

## GOVERNING BOARD

**AP 2712 Conflict of Interest Code****References:**

Government Code Sections 87103(e), 87300-87302, 89501, 89502, and 89503;  
Title 2 Section 18730

Pursuant to Section 18730 of Title 2 of the California Code of Regulations, 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.

**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 18100 et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

**Section 2 -- Designated Employees**

The persons holding positions listed in Section 13 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 financial interests.

**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 financial 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;

- 39 B. The disclosure assigned in the code of the other agency is the same as that  
40 required under Article 2 of Chapter 7 of the Political Reform Act, Government  
41 Code Section 87200; and
- 42 C. The filing officer is the same for both agencies.<sup>1</sup> Such persons are covered by  
43 this code for disqualification purposes only. With respect to all other designated  
44 employees, the disclosure categories set forth in the Appendix specify which  
45 kinds of financial interests are reportable. Such a designated employee shall  
46 disclose in his/her statement of economic interests those financial interests he or  
47 she has which are of the kind described in the disclosure categories to which he  
48 or she is assigned in the Appendix. It has been determined that the financial  
49 interests set forth in a designated employee's disclosure categories are the kinds  
50 of financial interests which he or she foreseeably can affect materially through  
51 the conduct of his/her office.

#### 52 **Section 4 -- Statements of Economic Interests**

##### 53 Place of Filing

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

#### 57 **Section 5 -- Statements of Economic Interests**

##### 58 Time of Filing

- 59 (A) Initial Statements: All designated employees employed by the agency on the  
60 effective date of this code, as originally adopted, promulgated and approved by  
61 the code reviewing body, shall file statements within 30 days after the effective  
62 date of this code. Thereafter, each person already in a position when it is  
63 designated by an amendment to this code shall file an initial statement within 30  
64 days after the effective date of the amendment.
- 65 (B) Assuming Office Statements: All persons assuming designated positions after  
66 the effective date of this code shall file statements within 30 days after assuming  
67 the designated positions, or if subject to State Senate confirmation, 30 days after  
68 being nominated or appointed.
- 69 (C) Annual Statements: All designated employees shall file statements no later than  
70 April 1.

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<sup>1</sup> Designated 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.

<sup>2</sup> See 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.

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

73 **Section 5.5 -- Statements for Persons Who Resign Prior to Assuming Office**

74 Any person who resigns within 12 months of initial appointment, or within 30 days of the  
75 date of notice provided by the filing officer to file an assuming office statement, is not  
76 deemed to have assumed office or left office, provided he or she did not make or  
77 participate in the making of, or use his/her position to influence any decision and did not  
78 receive or become entitled to receive any form of payment as a result of his/her  
79 appointment. Such persons shall not file either an assuming or leaving office statement.

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

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

88 **Section 6 -- Contents of and Period Covered by Statements of Economic Interests**

- 89 (A) Contents of Initial Statements: Initial statements shall disclose any reportable  
90 investments, interests in real property and business positions held on the  
91 effective date of the code and income received during the 12 months prior to the  
92 effective date of the code.  
93  
94 (B) Contents of Assuming Office Statements: Assuming office statements shall  
95 disclose any reportable investments, interests in real property and business  
96 positions held on the date of assuming office or, if subject to State Senate  
97 confirmation or appointment, on the date of nomination, and income received  
98 during the 12 months prior to the date of assuming office or the date of being  
99 appointed or nominated, respectively.  
100  
101 (C) Contents of Annual Statements: Annual statements shall disclose any reportable  
102 investments, interests in real property, income and business positions held or  
103 received during the previous calendar year provided, however, that the period  
104 covered by an employee's first annual statement shall begin on the effective date  
105 of the code or the date of assuming office whichever is later.  
106  
107 (D) Contents of Leaving Office Statements: Leaving office statements shall disclose  
108 reportable investments, interests in real property, income and business positions  
109 held or received during the period between the closing date of the last statement  
110 filed and the date of leaving office.

