



The State Bar of California

OPEN SESSION AGENDA ITEM 708 JULY 2023

DATE: July 20, 2023

TO: Members, Board of Trustees

FROM: Ellin Davtyan, General Counsel, Office of General Counsel
Brady R. Dewar, Assistant General Counsel, Office of General Counsel

SUBJECT: Proposed Changes to Conflict of Interest Code for the Board of Trustees of the State Bar of California: Request for Approval to Submit to Supreme Court

EXECUTIVE SUMMARY

At its January 2023 meeting, the Board of Trustees discussed enhancing the Conflict of Interest Code for the Board of Trustees of the State Bar of California (Code) and a plan for approving an amended Code at its September 2023 meeting for submission to the Supreme Court. On April 19, 2023, the Court directed the State Bar to expedite this work, and to submit to the Chief Justice of California a proposed amended Code by no later than August 1, 2023.

Accordingly, this agenda item proposes an amended Code that adopts the model conflict of interest code promulgated by the Fair Political Practices Commission (FPPC)¹ and will require Trustees to report financial interests on their Form 700s more comprehensively than is required under the current Code. These proposed changes will conform the Code to the Political Reform Act (Act), including by requiring Trustees to report all financial interests that may foreseeably be affected materially by any decision made or participated in by Trustees. This item requests approval of the amended Code for submission to the Chief Justice of California, and provides an overview of Trustees' obligations under the anticipated new code.

¹ The FPPC is an independent state commission that has primary responsibility for administration and enforcement of the Political Reform Act, which regulates campaign financing conflicts of interest, lobbying, and governmental ethics.

BACKGROUND

LEGAL REQUIREMENTS FOR A CONFLICT OF INTEREST CODE

The Act requires “every agency” to adopt and promulgate a conflict of interest code, which shall have the force of law. Cal. Gov’t Code § 87300. The Act also sets out various requirements that such codes must meet, including:

- Identifying agency positions that involve “the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable”;
- Requiring disclosure by each position (through the filing of Statements of Economic Interest, known as Form 700) of financial interests that “may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the designated employee's position”; and
- Setting forth the procedures for filing Form 700 and requirements for disqualification.

See id. § 87302.

Additionally, the codes must be amended within ninety days after changed circumstances necessitating amendment, and each agency must submit to its code reviewing body (the Chief Justice of California, for the Board of Trustees) a report identifying changes in its code by no later than March 1 of every odd-numbered year. *Id.* § 87306.

The FPPC developed and updates regularly a model code for use by public agencies that is deemed to comply with applicable statutory requirements. FPPC’s model code is codified in FPPC Regulation 18730. The State Bar has adopted this model code as its Conflict of Interest Code for Designated Employees of the State Bar of California (Employee COI Code).² As discussed below, staff recommends doing the same for the Board of Trustees.

Current Conflict of Interest Code for the Board of Trustees

The current Code (set forth at Attachment A) does not appear to have been substantively updated since its adoption in 1986, and is not consistent the Act’s current requirements for codes.³ The current Code requires reporting of financial interest(s) only when, during a reporting period, the Board made a decision that materially affected the financial interest. *See*

² See [Proposed Changes to Conflict of Interest Code for Designated Employees: Request for Approval](#) (November 2022 Board agenda item adopting current version of Employee COI Code).

³ While there is some ambiguity in the Act whether all the Act’s provisions regarding the codes technically apply to the State Bar, as a matter of caution and good governance, the proposed amended Code extends the Act’s specific code requirements to the State Bar.

Attachment A section 3. This backward-looking reporting does not inform the public of potential conflicts of Trustees or remind Trustees of their own potential conflicts to assist in complying with their recusal obligations. Most importantly, this reporting requirement does not result in disclosure—as required by the Act—of financial interests that “may foreseeably be affected materially by any decision made or participated in” by Trustees, who oversee all State Bar operations.

State Bar Identified Board Conflict of Interest Code Enhancement as Task for 2023; Supreme Court Directed State Bar to Advance Development of Code

State Bar staff identified enhancing the Code and targeted presenting a proposed updated Code to the Board at its September meeting; this plan was presented to the Board at its January 2023 meeting and staff was instructed to proceed with the plan. See [Five Years of Reform Continues: Discussion of Options for Governance and Oversight](#) at table 1.

