

PRESENTED BY:



*Unparalleled Charter School Legal Services*

**YOUNG, MINNEY & CORR, LLP**

SACRAMENTO ■ LOS ANGELES ■ SAN DIEGO ■ WALNUT CREEK | 916.646.1400 ■ YMCLEGAL.COM



## Firm Overview

Young, Minney & Corr, LLP (YM&C) has been a leader in charter school representation since the passage of California's Charter Schools Act of 1992, offering superior legal expertise in every facet of charter school creation, expansion, and operation.

YM&C emphasizes a preventative approach to the law – helping our clients anticipate legal difficulties, minimize exposure to legal claims and fees, and prevent operational challenges. When liability arises, YM&C will zealously advocate for your cause, marshaling an unparalleled amount of experience, expertise, practical knowledge, and skill in advocating on your behalf for your cause.

With 35 attorneys in offices throughout California, YM&C is proud to be a truly collaborative group with diverse backgrounds and personalities who are here to serve all your charter school needs.

YM&C offers a full breadth of legal services in every aspect of charter school law:

- Labor & Employment
- Student Rights & Discipline
- Special Education
- Board Governance
- Facilities
- Development & Renewal
- Insurance Defense
- Litigation
- Independent Study
- Corporate Law
- Public Law

With our main office located in Sacramento, YM&C is also uniquely positioned to influence the public policy debate in California – helping shape the future of charter schools.

For more information on our team of expert attorneys and services, please visit [www.ymclegal.com](http://www.ymclegal.com) or call us at **916-646-1400**.

## Jerry W. Simmons, Esq Parnter

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jsimmons@ymclegal.com



Jerry Simmons has represented charter schools in every aspect of their operations for more than fifteen years. Between his work at the firm and at the Charter Schools Development Center, Jerry has personally assisted in the development of hundreds of California's charter schools through drafting charter petitions, memorandums of understanding for business and special education services, facilities use agreements, private leases, property purchases, and development of school policies covering every facet of charter school operations. Jerry has also assisted charter schools with employment and labor law matters, board governance and training, zoning and building code compliance, defense of audit findings in both annual and extraordinary audits, compliance with the Brown Act, Political Reform Act Public Records Act, and Family Educational Records Protection Act.

Jerry has presented workshops for the Charter Schools Development Center and frequently presents at California Charter Schools Association conferences. He also presents at Governance Academies jointly sponsored by the firm and the California Charter Schools Association. His understanding of governance and public agency laws has been enriched by his own prior service as both a both member and President of the Sierra Community College District Board of Trustees. He also previously served as a member of the City of San Jose Parks and Recreation Commission, Chair of the City of San Jose's Youth Commission, Chair of the Santa Clara County Youth Commission and Student Body President at San Jose State University.

### PRACTICE AREAS

Board Governance  
Facilities  
Charter Development  
Charter Defense  
Independent Study  
Public Law

### EDUCATION

- Pepperdine School of Law (J.D.)
- Harvard University (M.A)
- San Jose State University (B.A.)





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## Lee J. Rosenberg

### Senior Counsel

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lrosenberg@mycharterlaw.com



Lee is an advocate for educational equity and a strong believer that all children should have the opportunity to attend excellent public schools. His practice areas include School Development, School Defense, and Litigation.

Before joining YM&C, Lee worked for two international law firms focusing on complex litigation on behalf of private and public entities. Lee was recognized as a Rising Star by Super Lawyers Magazine. During his more than seven years as a litigator, Lee developed creative strategies that helped win cases and achieve client objectives, helped clients hone in on and present their best evidence and most compelling themes, used the discovery process and sunshine laws to uncover key information, deposed and cross-examined key witnesses, argued before state and federal courts, and coordinated with media and public relations professionals to advance excellent outcomes in the court of public opinion.

