

1 Amend 2 Cal. Code Regs., Section 18754 to read:

2 **§ 18730. Provisions of Conflict of Interest Codes.**

3 (a) Incorporation by reference of the terms of this regulation along with the designation
4 of employees and the formulation of disclosure categories in the Appendix referred to below
5 constitute the adoption and promulgation of a conflict of interest code within the meaning of
6 Section 87300 or the amendment of a conflict of interest code within the meaning of Section
7 87306 if the terms of this regulation are substituted for terms of a conflict of interest code
8 already in effect. A code so amended or adopted and promulgated requires the reporting of
9 reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7
10 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict of interest
11 code are in addition to other requirements of the Political Reform Act, such as the general
12 prohibition against conflicts of interest contained in Section 87100, and to other state or local
13 laws pertaining to conflicts of interest.

14 (b) The terms of a conflict of interest code amended or adopted and promulgated pursuant
15 to this regulation are as follows:

16 (1) Section 1. Definitions.

17 The definitions contained in the Political Reform Act of 1974, regulations of the Fair
18 Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or
19 regulations, are incorporated by reference into this conflict of interest code.

20 (2) Section 2. Designated Employees. The persons holding positions listed in the
21 Appendix are designated employees. It has been determined that these persons make or
22 participate in the making of decisions which may foreseeably have a material effect on
23 economic interests.

1 (3) Section 3. Disclosure Categories.

2 This code does not establish any disclosure obligation for those designated employees
3 who are also specified in Section 87200 if they are designated in this code in that same capacity
4 or if the geographical jurisdiction of this agency is the same as or is wholly included within the
5 jurisdiction in which those persons must report their economic interests pursuant to article 2 of
6 chapter 7 of the Political Reform Act, Sections 87200, et seq. In addition, this code does not
7 establish any disclosure obligation for any designated employees who are designated in a conflict
8 of interest code for another agency, if all of the following apply:

9 (A) The geographical jurisdiction of this agency is the same as or is wholly included
10 within the jurisdiction of the other agency;

11 (B) The disclosure assigned in the code of the other agency is the same as that required
12 under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

13 (C) The filing officer is the same for both agencies. [FN1]

14 Such persons are covered by this code for disqualification purposes only. With respect to
15 all other designated employees, the disclosure categories set forth in the Appendix specify which
16 kinds of economic interests are reportable. Such a designated employee shall disclose in the
17 employee's statement of economic interests those economic interests the employee has which are
18 of the kind described in the disclosure categories to which the employee is assigned in the
19 Appendix. It has been determined that the economic interests set forth in a designated employee's
20 disclosure categories are the kinds of economic interests which the employee foreseeably can
21 affect materially through the conduct of the employee's office.

22 (4) Section 4. Statements of Economic Interests: Place of Filing.

1 The code reviewing body shall instruct all designated employees within its code to file
2 statements of economic interests with the agency or with the code reviewing body, as provided
3 by the code reviewing body in the agency's conflict of interest code or with the Fair Political
4 Practices Commission using the Commission's electronic filing system as required under 87500.

5 [FN2]

6 (5) Section 5. Statements of Economic Interests: Time of Filing.

7 (A) Initial Statements. All designated employees employed by the agency on the effective
8 date of this code, as originally adopted, promulgated and approved by the code reviewing body,
9 shall file statements within 30 days after the effective date of this code. Thereafter, each person
10 already in a position when it is designated by an amendment to this code shall file an initial
11 statement within 30 days after the effective date of the amendment.

12 (B) Assuming Office Statements. All persons assuming designated positions after the
13 effective date of this code shall file statements within 30 days after assuming the designated
14 positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

15 (C) Annual Statements. All designated employees shall file statements no later than April
16 1. If a person reports for military service as defined in the Servicemember's Civil Relief Act, the
17 deadline for the annual statement of economic interests is 30 days following the person's return
18 to office, provided the person, or someone authorized to represent the person's interests, notifies
19 the filing officer in writing prior to the applicable filing deadline that the person is subject to that
20 federal statute and is unable to meet the applicable deadline, and provides the filing officer
21 verification of the person's military status.

22 (D) Leaving Office Statements. All persons who leave designated positions shall file
23 statements within 30 days after leaving office.

1 (5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

2 Any person who resigns within 12 months of initial appointment, or within 30 days of the
3 date of notice provided by the filing officer to file an assuming office statement, is not deemed to
4 have assumed office or left office, provided the person did not make or participate in the making
5 of, or use the person's position to influence any decision and did not receive or become entitled
6 to receive any form of payment as a result of the person's appointment. Such persons shall not
7 file either an assuming or leaving office statement.