On April 19, 2023, the Supreme Court issued a letter to the State Bar’s executive director noting the State Bar’s recognition of this issue and directing the State Bar to expedite amendment of the Code and to submit the proposed amendments to the Chief Justice no later than August 1, 2023. (Attachment B.)⁴

DISCUSSION

State Bar staff, after consultation with the office of the Chief Justice of California, recommends that the Board approve for submission to the Chief Justice of California the proposed amended Code set forth at Attachment C.

Adoption of FPPC Model Code as Amended Code for Board of Trustees

Staff recommends adopting the FPPC model code, as set forth in FPPC Regulation 18730. Adoption of this regulation ensures compliance with all applicable law. Further, because the FPPC regularly updates the regulation, going forward, the Board can maintain compliance by simply adopting the updated FPPC regulation and reviewing the disclosure categories to ensure they still meet the requirement of requiring disclosure of all financial interests that “may foreseeably be affected materially by any decision made or participated in” by Trustees. Additionally, adoption of FPPC Regulation 18730 is consistent with the State Bar’s treatment of its employees and covered subentity members. Finally, by utilizing the FPPC model, Trustees

⁴ The letter also directs the State Bar to develop policies concerning when and how often Trustees should be trained on ethics and conflicts of interest, consistent with Government Code section 11146.3, which essentially requires training within six months of assumption of office and once every two calendar years thereafter. All Trustees have completed an online ethics training this year, and the State Bar is slated to adopt a plan for enhanced future trainings later this year. See [Five Years of Reform Continues: Discussion of Options for Governance and Oversight](#) at table 2. The proposed resolution in this agenda item formalizes this instruction to staff.

Finally, the letter also reminds the State Bar of its obligation to submit biannual reports on updates to the Code and copies of all Form 700s to the Chief Justice. Staff will ensure that these requirements are met.

and State Bar staff advising them can more easily make use of numerous resources provided by the FPPC to assist in satisfying disclosure obligations.⁵

Reportable Financial Interests and Disclosure Categories Under the Proposed Amended Code

Consistent with requirements of FPPC Regulation 18730, the proposed amended Code contains appendices that set forth the position covered by the Code and its disclosure categories.

Appendix A sets forth the single position covered by the Code: Member of Board of Trustees.

Appendix B sets forth the categories of financial interests that Trustees must disclose. The disclosure categories limit reportable financial interests by association with the State Bar, and in any event apply only to “reportable” interests under the Act and FPPC regulations and guidance (e.g., only income of \$500 or more from a single source is generally reportable, and it is subject to certain exceptions).

Under the proposed amended Code, all members of the Board of Trustees will be required to report under Categories 1, 2 and 3:

Category 1

All reportable interests in real property located in California or within two miles of California.

- This doesn’t include personal residences not used for business or rental income, but includes any interest of \$2,000 or more in other real property held by a Trustee, Trustee’s spouse/domestic partner, or dependent child, whether directly or through a business or trust.
- While the State Bar has offices only in Los Angeles and San Francisco, it conducts its regulatory and admissions activities, including renting testing locations, statewide. State Bar activities could thus conceivably have an impact on real estate statewide. Especially given the relative ease of identifying and reporting real estate interests, State Bar staff recommends reporting real estate interests in California without further limitation by geography.

⁵ These resources include: [2022–2023 Statement of Economic Interests Form 700 instructions](#); [2022/2023 Form 700 Statement of Economic Interests Reference Pamphlet](#); [Frequently Asked Questions: Form 700 Disclosure](#); and the pamphlet entitled [Limitations and Restrictions on Gifts, Honoraria, Travel and Loans](#).

Category 2

All reportable investments⁶, income (including loans⁷, gifts⁸, and travel payments)⁹ and business positions¹⁰ with, from, or in persons or entities that are subject to the regulatory, permit, or licensing authority of the State Bar of California or have an application for a license or other certification or approval pending before the State Bar of California, including but not limited to: California attorneys and law firms, including without limitation law corporations and limited liability partnerships; law schools; law students; applicants to become licensed by the State Bar; California lawyer referral services; California legal aid providers; providers of mandatory continuing legal education in California; California lawyer referral services; and financial institutions offering IOLTA accounts in California.

