

REPORT TO CITY COUNCIL

DATE: OCTOBER 27, 2010

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: KIMBERLY RODRIGUES, CITY CLERK

SUBJECT: ADOPT RESOLUTION NO. 10-1603; ADOPTING A CONFLICT OF INTEREST CODE FOR THE CITY OF AGOURA HILLS AND REPEALING RESOLUTION NO. 08-1498

The Political Reform Act requires that every local government agency conduct a biennial review of its conflict of interest code to determine if it is accurate or whether the code should be amended.

The Fair Political Practices Commission (FPPC) is charged with enforcing the provisions of the Political Reform Act and has recommended the incorporation of its Standard Conflict of Interest Code (*Section 18730 - Provisions of Conflict of Interest Codes*), by reference, in the City's code. The FPPC will amend the regulation to include legislative and regulatory changes that affect the main body of the code; therefore, this component of the City's code is automatically in compliance with the Act.

A requirement for code filers was added when the Governor signed AB 1234, requiring any official specified in Government Code Section 87200 (i.e.; City Councilmembers, Planning Commissioners, City Attorney, City Manager, and City Treasurer), and/or employees or positions designated in the City's Conflict of Interest Code, to complete Ethics Training by January 1, 2007, and every two years (biennially) thereafter. The next round of Ethics Training is scheduled for November 2010. All code filers and staff will be included in the training.

The City Clerk and City Attorney have reviewed the City's current Conflict of Interest Code, including Appendices A through J that specify which City of Agoura Hills employees or committee members are required to file conflict of interest statements. The Code has been amended and modified, in compliance with the provisions of the Political Reform Act, to include the positions (management and mid-management) that make or participate in making decisions for the City, including the 87200 filers.

The City Attorney has reviewed Resolution No. 10-1603, adopting, by reference, Exhibit A, the Model Code, and amending Appendices A through J to reflect the City's current designated employee positions and appropriate disclosure categories.

RECOMMENDATION

It is respectfully recommended the City Council adopt Resolution No. 10-1603

Attachment: Resolution No. 10-1603 (redline version) and Exhibit A (the Model Code)

RESOLUTION NO. 10-1603

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, ADOPTING A CONFLICT OF INTEREST CODE FOR THE CITY OF AGOURA HILLS WHICH INCORPORATES BY REFERENCE THE STANDARD CONFLICT OF INTEREST CODE PREPARED BY THE FAIR POLITICAL PRACTICES COMMISSION, ESTABLISHING A NEW LIST OF DESIGNATED POSITIONS AND DISCLOSURE CATEGORIES FOR OFFICERS AND EMPLOYEES OF THE CITY, AND REPEALING RESOLUTION NO. 08-1498

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:

Section 1. The Political Reform Act, Government Code Sections 81000, et seq., requires the City of Agoura Hills to adopt a Conflict of Interest Code for each department of the City.

Section 2. The Fair Political Practices Commission has adopted a Standard Conflict of Interest Code, attached hereto as Exhibit "A." The Standard Code is codified under Section 18730 of Article 2, Chapter 7, of Title 2, Division 6, of the California Code of Regulations. This Standard Code can be incorporated by reference by the City and will be, periodically, amended to conform to amendments to the Political Reform Act.

Section 3. The standard Conflict of Interest Code adopted by the Fair Political Practices Commission, attached hereto as Exhibit "A" and Appendices "A" through "I," which set forth the designated positions and the disclosure categories, are herein incorporated by reference and adopted, and shall constitute the Conflict of Interest Code of the following departments or divisions of the City of Agoura Hills:

- A. City Manager;
- B. Financing Authority (FA);
- C. Redevelopment Agency (RDA);
- D. City Attorney;
- E. City Clerk;
- F. Community Services;
- G. Finance;
- H. Planning and Community Development;
- I. Public Works/Engineering; and,
- J. Consultants.

Section 4. The City Council hereby directs the City Clerk and City Attorney to coordinate the preparation of a revised Conflict of Interest Code in succeeding even-numbered years in accordance with the requirements of Government Code Sections 87306 and 87306.5. The revised Code should reflect any changes in department or employee designations. If no revisions to the Code are required, the City Clerk shall submit a report no later than October 1st of the same year, stating that amendments to the Code are not required.