8 (A) Any person who resigns a position within 30 days of the date of a notice from the
9 filing officer shall do both of the following:

10 (1) File a written resignation with the appointing power; and

11 (2) File a written statement with the filing officer declaring under penalty of perjury that
12 during the period between appointment and resignation the person did not make, participate in
13 the making, or use the position to influence any decision of the agency or receive, or become
14 entitled to receive, any form of payment by virtue of being appointed to the position.

15 (6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

16 (A) Contents of Initial Statements. Initial statements shall disclose any reportable
17 investments, interests in real property and business positions held on the effective date of the
18 code and income received during the 12 months prior to the effective date of the code.

19 (B) Contents of Assuming Office Statements.

20 Assuming office statements shall disclose any reportable investments, interests in real
21 property and business positions held on the date of assuming office or, if subject to State Senate
22 confirmation or appointment, on the date of nomination, and income received during the 12

1 months prior to the date of assuming office or the date of being appointed or nominated,
2 respectively.

3 (C) Contents of Annual Statements. Annual statements shall disclose any reportable
4 investments, interests in real property, income and business positions held or received during the
5 previous calendar year provided, however, that the period covered by an employee's first annual
6 statement shall begin on the effective date of the code or the date of assuming office whichever
7 is later, or for a board or commission member subject to Section 87302.6, the day after the
8 closing date of the most recent statement filed by the member pursuant to Regulation 18754.

9 (D) Contents of Leaving Office Statements.

10 Leaving office statements shall disclose reportable investments, interests in real property,
11 income and business positions held or received during the period between the closing date of the
12 last statement filed and the date of leaving office.

13 (7) Section 7. Manner of Reporting.

14 Statements of economic interests shall be made on forms prescribed by the Fair Political
15 Practices Commission and supplied by the agency, and shall contain the following information:

16 (A) Investment and Real Property Disclosure.

17 When an investment or an interest in real property [FN3] is required to be reported,
18 [FN4] the statement shall contain the following:

- 19 1. A statement of the nature of the investment or interest;
- 20 2. The name of the business entity in which each investment is held, and a general
21 description of the business activity in which the business entity is engaged;
- 22 3. The address or other precise location of the real property;

1 4. A statement whether the fair market value of the investment or interest in real property
2 equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

3 (B) Personal Income Disclosure. When personal income is required to be reported, [FN5]
4 the statement shall contain:

5 1. The name and address of each source of income aggregating \$500 or more in value, or
6 \$50 or more in value if the income was a gift, and a general description of the business activity,
7 if any, of each source;

8 2. A statement whether the aggregate value of income from each source, or in the case of
9 a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater
10 than \$10,000, or greater than \$100,000;

11 3. A description of the consideration, if any, for which the income was received;

12 4. In the case of a gift, the name, address and business activity of the donor and any
13 intermediary through which the gift was made; a description of the gift; the amount or value of
14 the gift; and the date on which the gift was received;

15 5. In the case of a loan, the annual interest rate and the security, if any, given for the loan
16 and the term of the loan.

17 (C) Business Entity Income Disclosure. When income of a business entity, including
18 income of a sole proprietorship, is required to be reported, [FN6] the statement shall contain:

19 1. The name, address, and a general description of the business activity of the business
20 entity;

21 2. The name of every person from whom the business entity received payments if the
22 filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

1 (D) Business Position Disclosure. When business positions are required to be reported, a
2 designated employee shall list the name and address of each business entity in which the
3 employee is a director, officer, partner, trustee, employee, or in which the employee holds any
4 position of management, a description of the business activity in which the business entity is
5 engaged, and the designated employee's position with the business entity.

6 (E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving
7 office statement, if an investment or an interest in real property was partially or wholly acquired
8 or disposed of during the period covered by the statement, the statement shall contain the date of
9 acquisition or disposal.

10 (8) Section 8. Prohibition on Receipt of Honoraria.

11 (A) No member of a state board or commission, and no designated employee of a state or
12 local government agency, shall accept any honorarium from any source, if the member or
13 employee would be required to report the receipt of income or gifts from that source on the
14 member's or employee's statement of economic interests.

15 (B) This section shall not apply to any part-time member of the governing board of any
16 public institution of higher education, unless the member is also an elected official.

17 (C) Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this
18 section.

19 (D) This section shall not limit or prohibit payments, advances, or reimbursements for
20 travel and related lodging and subsistence authorized by Section 89506.

21 (8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$590.

22 (A) No member of a state board or commission, and no designated employee of a state or
23 local government agency, shall accept gifts with a total value of more than \$590 in a calendar

1 year from any single source, if the member or employee would be required to report the receipt
2 of income or gifts from that source on the member's or employee's statement of economic
3 interests.

4 (B) This section shall not apply to any part-time member of the governing board of any
5 public institution of higher education, unless the member is also an elected official.