**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) Investments and Real Property Disclosure: When an investment or an interest in real property<sup>3</sup> is required to be reported,<sup>4</sup> 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; and
4. A statement whether the fair market value of the investment or interest in real property 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,<sup>5</sup> 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;

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

<sup>4</sup> Investments 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.

<sup>5</sup> A 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.

- 141 4. In the case of a gift, the name, address and business activity of the donor  
142 and any intermediary through which the gift was made; a description of the  
143 gift; the amount or value of the gift; and the date on which the gift was  
144 received; and
- 145 5. In the case of a loan, the annual interest rate and the security, if any, given  
146 for the loan and the term of the loan.

147  
148 (C) Business Entity Income Disclosure: When income of a business entity, including  
149 income of a sole proprietorship, is required to be reported,<sup>6</sup> the statement shall  
150 contain:

- 151  
152 1. The name, address, and a general description of the business activity of the  
153 business entity and
- 154 2. The name of every person from whom the business entity received  
155 payments if the filer's pro rata share of gross receipts from such person was  
156 equal to or greater than ten thousand dollars (\$10,000).

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

163  
164 (E) Acquisition or Disposal during Reporting Period: In the case of an annual or  
165 leaving office statement, if an investment or an interest in real property was  
166 partially or wholly acquired or disposed of during the period covered by the  
167 statement, the statement shall contain the date of acquisition or disposal.

### 168 **Section 8 -- Prohibition on Receipt of Honoraria**

169 (A) No member of a state board or commission, and no designated employee of a  
170 state or local government agency, shall accept any honorarium from any source,  
171 if the member or employee would be required to report the receipt of income or  
172 gifts from that source on his/her statement of economic interests. Subdivisions  
173 (a), (b), and (c) of Government Code Section 89501 shall apply to the  
174 prohibitions in this section.

175 (B) This section shall not limit or prohibit payments, advances, or reimbursements  
176 for travel and related lodging and subsistence authorized by Government Code  
177 Section 89506.

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<sup>6</sup> . Income 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.

178 **Section 8.1 -- Prohibition on Receipt of Gifts in Excess of Three Hundred Sixty**  
179 **Dollars (\$360)**

- 180 (A) No member of a state board or commission, and no designated employee of a  
181 state or local government agency, shall accept gifts with a total value of more  
182 than three hundred sixty dollars (\$360) in a calendar year from any single  
183 source, if the member or employee would be required to report the receipt of  
184 income or gifts from that source on his/her statement of economic interests. This  
185 section shall not apply to any part-time member of the Governing Board of any  
186 public institution of higher education, unless the member is also an elected  
187 official.
- 188 (B) Subdivisions (e), (f), and (g) of Government Code Section 89503 shall apply to  
189 the prohibitions in this section.

190 **Section 8.2 -- Loans to Public Officials**

- 191 (A) No elected officer of a state or local government agency shall, from the date of  
192 his/her election to office through the date that he or she vacates office, receive a  
193 personal loan from any officer, employee, member, or consultant of the state or  
194 local government agency in which the elected officer holds office or over which  
195 the elected officer's agency has direction and control.
- 196 (B) No public official who is exempt from the state civil service system pursuant to  
197 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution  
198 shall, while he or she holds office, receive a personal loan from any officer,  
199 employee, member, or consultant of the state or local government agency in  
200 which the public official holds office or over which the public official's agency has  
201 direction and control. This subdivision shall not apply to loans made to a public  
202 official whose duties are solely secretarial, clerical, or manual.
- 203 (C) No elected officer of a state or local government agency shall, from the date of  
204 his/her election to office through the date that he or she vacates office, receive a  
205 personal loan from any person who has a contract with the state or local  
206 government agency to which that elected officer has been elected or over which  
207 that elected officer's agency has direction and control. This subdivision shall not  
208 apply to loans made by banks or other financial institutions or to any  
209 indebtedness created as part of a retail installment or credit card transaction, if  
210 the loan is made or the indebtedness created in the lender's regular course of  
211 business on terms available to members of the public without regard to the  
212 elected officer's official status.
- 213 (D) No public official who is exempt from the state civil service system pursuant to  
214 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution  
215 shall, while he or she holds office, receive a personal loan from any person who  
216 has a contract with the state or local government agency to which that elected  
217 officer has been elected or over which that elected officer's agency has direction  
218 and control. This subdivision shall not apply to loans made by banks or other  
219 financial institutions or to any indebtedness created as part of a retail installment  
220 or credit card transaction, if the loan is made or the indebtedness created in the