Section 5. Persons holding designated positions listed in the appendices shall file Statements of Economic Interest pursuant to Section 18730(b)(4)-of Title 2, Division 6, of the California Code of Regulations.

Section 6. Resolution No. 08-1498 of the City that adopted an earlier Conflict of Interest Code for the City is hereby repealed.

PASSED, APPROVED, AND ADOPTED this 27th day of October, 2010, by the following vote to wit.

AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

William D. Koehler, Mayor

ATTEST:

Kimberly M. Rodrigues, City Clerk

APPENDIX A

CITY MANAGER

| <u>Designated Position</u> | <u>Disclosure Categories</u> |
|-------------------------------|------------------------------|
| City Councilmember | 1 |
| City Manager | 1 |
| Assistant City Manager | 2, 3, 4, 5, 6 |
| Assistant to the City Manager | 2, 3, 4, 5, 6 |

DISCLOSURE CATEGORIES

1. No disclosure is required by this Conflict of Interest Code. Disclosure is already required by Government Code Section 87200 on Form 700.
2. Reportable interests in real property in the jurisdiction.
3. Reportable income.
4. Reportable investments.
5. Reportable business positions.
6. Reportable gifts and travel gifts.

APPENDIX B

FINANCING AUTHORITY (FA)

| <u>Designated Position</u> | <u>Disclosure Categories</u> |
|---------------------------------------|------------------------------|
| Financing Authority (FA) Board Member | 1 |
| Authority Treasurer (FA) | 1 |
| Executive Director (FA) | 1 |
| Authority Counsel (FA) | 1 |
| Assistant Authority Counsel (FA) | 2, 3, 4, 5, 6 |
| Assistant Executive Director (FA) | 2, 3, 4, 5, 6 |
| Authority Secretary (FA) | 2, 3, 4, 5, 6 |

DISCLOSURE CATEGORIES

1. No disclosure is required by this Conflict of Interest Code. Disclosure is already required by Government Code Section 87200 on Form 700.
2. Reportable interests in real property in the jurisdiction.
3. Reportable income.
4. Reportable investments.
5. Reportable business positions.
6. Reportable gifts and travel gifts.

APPENDIX C

REDEVELOPMENT AGENCY (RDA)

| <u>Designated Position</u> | <u>Disclosure Categories</u> |
|---|------------------------------|
| Redevelopment Agency (RDA) Board Member | 1 |
| Agency Treasurer (RDA) | 1 |
| Executive Director (RDA) | 1 |
| Agency Counsel (RDA) | 1 |
| Assistant Agency Counsel (RDA) | 2, 3, 4, 5, 6 |
| Assistant Executive Director (RDA) | 2, 3, 4, 5, 6 |
| Agency Secretary (RDA) | 2, 3, 4, 5, 6 |

DISCLOSURE CATEGORIES

1. No disclosure is required by this Conflict of Interest Code. Disclosure is already required by Government Code Section 87200 on Form 700.
2. Reportable interests in real property in the jurisdiction.
3. Reportable income.
4. Reportable investments.
5. Reportable business positions.
6. Reportable gifts and travel gifts.

APPENDIX D

CITY ATTORNEY

| <u>Designated Position</u> | <u>Disclosure Categories</u> |
|----------------------------|------------------------------|
| City Attorney | 1 |
| City Prosecutor | 1 |
| Assistant City Attorney | 2, 3, 4, 5, 6 |

DISCLOSURE CATEGORIES

1. No disclosure is required by this Conflict of Interest Code. Disclosure is already required by Government Code Section 87200 on Form 700.
2. Reportable interests in real property in the jurisdiction.
3. Reportable income.
4. Reportable investments.
5. Reportable business positions.
6. Reportable gifts and travel gifts.

APPENDIX E

CITY CLERK

Designated Position

Disclosure Categories

City Clerk

1, 2, 3, 4

DISCLOSURE CATEGORIES

1. Reportable income from persons and business entities providing, that plan to provide, or that have provided within two years from the time a Statement is required under this Conflict of Interest Code, services or supplies to the City under the direction of the City Clerk.
2. Reportable investments in business entities providing, that plan to provide, or that have provided within two years from the time a Statement is required under this Conflict of Interest Code, services or supplies to the City under the direction of the City Clerk.
3. Reportable business positions in business entities providing, that plan to provide, or that have provided within two years from the time a Statement is required under this Conflict of Interest Code, services or supplies to the City under the direction of the City Clerk.
4. Reportable gifts and travel gifts.