6 (C) Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this
7 section.

8 (8.2) Section 8.2. Loans to Public Officials.

9 (A) No elected officer of a state or local government agency shall, from the date of the
10 election to office through the date that the officer vacates office, receive a personal loan from
11 any officer, employee, member, or consultant of the state or local government agency in which
12 the elected officer holds office or over which the elected officer's agency has direction and
13 control.

14 (B) No public official who is exempt from the state civil service system pursuant to
15 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while
16 he or she holds office, receive a personal loan from any officer, employee, member, or consultant
17 of the state or local government agency in which the public official holds office or over which
18 the public official's agency has direction and control. This subdivision shall not apply to loans
19 made to a public official whose duties are solely secretarial, clerical, or manual.

20 (C) No elected officer of a state or local government agency shall, from the date of the
21 election to office through the date that the officer vacates office, receive a personal loan from
22 any person who has a contract with the state or local government agency to which that elected
23 officer has been elected or over which that elected officer's agency has direction and control.

1 This subdivision shall not apply to loans made by banks or other financial institutions or to any
2 indebtedness created as part of a retail installment or credit card transaction, if the loan is made
3 or the indebtedness created in the lender's regular course of business on terms available to
4 members of the public without regard to the elected officer's official status.

5 (D) No public official who is exempt from the state civil service system pursuant to
6 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while
7 the official holds office, receive a personal loan from any person who has a contract with the
8 state or local government agency to which that elected officer has been elected or over which
9 that elected officer's agency has direction and control. This subdivision shall not apply to loans
10 made by banks or other financial institutions or to any indebtedness created as part of a retail
11 installment or credit card transaction, if the loan is made or the indebtedness created in the
12 lender's regular course of business on terms available to members of the public without regard to
13 the elected officer's official status. This subdivision shall not apply to loans made to a public
14 official whose duties are solely secretarial, clerical, or manual.

15 (E) This section shall not apply to the following:

16 1. Loans made to the campaign committee of an elected officer or candidate for elective
17 office.

18 2. Loans made by a public official's spouse, child, parent, grandparent, grandchild,
19 brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first
20 cousin, or the spouse of any such persons, provided that the person making the loan is not acting
21 as an agent or intermediary for any person not otherwise exempted under this section.

22 3. Loans from a person which, in the aggregate, do not exceed \$500 at any given time.

1 4. Loans made, or offered in writing, before January 1, 1998. 9(8.3) Section 8.3. Loan
2 Terms.

3 (A) Except as set forth in subdivision (B), no elected officer of a state or local
4 government agency shall, from the date of the officer's election to office through the date the
5 officer vacates office, receive a personal loan of \$500 or more, except when the loan is in writing
6 and clearly states the terms of the loan, including the parties to the loan agreement, date of the
7 loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan
8 and the amount of the payments, and the rate of interest paid on the loan.

9 (B) This section shall not apply to the following types of loans:

10 1. Loans made to the campaign committee of the elected officer.

11 2. Loans made to the elected officer by his or her spouse, child, parent, grandparent,
12 grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt,
13 uncle, or first cousin, or the spouse of any such person, provided that the person making the loan
14 is not acting as an agent or intermediary for any person not otherwise exempted under this
15 section.

16 3. Loans made, or offered in writing, before January 1, 1998. (C) Nothing in this section
17 shall exempt any person from any other provision of Title 9 of the Government Code.

18 (8.4) Section 8.4. Personal Loans.

19 (A) Except as set forth in subdivision (B), a personal loan received by any designated
20 employee shall become a gift to the designated employee for the purposes of this section in the
21 following circumstances:

22 1. If the loan has a defined date or dates for repayment, when the statute of limitations for
23 filing an action for default has expired.

1 2. If the loan has no defined date or dates for repayment, when one year has elapsed from
2 the later of the following:

3 a. The date the loan was made.

4 b. The date the last payment of \$100 or more was made on the loan.

5 c. The date upon which the debtor has made payments on the loan aggregating to less
6 than \$250 during the previous 12 months.

7 (B) This section shall not apply to the following types of loans:

8 1. A loan made to the campaign committee of an elected officer or a candidate for
9 elective office.

10 2. A loan that would otherwise not be a gift as defined in this title.

11 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which
12 the creditor has taken reasonable action to collect the balance due.

13 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which
14 the creditor, based on reasonable business considerations, has not undertaken collection action.
15 Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this
16 paragraph has the burden of proving that the decision for not taking collection action was based
17 on reasonable business considerations.

18 5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately
19 discharged in bankruptcy.

20 (C) Nothing in this section shall exempt any person from any other provisions of Title 9
21 of the Government Code.

