

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;
- 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

- 41 C. The filing officer is the same for both agencies.¹ Such persons are covered by this code
42 for disqualification purposes only. With respect to all other designated employees, the
43 disclosure categories set forth in the Appendix specify which kinds of financial interests
44 are reportable. Such a designated employee shall disclose in his or her statement of
45 economic interests those financial interests he or she has which are of the kind
46 described in the disclosure categories to which he or she is assigned in the Appendix. It
47 has been determined that the financial interests set forth in a designated employee's
48 disclosure categories are the kinds of financial interests which he or she foreseeably can
49 affect materially through the conduct of his or her office.

50 **Section 4 -- Statements of Economic Interests**

51 Place of Filing

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

55 **Section 5 -- Statements of Economic Interests**

56 Time of Filing

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

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

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

¹ 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.

² 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.

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

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

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

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

107 **Section 7 -- Manner of Reporting**

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

- 110 (A) Investments and Real Property Disclosure: When an investment or an interest in real
111 property³ is required to be reported,⁴ the statement shall contain the following:
112
113 1. A statement of the nature of the investment or interest;

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

⁴ 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.

- 114 2. The name of the business entity in which each investment is held, and a general
115 description of the business activity in which the business entity is engaged;
- 116 3. The address or other precise location of the real property; and
- 117 4. A statement whether the fair market value of the investment or interest in real
118 property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars
119 (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one
120 million dollars (\$1,000,000).
- 121 (B) Personal Income Disclosure: When personal income is required to be reported,⁵ the
122 statement shall contain:
- 123
- 124 1. The name and address of each source of income aggregating five hundred dollars
125 (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a
126 gift, and a general description of the business activity, if any, of each source;
- 127 2. A statement whether the aggregate value of income from each source, or in the
128 case of a loan, the highest amount owed to each source, was one thousand dollars
129 (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten
130 thousand dollars (\$10,000), or greater than one hundred thousand dollars
131 (\$100,000);
- 132 3. A description of the consideration, if any, for which the income was received;
- 133 4. In the case of a gift, the name, address and business activity of the donor and any
134 intermediary through which the gift was made; a description of the gift; the amount
135 or value of the gift; and the date on which the gift was received; and
- 136 5. In the case of a loan, the annual interest rate and the security, if any, given for the
137 loan and the term of the loan.
- 138
- 139 (C) Business Entity Income Disclosure: When income of a business entity, including income
140 of a sole proprietorship, is required to be reported,⁶ the statement shall contain:
- 141
- 142 1. The name, address, and a general description of the business activity of the
143 business entity and
- 144 2. The name of every person from whom the business entity received payments if the
145 filer's pro rata share of gross receipts from such person was equal to or greater than
146 ten thousand dollars (\$10,000).
- 147 (D) Business Position Disclosure: When business positions are required to be reported, a
148 designated employee shall list the name and address of each business entity in which
149 he or she is a director, officer, partner, trustee, employee, or in which he or she holds
150 any position of management, a description of the business activity in which the business
151 entity is engaged, and the designated employee's position with the business entity.

⁵ 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.

⁶ . 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.

- 152
153 (E) Acquisition or Disposal during Reporting Period: In the case of an annual or leaving
154 office statement, if an investment or an interest in real property was partially or wholly
155 acquired or disposed of during the period covered by the statement, the statement shall
156 contain the date of acquisition or disposal.

157 **Section 8 -- Prohibition on Receipt of Honoraria**

- 158 (A) No member of a state board or commission, and no designated employee of a state or
159 local government agency, shall accept any honorarium from any source, if the member
160 or employee would be required to report the receipt of income or gifts from that source
161 on his or her statement of economic interests. Subdivisions (a), (b), and (c) of
162 Government Code Section 89501 shall apply to the prohibitions in this section.
- 163 (B) This section shall not limit or prohibit payments, advances, or reimbursements for travel
164 and related lodging and subsistence authorized by Government Code Section 89506.