Lee is an alumnus of the Teach for America program. Before attending law school, Lee taught English, math, and social studies at a public middle school in the South Bronx of New York and developed and taught a visual media curriculum to English language learners and special education students. Lee also previously worked in public policy for a California governor and a United States Secretary of Labor in Washington, D.C.

During law school, Lee studied education law, worked in the legal office of the San Francisco Unified School District, focusing on special education and labor matters, and was a Bay Area fellow in the Education Pioneers program. Lee was also an executive board member of the Hastings Law Journal and graduated from law school magna cum laude.

### PRACTICE AREAS

Litigation  
School Development  
School Defense

### EDUCATION

- University of California, Hastings College of the Law (J.D.)
- Pace University School of Education (M.S.)
- University of California, Berkeley (B.A.)

COMPLYING WITH CALIFORNIA CONFLICT OF INTEREST LAWS



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DISCLAIMER

- 1 This training cannot substitute for personalized legal advice.
- 2 Our advice is based upon the latest available guidance which is subject to change in this ever-evolving landscape.
- 3 After the training there will be a Q&A.

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YM&C FIRM MISSION

- 1 We champion outstanding choices in education for all students.
- 2 We believe a quality public education is a civil right.
- 3 We work and fight alongside you to ensure student needs are always put first.

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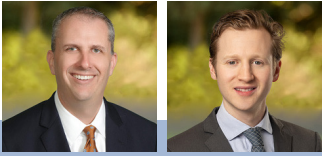
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PRESENTERS:



JERRY W. SIMMONS, ESQ.    LEE ROSENBERG, ESQ.  
Partner                                  Partner

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COMMON CONFLICT ISSUES IN EDUCATION SETTINGS

Potentially Problematic Issues:

- Hiring relatives to work in jobs at the charter school.
- Contracting with companies owned in part by board members, staff members, and/or their family members.
- Board members or charter school staff being employed (or otherwise compensated) by related party organizations (supporting organizations, foundations, etc.) either at the same time or subsequent to their employment at the charter school.
- Buying books, instructional materials or computer- based programs from board members or staff members who will receive a royalty or other payment.

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NEW LAW  
Ethics Training AB 2158

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**NEW LAW! AB 2158**

- Signed by the Governor on September 13, 2022, effective January 1, 2023; subject to a ramp up period for full compliance by January 1, 2026
- Existing law has required members and certain employees of cities and counties to engage in **two hours** of ethics training “relevant” to their public service” **every two years**
- AB 2158 adds charter schools to the list of **local agencies** subject to the biennial training requirement and extends the training obligation to members of charter school boards

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**NEW LAW! AB 2158**

“Ethics laws” include, but are not limited to, the following:

1. Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
2. Laws relating to claiming perquisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.

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**NEW LAW! AB 2158**

“Ethics laws” include, but are not limited to, the following:

3. Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
4. Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members.

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**NEW LAW! AB 2158**

**Requirements**

- The Fair Political Practices Committee and the Attorney General must be “consulted” in connection with the development of course materials
- Charter schools must provide their officials with information on how they can meet the training requirements at least once annually
- Charter schools must maintain records for at least five years after the training was provided indicating
  - The dates that officials satisfied the training requirements
  - The entit(ies) that provided the training

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**NEW LAW! AB 2158**

**Applicability**

- Not applicable to board members whose terms will expire before January 1, 2026
- All other board members seated as of January 1, 2025 must receive the required training by January 1, 2026 and retrain at least once every two years thereafter

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**NEW LAW! AB 2158**

**Applicability**

- What about charter school employees?
  - Are they an “[a]n employee designated by a local agency governing body to receive the training specified under this article?”
- What about training requirements in charters and MOUs?
- Does this training count towards the new “ethics training” requirement?
- Would a training on January 1, 2023 count?