22 (9) Section 9. Disqualification.

1 No designated employee shall make, participate in making, or in any way attempt to use
2 the employee's official position to influence the making of any governmental decision which the
3 employee knows or has reason to know will have a reasonably foreseeable material financial
4 effect, distinguishable from its effect on the public generally, on the official or a member of the
5 official's immediate family or on:

6 (A) Any business entity in which the designated employee has a direct or indirect
7 investment worth \$2,000 or more;

8 (B) Any real property in which the designated employee has a direct or indirect interest
9 worth \$2,000 or more;

10 (C) Any source of income, other than gifts and other than loans by a commercial lending
11 institution in the regular course of business on terms available to the public without regard to
12 official status, aggregating \$500 or more in value provided to, received by or promised to the
13 designated employee within 12 months prior to the time when the decision is made;

14 (D) Any business entity in which the designated employee is a director, officer, partner,
15 trustee, employee, or holds any position of management; or

16 (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating
17 \$590 or more provided to, received by, or promised to the designated employee within 12
18 months prior to the time when the decision is made.

19 (9.3) Section 9.3. Legally Required Participation.

20 No designated employee shall be prevented from making or participating in the making
21 of any decision to the extent the employee's participation is legally required for the decision to be
22 made. The fact that the vote of a designated employee who is on a voting body is needed to break
23 a tie does not make the employees' participation legally required for purposes of this section.

1 (9.5) Section 9.5. Disqualification of State Officers and Employees.

2 In addition to the general disqualification provisions of section 9, no state administrative
3 official shall make, participate in making, or use the official's position to influence any
4 governmental decision directly relating to any contract where the state administrative official
5 knows or has reason to know that any party to the contract is a person with whom the state
6 administrative official, or any member of the official's immediate family has, within 12 months
7 prior to the time when the official action is to be taken:

8 (A) Engaged in a business transaction or transactions on terms not available to members
9 of the public, regarding any investment or interest in real property; or

10 (B) Engaged in a business transaction or transactions on terms not available to members
11 of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

12 (10) Section 10. Disclosure of Disqualifying Interest.

13 When a designated employee determines that the employee should not make a
14 governmental decision because the employee has a disqualifying interest in it, the determination
15 not to act may be accompanied by disclosure of the disqualifying interest.

16 (11) Section 11. Assistance of the Commission and Counsel.

17 Any designated employee who is unsure of the duties under this code may request
18 assistance from the Fair Political Practices Commission pursuant to Section 83114 and
19 Regulations 18329 and 18329.5 or from the attorney for the employee's agency, provided that
20 nothing in this section requires the attorney for the agency to issue any formal or informal
21 opinion.

22 (12) Section 12. Violations.

1 This code has the force and effect of law. Designated employees violating any provision
2 of this code are subject to the administrative, criminal and civil sanctions provided in the
3 Political 13Reform Act, Sections 81000-91014. In addition, a decision in relation to which a
4 violation of the disqualification provisions of this code or of Section 87100 or 87450 has
5 occurred may be set aside as void pursuant to Section 91003.

6 _____
7 1 Designated employees who are required to file statements of economic interests under
8 any other agency's conflict of interest code, or under article 2 for a different
9 jurisdiction, may expand their statement of economic interests to cover reportable
10 interests in both jurisdictions, and file copies of this expanded statement with both
11 entities in lieu of filing separate and distinct statements, provided that each copy of
12 such expanded statement filed in place of an original is signed and verified by the
13 designated employee as if it were an original. See Section 81004.

14 2 See Section 81010 and Regulation 18115 for the duties of filing officers and persons
15 in agencies who make and retain copies of statements and forward the originals to the
16 filing officer.

17 3 For the purpose of disclosure only (not disqualification), an interest in real property
18 does not include the principal residence of the filer.

19 4 Investments and interests in real property which have a fair market value of less than
20 \$2,000 are not investments and interests in real property within the meaning of the
21 Political Reform Act. However, investments or interests in real property of an
22 individual include those held by the individual's spouse and dependent children as
23 well as a pro rata share of any investment or interest in real property of any business

1 entity or trust in which the individual, spouse and dependent children own, in the
2 aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

3 5 A designated employee's income includes the employee's community property
4 interest in the income of the employee's spouse but does not include salary or
5 reimbursement for expenses received from a state, local or federal government
6 agency.

7 6 Income of a business entity is reportable if the direct, indirect or beneficial interest of
8 the filer and the filer's spouse in the business entity aggregates a 10 percent or greater
9 interest. In addition, the disclosure of persons who are clients or customers of a
10 business entity is required only if the clients or customers are within one of the
11 disclosure categories of the filer.

12 NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e),
13 87300-87302, 89501, 89502 and 89503, Government Code.