221 lender's regular course of business on terms available to members of the public  
222 without regard to the elected officer's official status. This subdivision shall not  
223 apply to loans made to a public official whose duties are solely secretarial,  
224 clerical, or manual.

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

- 226 1. Loans made to the campaign committee of an elected officer or candidate for  
227 elective office.
- 228 2. Loans made by a public official's spouse, child, parent, grandparent,  
229 grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law,  
230 nephew, niece, aunt, uncle, or first cousin, or the spouse of any such  
231 persons, provided that the person making the loan is not acting as an agent  
232 or intermediary for any person not otherwise exempted under this section.
- 233 3. Loans from a person which, in the aggregate, do not exceed five hundred  
234 dollars (\$500) at any given time.
- 235 4. Loans made, or offered in writing, before January 1, 1998.

### 236 **Section 8.3 -- Loan Terms**

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

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

- 245 1. Loans made to the campaign committee of the elected officer.
- 246 2. Loans made to the elected officer by his/her spouse, child, parent,  
247 grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-  
248 in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such  
249 person, provided that the person making the loan is not acting as an agent or  
250 intermediary for any person not otherwise exempted under this section.
- 251 3. Loans made, or offered in writing, before January 1, 1998.

252 (C) Nothing in this section shall exempt any person from any other provision of Title  
253 9 of the Government Code.

### 254 **Section 8.4 -- Personal Loans**

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

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

- 260 2. If the loan has no defined date or dates for repayment, when one year has  
261 elapsed from the later of the following:
- 262 a. The date the loan was made.
  - 263 b. The date the last payment of one hundred dollars (\$100) or more was  
264 made on the loan.
  - 265 c. The date upon which the debtor has made payments on the loan  
266 aggregating to less than two hundred fifty dollars (\$250) during the  
267 previous 12 months.

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

- 269 1. A loan made to the campaign committee of an elected officer or a candidate  
270 for elective office.
- 271 2. A loan that would otherwise not be a gift as defined in this title.
- 272 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on  
273 which the creditor has taken reasonable action to collect the balance due.
- 274 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on  
275 which the creditor, based on reasonable business considerations, has not  
276 undertaken collection action. Except in a criminal action, a creditor who  
277 claims that a loan is not a gift on the basis of this paragraph has the burden of  
278 proving that the decision for not taking collection action was based on  
279 reasonable business considerations.
- 280 5. A loan made to a debtor who has filed for bankruptcy and the loan is  
281 ultimately discharged in bankruptcy.

282 (C) Nothing in this section shall exempt any person from any other provisions of Title  
283 9 of the Government Code.

### 284 **Section 9 -- Disqualification**

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

- 290 (A) Any business entity in which the designated employee has a direct or indirect  
291 investment worth two thousand dollars (\$2,000) or more;
- 292 (B) Any real property in which the designated employee has a direct or indirect  
293 interest worth two thousand dollars (\$2,000) or more;
- 294 (C) Any source of income, other than gifts and other than loans by a commercial  
295 lending institution in the regular course of business on terms available to the  
296 public without regard to official status, aggregating five hundred dollars (\$500) or  
297 more in value provided to, received by or promised to the designated employee  
298 within 12 months prior to the time when the decision is made;

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

301 (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts  
302 aggregating three hundred sixty dollars (\$360) or more provided to; received by,  
303 or promised to the designated employee within 12 months prior to the time when  
304 the decision is made.