165 **Section 8.1 -- Prohibition on Receipt of Gifts in Excess of Three Hundred Sixty Dollars**
166 **(\$360)**

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

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

- 177 (A) No elected officer of a state or local government agency shall, from the date of his or her
178 election to office through the date that he or she vacates office, receive a personal loan
179 from any officer, employee, member, or consultant of the state or local government
180 agency in which the elected officer holds office or over which the elected officer's agency
181 has direction and control.
- 182 (B) No public official who is exempt from the state civil service system pursuant to
183 subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall,
184 while he or she holds office, receive a personal loan from any officer, employee,
185 member, or consultant of the state or local government agency in which the public
186 official holds office or over which the public official's agency has direction and control.
187 This subdivision shall not apply to loans made to a public official whose duties are solely
188 secretarial, clerical, or manual.
- 189 (C) No elected officer of a state or local government agency shall, from the date of his or her
190 election to office through the date that he or she vacates office, receive a personal loan
191 from any person who has a contract with the state or local government agency to which
192 that elected officer has been elected or over which that elected officer's agency has
193 direction and control. This subdivision shall not apply to loans made by banks or other
194 financial institutions or to any indebtedness created as part of a retail installment or
195 credit card transaction, if the loan is made or the indebtedness created in the lender's

196 regular course of business on terms available to members of the public without regard to
197 the elected officer's official status.

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

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

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

220 **Section 8.3 -- Loan Terms**

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

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

- 229 1. Loans made to the campaign committee of the elected officer.
- 230 2. Loans made to the elected officer by his or her spouse, child, parent, grandparent,
231 grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece,
232 aunt, uncle, or first cousin, or the spouse of any such person, provided that the
233 person making the loan is not acting as an agent or intermediary for any person not
234 otherwise exempted under this section.
- 235 3. Loans made, or offered in writing, before January 1, 1998.

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

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.

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

280 provided to, received by or promised to the designated employee within 12 months prior
281 to the time when the decision is made;

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

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

287 **Section 9.3 -- Legally Required Participation**

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

292 **Section 9.5 -- Disqualification of State Officers and Employees**

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

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

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

304 **Section 10 -- Disclosure of Disqualifying Interest**

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

308 **Section 11 -- Assistance of the Commission and Counsel**

309 Any designated employee who is unsure of his or her duties under this code may request
310 assistance from the Fair Political Practices Commission pursuant to Government Code Section
311 83114 or from the attorney for his or her agency, provided that nothing in this section requires
312 the attorney for the agency to issue any formal or informal opinion.

313 **Section 12 -- Violations**

314 This code has the force and effect of law. Designated employees violating any provision of this
315 code are subject to the administrative, criminal and civil sanctions provided in the Political
316 Reform Act, Government Code Sections 81000 - 91015. In addition, a decision in relation to
317 which a violation of the disqualification provisions of this code or of Government Code Section
318 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section
319 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.

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

Assistant Superintendent/Vice President for Human Resource Services	Category 6
Assistant Superintendent/Vice President for Instruction	Categories 5, 6
Assistant Superintendent/Vice President for Student Services	Categories 5, 6
Director, Fiscal Services	Categories 4, 5
Deans	Category 6
Director, Business Services	Categories 1, 4, 5

361	Director, Facilities	Categories 1, 2, 3, 4
362	Police Chief	Categories 5, 6
363	Consultant	Categories 1, 2, 3, 4, 5, 6

364 Consultants must be included in the list of designated employees and must disclose pursuant to
365 the broadest disclosure category in this Code subject to the following limitation: The
366 Superintendent/President or designee may determine in writing that a particular consultant,
367 although a "designated position," is hired to perform a range of duties that were limited in scope
368 and thus is not required to comply fully with the disclosure requirements described in this
369 section. Such written determination shall include a description of the consultant's duties and,
370 based on that description, a statement of the extent of disclosure requirements. The
371 Superintendent/President's determination is a public record and shall be retained for public
372 inspection in the same manner and location as this Conflict of Interest Code.

373 Office of Primary Responsibility: Superintendent/President