APPENDIX F

COMMUNITY SERVICES

| <u>Designated Position</u> | <u>Disclosure Categories</u> |
|--------------------------------|------------------------------|
| Director of Community Services | 1, 2, 3, 4, 5 |
| Recreation Manager | 1, 2, 3, 4, 5 |

DISCLOSURE CATEGORIES

1. Reportable interests in real property.
2. Reportable income from persons and business entities that provide, plan to provide, or have provided within two years prior to the time a Statement is required under this Conflict of Interest Code, services or supplies to the City under the direction of the Community Services Department.
3. Reportable investments in business entities that provide, plan to provide, or have provided within two years prior to the time a Statement is required under this Conflict of Interest Code, services or supplies to the City under the direction of the Community Services Department.
4. Reportable business positions in business entities that provide, plan to provide, or have provided within two years prior to the time a Statement is required under this Conflict of Interest Code, services or supplies to the City under the direction of the Community Services Department.
5. Reportable gifts and travel gifts.

APPENDIX G

FINANCE

| <u>Designated Position</u> | <u>Disclosure Categories</u> |
|----------------------------|------------------------------|
| City Treasurer | 1 |
| Director of Finance | 1 |

DISCLOSURE CATEGORIES

1. No disclosure is required by this Conflict of Interest Code. Disclosure is already required by Government Code Section 87200 on Form 700.
2. Reportable income from persons and business entities from which the City purchases, plans to purchase, or has purchased within two years prior to the time a Statement is required under this Conflict of Interest Code, supplies, materials, or services to the City under the direction of the Finance Department.
3. Reportable investments in business entities from which the City purchases, plans to purchase, or has purchased within two years prior to the time a Statement is required under this Conflict of Interest Code, supplies, materials, or services to the City under the direction of the Finance Department.
4. Reportable business positions in business entities from which the City purchases, plans to purchase, or has purchased within two years prior to the time a Statement is required under this Conflict of Interest Code, supplies, materials, or services to the City under the direction of the Finance Department.
5. Reportable gifts and travel gifts.

APPENDIX H

PLANNING AND COMMUNITY DEVELOPMENT

| <u>Designated Position</u> | <u>Disclosure Categories</u> |
|--|--|
| Planning Commissioner | 1 |
| Agoura Village Task Force Member | 2, 3, 4, 5, 6 Disbanded 9/22/10 |
| Architectural Review Panel Member | 2, 3, 4, 5, 6 City Staff Advisory |
| General Plan Advisory Committee Member | 2, 3, 4, 5, 6 Disbanded 9/22/10 |
| Director of Planning and Community Development | 2, 3, 4, 5, 6 |
| Assistant Director of Planning and Community Development | 2, 3, 4, 5, 6 |
| Code Compliance Officer | 2, 3, 4, 5, 6 |

DISCLOSURE CATEGORIES

1. No disclosure is required by this Conflict of Interest Code. Disclosure is already required by Government Code Section 87200 on Form 700.
2. Reportable interests in real property in the jurisdiction.
3. Reportable income.
4. Reportable investments.
5. Reportable business positions.
6. Reportable gifts and travel gifts.
7. Reportable income from persons and business entities having an interest in real property in the jurisdiction or that provide, plan to provide, or have provided within two years prior to the time a Statement is required under this Conflict of Interest Code, services subject to the review or approval of the Planning and Community Development Department.
8. Reportable investments in any business entities having an interest in real property in the jurisdiction or that provide, plan to provide, or have provided within two years prior to the time a Statement is required under this Conflict of Interest Code, services subject to the approval or review of the Planning and Community Development Department.

9. Reportable business positions in any business entities having an interest in real property in the jurisdiction or that provide, plan to provide, or have provided within two years prior to the time a Statement is required under this Conflict of Interest Code, services subject to the approval or review of the Planning and Community Development Department.