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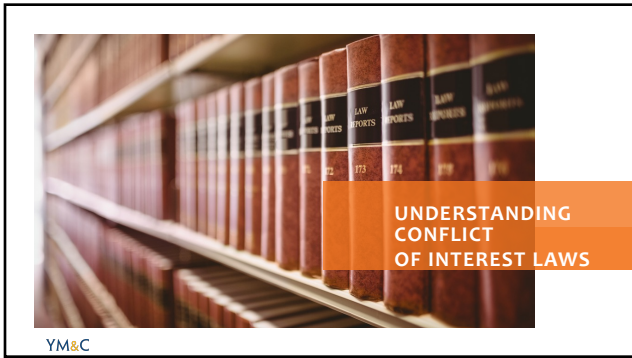
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**CONFLICTS OF INTEREST**

**Broad Definition**

- A conflict of interest arises when an individual who has a private financial interest in the outcome of a corporate contract or a public decision, **participates** in the decision-making process or **influences** or **attempts to influence** others making the contract or decision.
- In short, a conflict of interest is a clash between an individual's duty to his or her office and his or her personal interests.

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**FINANCIAL INTERESTS**

**Common Types of Financial Interests Regulated by Conflict Laws**

- Ownership or investment in business entity
- Investment in real property
- Source of income
- Source of gifts
- Effect on personal finances
  - Financial interests of immediate family members of Board Members and employees typically **are** covered.



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**GOVERNMENT CODE SECTION 1090**

**Elements**

1. Public official (officer, board member, or employee)
2. Making a public contract (for sale or purchase)
3. Public official has a financial interest in the contract

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**GOVERNMENT CODE SECTION 1090**

**What you need to know about Section 1090**

- If board member has financial interest, the entire board is prohibited from entering into the contract; even if it is with the best vendor at the best price and the interested board member abstains. (Unless an exception applies.)
- Making a public contract is defined very broadly! Applies to earliest discussions, planning, solicitation for bids, etc., not just vote.
- Thus, this statute is, in most respects, the toughest standard to meet.
- Violation of GC 1090 is a felony and the contract void!

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**POLITICAL REFORM ACT**

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**POLITICAL REFORM ACT**

**Big Picture**

1. Public official
2. Participating in or attempting to influence a governmental decision
3. Public official has qualifying financial interest (Includes spouse and children)
4. Financial interest is material

**The Official Must Recuse Him or Herself from All Parts of the Decision-Making Process**

- Lots of very detailed regulations have also been adopted by FPPC

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**COI CODE**

**Conflict of Interest Code**

- States who must file the Form 700
- Assigns disclosure categories



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**FORM 700**

**Form 700**

- Statement of Economic Interests
- When it must be filed:
  - Assuming or reappointment to office or position (within 30 days)
  - Once annually (by April 1st)
  - Leaving office or position (within 30 days)
- Penalties for failure to file:
  - Criminal charges by Atty General or District Atty for deliberate failure to file
  - Civil or administrative action by FPPC or private citizen

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**POLITICAL REFORM ACT**

**“Financial Interest” for Form 700**

- Investment in business entity of \$2,000 or more
- Real property investment of \$2,000 or more
- Income of \$500 or more
- Business position in entity
- Gift of \$50 or more



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**FORM 700**

**Check the Conflict-of-Interest Code to Determine What You Must Report (Board members: broad disclosure).**

- Typically, All Financial Interests
  - Not Your Residence
  - Not Income from a Public Agency
  - Half of Your Spouse's Income
  - Financial Interest within Your Jurisdiction
    - Property – within 2 miles of jurisdiction
    - Investments/Business in jurisdiction
    - Gifts – all gifts inside or outside of jurisdiction



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**FORM 700**

**Gifts**

- General rule is that you cannot accept more than \$520 from one source in a calendar year. (Increased gift limit effective January 1, 2021)
- General rule is that gifts worth more than \$50 must be reported (one gift or aggregate gifts from same source in a calendar year).

1. Many exceptions to **both** general rules, the most common being:

- Special Occasions – Birthdays, Holidays:
  - Can be gifts from anyone (other than lobbyists) if the gift giving and taking is proportional.

