

RESOLUTION NO. 136-17

RESOLUTION OF THE COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA,
AMENDING CONFLICT OF INTEREST CODE FOR THE CITY OF RICHMOND

WHEREAS, the Political Reform Act, Government Code section 81000 *et seq.*, requires state and local government agencies to adopt and promulgate conflict of interest codes; and,

WHEREAS, the Fair Political Practices Commission has adopted a regulation (Title 2, Division 6, California Code of Regulations section 187302) which contains the terms of a standard conflict of interest code that meets the requirements of the Political Reform Act; and

WHEREAS, the terms of Title 2, Division 6, California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference; and

WHEREAS, the City of Richmond's Conflict of Interest Code includes, in addition to Title 2, Division 6, California Code of regulations section 18730, appendices of those positions that are required to disclose financial information ("designated positions") and disclosure categories; and

WHEREAS, said appendices of Resolution No. 121-15, which include designated positions and disclosure categories, have been reviewed by the City Attorney's Office; and

WHEREAS, based on this review and necessary consultation, the City Attorney's Office determined that the City of Richmond's Conflict of Interest Code should be amended to reflect current positions and duties.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Richmond, as follows:

- A. Resolution No. 121-15, adopted on December 15, 2015, is hereby rescinded and is of no further force and effect.
- B. City council members, the mayor, the city manager, the city attorney, members of the planning commission, public officials who manage public investments, and any other officer who may be subject to the provisions of Government Code section 87200, shall electronically file one original Statement of Economic Interest (Form 700) with the City Clerk who shall make and retain a copy and forward the original to the Fair Political Practices Commission which shall be the filing officer.
- C. This Resolution, including the attached Appendix A (Designated Positions), Appendix B (Disclosure Categories), and Appendix C (Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations section 18730) shall constitute the City of Richmond's Conflict of Interest Code.
- D. The terms of Title 2, Division 6, California Code of Regulations section 18730 and any amendments adopted by the Fair Political Practices Commission, are hereby incorporated by reference as Appendix C.
- E. City Clerk as Filing Officer: An individual holding a designated position shall file his or her Statement of Economic Interest (Form 700) with the City Clerk to whom the Richmond City Council hereby designates the authority to carry out the duties of the filing officer.
- F. Point of Contact for each Department: No later than March 1, every department head shall designate an individual in his or her department whose duty it is to notify each designated employee by March 1 that he or she must electronically transmit a Form 700 to the City Clerk by April 1. No later than March 15, the department head shall also notify the City Clerk who he or she assigns as the department point of contact. The point of contact point should remind individual filers to electronically submit a completed Form 700 to the City Clerk by April 1.

- G. Departing Designated Employees: The point of contact shall notify departing designated employees that he or she must submit a Form 700 no later than his or her last day of service. The point of contact must also provide the name of the departing designated employee to the City Clerk before his or her last day of employment.
- H. New Designated Employees: When a new employee starts in a department, the point of contact shall determine if the employee is a designated employee, and if he or she is a designated employee, the point of contact must notify the City Clerk within 10 days of his or her starting date. The point of contact must also notify a new designated employee within the department that he or she must electronically transmit a Form 700 to the City Clerk within 30 days of his or her initial start date.
- I. Individuals holding designated positions shall file their Statement of Economic Interest no later than April 1 with the City Clerk, who will retain the statements and make them available for public inspection and reproduction.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held November 21, 2017, by the following vote:

AYES: Councilmembers Choi, Martinez, Myrick, Recinos, Willis, Vice Mayor Beckles, and Mayor Butt.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

TOM BUTT
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 136-17**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on November 21, 2017.



Pamela Christian, Clerk of the City of Richmond

APPENDIX A - DESIGNATED POSITIONS

City Attorney's Office

Designated Positions	Disclosure Category
Assistant City Attorney	1, 2
City Attorney (87200 Filer)	1, 2
Senior Assistant City Attorney	1, 2
Supervising Office Assistant	6

City Clerk's Office

Designated Position	Disclosure Category
Assistant City Clerk	1, 2
City Clerk (87200 Filer)	1, 2

City Council

Designated Position	Disclosure Category
Members of the City Council (8200 Filer)	1,2
Staff Assistant to City Council	1,2
Senior Administrative Analyst	1,2

City Manager's Office

Designated Position	Disclosure Category
Administrative Chief	1, 2
City Manager (87200 Filer)	1, 2
Code Enforcement Superintendent	2, 5
Community Affairs Coordinator	5
Development Project Manager II	2, 3
Economic Development Administrator	5
Environmental Manager	5
Management Analyst I, II	5
Para-transit Coordinator	5, 6
Project Manager II	5
Senior Management Analyst	5

Community Services

Designated Position	Disclosure Category
Accountant	1, 2
Administrative Aide	6
Community Services Administrative Manager	6
Community Services Director	1, 2
Community Services Program Manager	6
Finance Manager	6
Neighborhood Safety Director	5
Office Assistant II	6
Office Specialist	6
Recreation Program Coordinator	6