### 305 **Section 9.3 -- Legally Required Participation**

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

### 311 **Section 9.5 -- Disqualification of State Officers and Employees**

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

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

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

### 323 **Section 10 -- Disclosure of Disqualifying Interest**

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

### 327 **Section 11 -- Assistance of the Commission and Counsel**

328 Any designated employee who is unsure of his/her duties under this code may request  
329 assistance from the Fair Political Practices Commission pursuant to Government Code  
330 Section 83114 or from the attorney for his/her agency, provided that nothing in this  
331 section requires the attorney for the agency to issue any formal or informal opinion.

### 332 **Section 12 -- Violations**

333 This code has the force and effect of law. Designated employees violating any  
334 provision of this code are subject to the administrative, criminal and civil sanctions  
335 provided in the Political Reform Act, Government Code Sections 81000 - 91015. In  
336 addition, a decision in relation to which a violation of the disqualification provisions of  
337 this code or of Government Code Section 87100 or 87450 has occurred may be set  
338 aside as void pursuant to Government Code Section 91003.

**Section 13 -- Designated Positions and Disclosure Requirements**

1. The persons occupying the following positions manage public investments. They shall file a full statement of economic interests pursuant to Government Code Sections 87200 et seq.:
  - Governing Board Members
  - Superintendent/President
  - Assistant Superintendent/Vice President for Finance and Administrative Services
2. Disclosure Categories: The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property which the designated employees must disclose for each disclosure category to which he or she is assigned.

**Category 1:** All investments and business positions and sources of income from, business entities that do business with the District or own real property within the boundaries of the District, plan to do business or own real property within the boundaries of the District within the next year, or have done business with or owned real property within the boundaries of the District within the past two (2) years.

**Category 2:** All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the boundaries of the District.

**Category 3:** All investments and business positions in, and sources of income from, business entities that were engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the District, plan to engage in such activities within the jurisdiction of the District within the next year, or have engaged in such activities within the jurisdiction of the District within the past two (2) years.

**Category 4:** All investments and business positions in, and sources of income from, business entities that were banking, savings and loan, or other financial institutions.

**Category 5:** All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles, or equipment of a type purchased or leased by the District.

**Category 6:** All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles, or equipment of a type purchased or leased by the Designated Employee's Department.

371 Designated Positions, and the Disclosure Categories to be assigned to them, were as  
372 follows:

373	Assistant Superintendent/Vice President	
374	for Human Resource Services	Category 6
375	Assistant Superintendent/Vice President	
376	for Instruction	Categories 5, 6
377	Assistant Superintendent/Vice President	
378	for Student Services	Categories 5, 6
379	Director, Fiscal Services	Categories 4, 5
380	Deans	Category 6
381	Director, Business Services	Categories 1, 4, 5
382	Director, Facilities	Categories 1, 2, 3, 4
383	Police Chief	Categories 5, 6
384	Consultant	Categories 1, 2, 3, 4, 5, 6

385 Consultants must be included in the list of designated employees and must disclose  
386 pursuant to the broadest disclosure category in this Code subject to the following  
387 limitation: The Superintendent/President or designee may determine in writing that a  
388 particular consultant, although a “designated position,” is hired to perform a range of  
389 duties that were limited in scope and thus is not required to comply fully with the  
390 disclosure requirements described in this section. Such written determination shall  
391 include a description of the consultant’s duties and, based on that description, a  
392 statement of the extent of disclosure requirements. The Superintendent/President’s  
393 determination is a public record and shall be retained for public inspection in the same  
394 manner and location as this Conflict of Interest Code.

395 Office of Primary Responsibility: Superintendent/President