

Board of Directors Code of Conduct

The San Francisco Bay Area Rapid Transit District (BART) is a Special District created by the State of California. The Board of Directors is the legislative body of the District representing Alameda County, Contra Costa County, and the City and County of San Francisco. The Board of Directors determines all matters of District policy. The Board also provides counsel and direction to management without exerting individual power or authority over BART. Board action requires either a majority or two-thirds vote of the Board, depending on the action under consideration. The Board of Directors Code of Conduct guides the Board in exercising its duties responsibly.

- I. Board members shall treat the public, staff members and each other with respect and courtesy.
- II. Board members shall refrain from conduct that they know or reasonably should know is likely to create in the minds of reasonable observers the perception that the Board member used his or her public position improperly. They shall not commit any act which may bring reproach or discredit upon the District.
- III. The Political Reform Act (Government Code Sections 81000-91014) requires Board members to publicly disclose their financial interests by filing a disclosure form (Form 700) with the District. Additionally, the Political Reform Act provides that Board members shall not make, participate in, or use their position to influence a governmental decision in which they know or have reason to know that they have a financial interest.
- IV. California Government Code Section 1090 prohibits Board members from being financially interested in any contract made by them in their official capacity. This prohibition applies to all contracts regardless of funding source. The financial interest of an individual Board member in a District contract may prevent the entire Board from authorizing the award, execution, or amendment of the contract.
- V. Board members shall not make, participate in, or use their position to influence any governmental decision relating to any person or entity with whom the Board member is negotiating, or has any arrangement concerning prospective employment.¹ Board members shall not use their position to influence any District decision regarding prospective employment with the District.
- VI. Board members shall not participate in the selection, award, or administration of contracts supported by federal funds where the Board member has a real or apparent conflict of interest as defined by FTA Third-Party Contracting Guidance.² Such a conflict would arise when any of the following parties has a financial or other interest in an entity selected for award of a contract supported by federal funds: the Board member, or any immediate family member, partner, employer, or organization that intends to employ the Board member.

¹ Cal. Gov. Code 87407

² FTA Circular 4220.1F

- VII.** Board members shall not participate in the making of a decision to hire, appoint, employ, promote, or terminate the employment of a person who is a relative of the Board member. Board members shall not take any action that has the potential to affect the employment status at the District of a person who is a relative of the Board member, including attempting to persuade a District officer or employee to make a decision or take an action affecting a relative of the Board member.

For the purposes of this Code, the term "relative" means the following: husband, wife, domestic partner, father, mother, grandfather, grandmother, son, daughter, stepson, stepdaughter, granddaughter, grandson, brother, sister, uncle, aunt, nephew, niece, father-in-law, mother-in-law, daughter-in-law, son-in-law, sister-in-law, and brother-in-law.

- VIII.** Board members shall not publicly engage in personal attacks on BART employees or members of the public, or attempt to discipline or disparage any employee in any manner. They shall not involve themselves in altercations or any other act of hostility with others, nor will they engage in acts which will subject the District to criticism or adversely affect the interests of the District. Any concerns regarding an employee's performance shall be communicated to the General Manager or other Board Appointed Officer with supervisory responsibility for the employee. The foregoing shall not preclude Board members from making comments which are critical of District policies, practices, operations or performance in the discharge of their official duties.
- IX.** Board members shall not solicit or accept gifts of any value from persons or entities with which the District contracts or may contract. Gifts or favors received by or promised to an individual Board member may prevent the entire Board from authorizing the award or execution of a contract.³
- X.** Before the staff recommendation for an award of a contract is made public, Board members shall not communicate regarding the procurement with any District employee except the General Manager or his or her designee. The General Manager shall keep a log of those communications and shall report those communications and responses in writing at the Board meeting where action on the procurement is scheduled.⁴
- XI.** Board members shall comply with the terms of Section IX of the District's Contractor Code of Conduct related to communications with outside parties during pendency of a bid or proposal.
- XII.** Candidates for the Board shall not, directly or indirectly, solicit political contributions from officers or employees of the District.⁵
- XIII.** Board members shall not use or disclose, other than in the performance of their official duties and responsibilities (or as may be required by law), confidential District

³ Cal. Gov. Code 1090

⁴ Adapted from the Los Angeles County Metropolitan Transportation Authority Board of Directors Code of Conduct, Section 130680(e)

⁵ Cal. Gov. Code 3205

information gained in the course of or by reason of their position, nor shall any Board member permit such use or disclosure.⁶ Board members shall not disclose confidential information that has been acquired by being present in a closed session to a person not entitled to receive it, unless the Board has authorized disclosure of that confidential information. However, it shall not be a violation of this Code for a Board member to make a confidential inquiry or complaint to a district attorney or grand jury regarding the illegality or potential illegality of an action that has been the subject of deliberation at a closed session, to express an opinion concerning the propriety or legality of actions taken in closed session, or to disclose information acquired during a closed session that is not confidential information.⁷

- XIV.** A former Board member is prohibited from representing any other person by appearing before the District's Board or communicating with any District Director, officer or employee in an attempt to influence a District decision for a period of one year after the Board member leaves office.
- XV.** Board members shall not use or permit the use of District resources, including but not limited to facilities, materials, equipment, information, intellectual property such as trademarks and copyrighted material, and District staff time, for activities other than District business. This Code of Conduct incorporates the prohibitions of California law concerning use of public agency resources for campaign activity.⁸
- XVI.** Sanctions imposed for violations of this Code of Conduct may include, but are not limited to, any of the following:
- A. Public censure by the Board at a regularly scheduled meeting;
 - B. Disqualification from participating in any discussion or vote on any matter related to the violation; and/or
 - C. Removal of the Board member from one or more committees.⁹

⁶ Cal. Gov. Code 1098 makes use of confidential info for pecuniary gain a misdemeanor, but this is broader

⁷ Cal. Gov Code 54963

⁸ Cal. Gov. Code 8314 and others.

⁹ Adapted from the Los Angeles County Metropolitan Transportation Authority Board of Directors Code of Conduct, Section 130620(c)(1-6)