Employment and Training Department

Designated Position	Disclosure Category
Employment and Training Director	1, 2
Employment Program Manager	6
Employment Program Specialist (I,II)	6
Finance Manager	6
Project Coordinator	1, 2
Senior Employment Program Specialist	6

Engineering & Capital Improvement Projects

Designated Position	Disclosure Category
Construction Inspector I	2, 3, 5, 7
Development Project Manager II	2, 3
Office Assistant II	6

Director of Engineering and Capital Improvement Projects	1, 2
Public Works Streets Maintenance Superintendent	1, 2
Senior Civil Engineer	2, 5
Office Assistant II	6

Finance Department

Designated Position	Disclosure Category
Accountant (I, II, Senior)	1, 2
Accounting Manager	1, 2
Budget Administrator	1, 2
Budget Analyst (I, II, Senior)	1, 4
Budget and Financial Service Agency Director / Treasurer	1, 2
Buyer (I, II, Senior)	5
Investment Analyst	1, 2
Payroll Supervisor	1, 2
Revenue Manager	1, 2
Senior Accountant	1,2

Fire Department

Designated Position	Disclosure Category
Administrative Services Analyst (Senior)	6
Battalion Chief	1
Deputy Fire Chief	1, 2
Deputy Fire Marshal	1, 2
Emergency Services Manager	1
Fire Chief	1, 2
Fire Inspector I, II	1, 2

Housing Authority

Designated Position	Disclosure Category
Accountant I, II	1, 2
Assisted Housing Manager	2, 7
Executive Director of Housing Authority	1, 2
Finance Manager	1, 2
Housing Program Analyst	2, 6, 7
Housing Program Specialist (I, II, III)	2, 6, 7
Project Manager (I, II)	1,2
Management Analyst II	1,2
Resident Services Executive Officer	1, 2

Housing & Community Development

Designated Position	Disclosure Category
Development Project Manager (II)	6
Senior Accountant	1, 2
Senior Administrative Analyst	6

Human Resources Management Department

Designated Position	Disclosure Category
<i>Benefits Analyst</i>	5
Employee Benefits Analyst	5
Finance Manager	1
Human Resources Management Director	1, 2
Human Resources Personnel Officer	1
Labor Relations /Training Manager	1
Principal Personnel Analyst	1
Risk Manager	1, 2
Senior Employee Benefits Analyst	1
Senior Personnel Analyst	1

Information Technology Department

Designated Position	Disclosure Category
Business Systems Manager	6
Cable Television Administrator	6
Cable Television Programming Coordinator	6
Cable Television Coordinator	6
GIS Coordinator Administrator	6
Information Technology Director	1
Network & Systems Manager	6

Infrastructure Maintenance & Operations

Designated Position	Disclosure Category
Code Enforcement Officer (I, II)	2, 5
Code Enforcement Supervisor	2, 5
Director of Infrastructure and Maintenance Operations	1, 2
Electrical Supervisor	6
Equipment Services Superintendent	1, 2
Parks Supervisor	2, 6
Parks & Landscaping Superintendent	6
Public Works Administrative Manager	6
Public Works Facilities Maintenance Superintendent	1, 2
Public Works Street Maintenance Superintendent	1, 2

Library and Cultural Services

Designated Position	Disclosure Category
Administrative Librarian – Adult Access Services	6
Administrative Librarian – Children and Extension Services	6
Arts and Culture Manager	6
Director of Library and Cultural Services	1, 2
Executive Secretary	6
Head of Reference	6
Learning Center Manager	6
Librarian (I, II)	6
Library Access Services Manager	6
Literacy Program Manager	6

Office of Neighborhood Safety

Designated Position	Disclosure Category
Community Services Program Manager	6
Neighborhood Safety Director	1
Project Coordinator	6

Mayor's Office

Designated Position	Disclosure Category
Admin Trainee	1,2
Assistant to the Mayor	1,2
Mayor (87200 Filer)	1,2
Management Analyst	5

Planning and Building Services Department

Designated Position	Disclosure Category
Accountant II	1, 2

Associate Planner	1, 2
Building Inspector Supervisor	1, 2
Building Inspector	1, 2
Building Official	1, 2
Permit Technician (II)	1, 2
Plan Check Engineer	1, 2
Planning and Building Services Director	1, 2
Planning Manager	1, 2
Senior Building Inspector	1, 2
Senior Planner	1, 2

Police Department

Designated Position	Disclosure Category
Accountant II	6
Assistant Police Chief	1, 2
Communications Manager	6
Internal Affairs Lieutenant	1,
Police Captain	1, 2
Police Chief	1, 2
Project Manager	1, 2
Senior Accountant	5

Port Department

Designated Position	Disclosure Category
Executive Director	1, 2
Executive Secretary II	6
Port Marketing/Operations Manager	1
Operations Administrator	2, 6