APPENDIX I

PUBLIC WORKS/ENGINEERING

| <u>Designated Position</u> | <u>Disclosure Category</u> |
|------------------------------------|--------------------------------|
| City Engineer | 1, 2, 3, 4, 5, 6 |
| Traffic Engineer (Contracted) | 1, 2, 3, 4, 5, 6 |
| Senior Civil Engineer | 1, 2, 3, 4, 5, 6 |
| Associate Civil Engineer | 1, 2, 3, 4, 5, 6 Added 9/15/09 |
| Parks and Landscape Superintendent | 1, 2, 3, 4, 5, 6 Added 7/31/09 |
| Public Works Project Manager | 1, 2, 3, 4, 5, 6 |
| Building Official | 1, 2, 3, 4, 5, 6 |
| Senior Building Inspector | 1, 2, 3, 4, 5, 6 |

DISCLOSURE CATEGORIES

1. Reportable income from persons and business entities having an interest in real property in the jurisdiction or that provide, plan to provide, or have provided within two years prior to the time a Statement is required under this Conflict of Interest Code, services subject to the inspection or approval of the Public Works, and Engineering Departments.
2. Reportable investments and business positions in business entities having an interest in real property in the jurisdiction or that provide, plan to provide, or have provided within two years prior to the time a Statement is required under this Conflict of Interest Code, services subject to the inspection or approval of the Public Works, and Engineering Departments.
3. Reportable interests in real property in the jurisdiction.
4. Reportable income from persons and business entities providing, that plan to provide, or that have provided within two years from the time a Statement is required under this conflict of interest code, services or supplies to the City under the direction of the Public Works, and Engineering Departments.

5. Reportable investments and business positions in business entities providing, that plan to provide, or that have provided within two years prior to the time a Statement is required under this conflict of interest code, services or supplies to the City under the direction of the Public Works, and Engineering Departments.
6. Reportable gifts and travel gifts.

APPENDIX J
CONSULTANTS

| <u>Designated Position</u> | <u>Disclosure Category</u> |
|----------------------------|----------------------------|
| Consultant | 1 or 2 |

DISCLOSURE CATEGORY

1. This disclosure category is to be used for consultants who do not serve in a designated position listed elsewhere in this Code.
2. Persons required to disclose in this category shall disclose pursuant to categories A, B, C and D below unless the City Manager determines in writing that a particular consultant is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in categories A, B, C and D. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.
 - A. Reportable interests in real property in the jurisdiction.
 - B. Reportable income.
 - C. Reportable investments.
 - D. Reportable business positions.

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18730. Provisions of Conflict of Interest Codes.

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

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

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. sections 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

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

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

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been

determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

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

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

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

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

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

(C) Annual Statements. All designated employees shall file statements no later than April 1.

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

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

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to

have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

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

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

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

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

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Government Code section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to 2 Cal. Code Regs. section 18754.

(D) Contents of Leaving Office Statements.

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

(7) Section 7. Manner of Reporting.

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

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

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

4. A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);

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

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

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

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

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

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

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

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

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

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

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

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$420.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$420 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

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

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

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from

any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

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

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

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

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

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

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

3. Loans made, or offered in writing, before January 1, 1998.

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

(8.4) Section 8.4. Personal Loans.

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

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

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

a. The date the loan was made.

b. The date the last payment of one hundred dollars (\$100) or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

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

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

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

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

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action.

Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

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

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

(9) Section 9. Disqualification.

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

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

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

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

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

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$420 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

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

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

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

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

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

(10) Section 10. Disclosure of Disqualifying Interest.

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

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

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code section 83114 and 2 Cal. Code Regs. sections 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

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

1Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and

verified by the designated employee as if it were an original. See Government Code section 81004.

2See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

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

4Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

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

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

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

HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14).

Certificate of Compliance included.

2. Editorial correction (Register 80, No. 29).

3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter
(Register 81, No.2).

4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter
(Register 83, No. 5).

5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter
(Register 83, No. 46).

6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).

7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).

8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed
8-28-90; operative 9-27-90 (Reg. 90, No. 42).

9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and
amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).

10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93;
operative 2-4-93 (Register 93, No. 6).

11. Change without regulatory effect adopting Conflict of Interest Code for California Mental
Health Planning Council filed 11-22-93 pursuant to title1, section 100, California Code of
Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.

12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).
16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).
18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).
19. Editorial correction of subsection (a) (Register 98, No. 47).
20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).
22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).
23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4 filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).
24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).
25. Editorial correction of History24 (Register 2003, No. 12).
26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).

27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).

28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).

29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).

30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).