2. Inheritance

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**FORM 700**

**Gift (cont.)**

3. Family Members:

- o Spouse (or former spouse), child, parent, grandparent, great grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, great aunt, uncle, great uncle, niece, great niece, nephew, great nephew, first cousin, or first cousin once removed, or the spouse of any such person. (other than a lobbyist)

4. "BFF's": Long-term friendships:

- o Friends for a "period of time" and gift giving and taking must be proportional. (other than a lobbyist)

5. Dating – "bona fide" relationship (other than a lobbyist)

o Returning or Donating Gifts vs. Reporting

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**COMMON LAW ON CONFLICTS-OF-INTEREST**

**Prohibition Against Conflicts of Interest**

- Public official engaging in transaction or influencing decision.
- Creating an appearance of impropriety (financial interest not necessarily required)

**Doctrine of Incompatible Offices**

- Public official holding two public offices simultaneously
- Offices are incompatible with each other (creating divided loyalties); overlapping jurisdictions

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**SCENARIOS**

**Employing Family Members**

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graph TD
    ED[Executive Director] --- H[Husband - Vice Principal]
    ED --- B[Brothers, Sisters, Cousins, Etc.? - Office Clerk]
    ED --- N[Non-Dependent Adult Son - Cafeteria Manager]
    ED --- D[Dependent Daughter - IT Coordinator]
    ED --- E[Ex-Husband - Teacher]
  
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**SCENARIOS**

**Contracting**

- Principal writes a chapter book intended for 4th-8th grade students.
- Principal directs the school to buy 500 copies from Amazon.com to use in ELA classes.
- Principal receives a \$2 royalty from each sale.
- Is that okay?

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**SCENARIOS**

**Contracting**

- Principal's best friend from college is the greatest literacy coach in the world.
- Okay to hire them to do professional development for two days at \$1,000 per day?
- Okay to hire them to do professional development for two days at \$5,000 per day?
- Does it matter that the Principal has no financial interest in the contract?
- What if before the contract is executed the best friend invites the Principal to use his beachfront mansion in Hawaii free of charge for a week?
- What if the same arrangement takes place every year?

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**SCENARIOS**

**Contracting**

- Principal's adult son operates a catering company.
- Principal loaned the adult son \$50,000 in startup capital, which remains outstanding, but has no equity in the business.
- Okay for the principal to contract with the catering company to provide school meals?

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**SCENARIOS**

**Contracting**

- Board member's spouse is a salaried bus driver for a transportation company; has no equity in the business.
- Okay for the school to enter into a \$100,000 annual contract with the transportation company for the school's field trips?

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**SCENARIOS**

**Contracting**

- Board member of the charter school is also a board member of a nonprofit corporation that provides reading tutors to students.
- Nonprofit corporation charges fees for its services.
- Okay for the charter school to contract with the nonprofit?
- What if the board member is employed by the nonprofit tutoring service as its Executive Director?
- What if the tutoring service is for-profit and the Board member owns 4%?
- What if instead of being a board member or employee of the tutoring service, the board member is the landlord of the tutoring service?

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**SCENARIOS**

**Self-Dealing/Gifts of Public Funds**

After a multi-month battle to get the school's charter renewed, Executive Director invites parents and employees who testified in favor of the renewal to a restaurant for dinner and charges it on the school credit card. Is that okay?

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**SCENARIOS**

**Self-Dealing/Gifts of Public Funds**  
 Executive Director thinks they would be more efficient in their role if they had a Samsung Galaxy tablet and smart watch and uses the school credit card to make the purchase at Best Buy. Is that okay?

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**SCENARIOS**

**Self-Dealing/Gifts of Public Funds**  
 Executive Director spills coffee on their pants en route to giving a presentation to their authorizer and stops at Target to buy a new pair of pants. Okay to charge it to the school credit card?

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**QUESTIONS?**

**THANK YOU**  
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 Lee Rosenberg, Esq.  
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