Rent Control

Designated Position	Disclosure Category
Executive Director	1, 2
Deputy Director	1, 2
Hearing Examiner	1, 2
Management Analyst II	5
Staff Attorney	1

Water Resource Recovery

Designated Position	Disclosure Category
Engineering Infrastructure Administrator	6
Management Analyst II	5
Office Assistant I/II	3, 6
Project Coordinator	6
Environmental Compliance Inspector	2, 3, 5, 7
Director of Wastewater Recovery	1, 2

Design Review Board

Designated Position	Disclosure Category
Members of the Design Review Board	1, 2

Economic Development Commission

Designated Position **Disclosure Category**
Members of the Economic Development Commission 1, 2

General Pension Board

Designated Position **Disclosure Category**
Members of the General Pension Board 1

Historic Preservation Advisory Committee

Designated Position **Disclosure Category**
Members of the General Pension Board 1, 2

Housing Advisory Commission

Designated Position **Disclosure Category**
Members of the Housing Advisory Commission 1, 2

Personnel Board

Designated Position **Disclosure Category**
Members of the Personnel Board 1

Planning Commission

Designated Position **Disclosure Category**
Members of the Planning Commission (87200 Filer) 1, 2

Police Commission

Designated Position **Disclosure Category**
Investigative Appeals Officer 1
Members of the Police Commission 1

Police and Firemen's Pension Board

Designated Position **Disclosure Category**
Members of the Police and Firemen's Pension Board 1

Rent Board

Designated Position **Disclosure Category**
Members of the Rent Board 1, 2

Revolving Loan Fund

Designated Position

Members of the Revolving Loan Fund

Disclosure Category

1, 2

Workforce Investment Board

Designated Position

Members of the Workforce Investment Board

Miscellaneous

Disclosure Category

1

Designated Position

Consultant*

Disclosure Category

TBD

*The City Manager, in consultation with the City Attorney, may determine 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 comply with the disclosure requirement above. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the Disclosure Category required. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as Statements of Economic Interests filed pursuant to this conflict of interest code.

APPENDIX B - DISCLOSURE CATEGORIES

Individuals holding designated positions must report their interests according to the following corresponding disclosure category(ies) to which their position has been assigned.

Category 1: All management positions and investments in business entities, and all sources of income, including gifts, loans, and travel payments.

Category 2: All interests in real property which are located in whole or in part within, or within two (2) miles of, the jurisdiction of the City of Richmond. (Do not include primary residence)

Category 3: All investments and management positions in, and sources of income from, business entities that are engaged in land development, construction, or the acquisition or sale of real property within the jurisdiction of the City.

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

Category 5: All investments, management positions and sources of income, including gifts, loans and travel payments, from sources that provide leased facilities, goods, equipment, vehicles, machinery or services, including training or consulting services, of the type utilized by the City of Richmond.

Category 6: All investments, management positions and sources of income, including gifts, loans and travel payments, from sources that provide leased facilities, goods, equipment, vehicles, machinery or services, including training or consulting services, of the type utilized by the Designated Employee's Department.

Category 7: All investments and management positions in, and sources of income from entities which are or could reasonably be expected to become subject to the regulatory, permit, or licensing authority of the Designated Employee's Department.

Appendix C

(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 Section 87300 or the amendment of a conflict of interest code within the meaning of 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, 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 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 (Regulations 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 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, 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, 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. If a person reports for military service as defined in the Servicemember's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

(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 Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 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 \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$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 \$500 or more in value, or

\$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 \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$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 \$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.

(B) 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.

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

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

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$470.

(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 \$470 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.

(B) 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.

(C) Subdivisions (e), (f), and (g) of 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 \$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 \$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 \$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 \$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 \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$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 \$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 \$470 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 \$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 Section 83114 and Regulations 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, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

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 Section 81004.

² See Section 81010 and Regulation 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.

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.

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.

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 title 1, 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 History 11 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 History 24 (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).

31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010.

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 2010, No. 47).

32. Amendment of section heading and subsections (a)-(b)(1), (b)(3)-(4), (b)(5)(C), (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) and amendment of footnote 1 filed 1-8-2013; operative 2-7-2013.

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 2013, No. 2).

33. Amendment of subsections (b)(8.1)-(b)(8.1)(A), (b)(8.2)(E)3. and (b)(9)(E) filed 12-15-2014; operative 1-1-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of

Regulations. Submitted to OAL for filing and printing 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 2014, No. 51).

34. Redesignation of portions of subsection (b)(8)(A) as new subsections (b)(8)(B)-(D), amendment of subsections (b)(8.1)-(b)(8.1)(A), redesignation of portions of subsection (b)(8.1)(A) as new subsections (b)(8.1)(B)-(C) and amendment of subsection (b)(9)(E) filed 12-1-2016; operative 12-31-2016 pursuant to Cal. Code Regs. tit. 2, section 18312(e).

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 2016, No. 49).