 2711 Prohibited Interests in Contracts and Incompatible Activities**  
**Page 1 of 5**

**BP 2711 Prohibited Interests in Contracts and Incompatible Activities**

**Reference: Government Code Sections 1090 and 1125)**

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A. Adoption

San Joaquin Delta Community College Board of Trustees hereby adopts this policy to address the restrictions imposed by Education Code 72523 and Government Codes 1090 and 1125 governing prohibited interests in contracts and incompatible activities.

B. General Prohibition Against Interests in Contracts

No District officer or employee shall be financially interested in any contract made by the officer or employee in his or her official capacity, or by any body or board of which the officer or employee is a member, nor shall any officer or employee be a purchaser at any sale or a vendor at any purchase made by the officer or employee in his or her official capacity. "Officer" includes trustees and administrative personnel. Contracts entered into in violation of this prohibition are void as a matter of law.

C. Exception for Remote Interests

A contract shall not be considered void because of a financial interest held by an officer or employee if the following conditions are met:

1. The fact of the financial interest is disclosed to the Board of Trustees, if the interested person is a trustee or the college president, or to the president for all other interested officers or employees;
2. The disclosure is made before the contract is entered into and it is noted in the college's official records;
3. The contract is authorized without the participation of the interested officer or employee;
4. The extent of the officer or employee's interest is "remote." A "remote interest" means any of the following:

- (a) That of an officer or employee of a non-profit organization;

**Board Policy 2711 Prohibited Interests in Contracts and Incompatible Activities**  
**Page 2 of 5**

**BP 2711 Prohibited Interests in Contracts and Incompatible Activities**

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- (b) That of an employee or agent of the contracting party, if such contracting party has 10 or more other employees, and if the interested person was an employee or agent of such contracting party for at least three (3) years prior to the interested person initially accepting public office or employment with the college;
- (c) That of a parent in the earnings of the parent's minor child for personal services;
- (d) That of a landlord or tenant of the contracting party;
- (e) 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 a 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;
- (f) That of a member of a non-profit corporation formed under the Food and Agricultural Code or a non-profit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products or the supplying of water;
- (g) That of a supplier of goods or services when such goods or services have been supplied to the contracting party by the interested person for at least five (5) years prior to commencing public office or employment with the college;
- (h) That of a person in any contract or agreement entered into pursuant to the California Land Conservation Act of 1965;
- (i) That of an officer, director, or employee of a bank, bank-holding company, or savings and loan association with which a party to the contract has a relationship of borrower or depositor, debtor or creditor; or

**Board Policy 2711 Prohibited Interests in Contracts and Incompatible Activities**  
**Page 3 of 5**

**BP 2711 Prohibited Interests in Contracts and Incompatible Activities**

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- (j) That of an engineer, geologist, or architect employed by a consulting engineering or architectural firm unless such person serves in a primary management capacity or as an officer or director of the consulting firm.

No officer or employee having a remote interest shall influence or attempt to influence the Board of Trustees or any member of the Board, or any other decision-maker with respect to the contract in which the officer or employee has a financial interest.

D. Incompatible Activities

No officer or employee of the District shall engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as an officer or employee of San Joaquin Delta College. No officer or employee shall perform any work, service, or counsel for compensation outside of the District where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of this District, unless otherwise approved in the manner prescribed by this policy.

The Superintendent/President, at the direction of the Board of Trustees and with the assistance of legal counsel, will determine those outside activities which, for officers and employees of the District, are inconsistent, incompatible, or in conflict with duties as an officer or employee of this District. An officer or employee's outside employment, activity, or enterprise may be prohibited if it:

1. Involves the use for private gain or advantage of District time, facilities, equipment, or supplies; or the badge; uniform, prestige, or influence of District office or employment;
2. Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the District for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of District employment or as a part of duties as a District officer or employee; or



**Board Policy 2711 Prohibited Interests in Contracts and Incompatible Activities**  
**Page 4 of 5**

**BP 2711 Prohibited Interests in Contracts and Incompatible Activities**

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3. Involves the performance of an act in other than his or her capacity as a District officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other District officer or employee; or
4. Involves such time demands as would render performance of his or her duties as a District officer or employee less efficient.

**Board Policy 2711 Prohibited Interests in Contracts and Incompatible Activities**

**Page 5 of 5**

**BP 2711 Prohibited Interests in Contracts and Incompatible Activities**

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Officers or employees who are determined to be engaged in inconsistent, incompatible, or conflicting employment, activity, or enterprise shall be afforded such notice and be subject to such discipline as otherwise provided in District personnel policies, bargained agreements, or applicable Education Code and Title V provisions.

- E. Implementation of this policy will be the responsibility of the Superintendent/ President at the discretion of the Board of Trustees and with the assistance of legal counsel.