- This category covers reporting of financial interests that may be implicated given the authority, powers, and general operations of State Bar.

Category 3

All reportable investments, income (including loans, gifts, and travel payments) and business positions with, from, or in businesses that are located in or do business in California and manufacture, provide, or sell in California goods, services, supplies, materials, machinery or equipment of a type purchased or leased by the State Bar of California, including without limitation businesses of the type set forth in subsections (a)–(j) of Category 3. (See Attachment C for list.)

- Category 3 serves as a catchall for financial interests in all types of businesses with which the State Bar generally does business.

⁶ Reportable investments generally include those valued at \$2,000 or more in business entities or trusts located in or doing business in California and held by the Trustee, their spouse or registered domestic partner, or dependent children. This includes stock, but does not generally include diversified mutual funds.

⁷ Reportable sources of loans are limited to those of loans of \$500 or more, excluding loans from commercial lending institutions or any indebtedness created as part of retail installment or credit card transactions that are made in the lender's regular course of business, without regard to official status, on terms available to members of the public.

⁸ Sources of gifts totaling \$50 or more are reportable. There are numerous exclusions, including gifts from close family members and gifts of similar value exchanged between the filer and another individual on holidays, birthdays, and similar occasions.

⁹ Generally, reportable sources of income include sources of income to the filer, their spouse or domestic partner, or dependent children, totaling \$500 or more in a reporting period (generally, a calendar year). A filer's community property share of a spouse's income is reportable by the filer. Government income is not generally reportable.

¹⁰ Any position (employee, director, etc.) with a for-profit business entity that falls within a Disclosure Category is generally reportable, even if no income is received.

- State Bar staff considered proposing that Trustees be required to report *all* business investments, income (including loans, gifts, and travel payments) and business positions without limitation to businesses of the type that do business with the State Bar (as is currently required of some senior State Bar executives). However, staff determined that this would be overinclusive and potentially unduly burdensome to certain Trustees, such as sole proprietors who serve individual clients or customers, and might be required to disclose such individual customers as sources of income notwithstanding that it is not reasonably foreseeable that such individuals would ever be materially affected by any State Bar decision. Category 3 in the proposed amended Code strikes a balance by requiring broad reporting of financial interests in businesses that may be affected by State Bar decisions, while not requiring burdensome reporting of interests that could not foreseeably be affected by any State Bar decision.

In addition to reporting direct income as discussed above, there are certain instances in which Trustees would be required to report individual sources of revenue received by their businesses or employers under Disclosure Categories 2 or 3 of the proposed amended Code. For example, if a Trustee owns more than 10 percent of a business, the Trustee would generally need to report a source of income to that business if the source would be reportable under Disclosure Categories 2 or 3 and the Trustee's pro rata share of the income is \$10,000 or more. Sources of commission income of \$500 or more to a Trustee who is a broker, agent, or salesperson may also be reportable if they fall under Disclosure Categories 2 or 3, as may purchasers of goods or services from a Trustee's employer if they fall under Disclosure Categories 2 or 3 and the purchase led to incentive income of \$500 or more to the Trustee and the Trustee had direct personal contact with the purchaser intended to generate such sale. FPPC guidance documents explain in detail when such reporting is required, and the Office of General Counsel is available to assist and advise, as appropriate.

Timing for Filing of Form 700s Under Proposed Amended Code

Under the proposed amended Code, the Annual Form 700s will be due on or by April 1 of each year rather than March 1, as under the current Code. Newly appointed Trustees will continue to be required to file assuming office Form 700s within 30 days of assuming office, and departing Trustees will continue to be required to file departing office statements within 30 days of departure from the Board.

Exception to Reporting for Privileged Information

The Act does not require reporting of the name of an individual or entity if disclosure of the name would violate California or federal law. The current Code contains a provision setting forth a procedure for applying to the Supreme Court for an exception to reporting obligations based on privilege. See Attachment A at section 7. The proposed amended Code adopts the same procedure for claiming privilege, with minor technical changes based on discussions with the office of the Chief Justice of California. See Attachment C at Appendix C.

Overview of Prohibitions Under Proposed Amended Code

The proposed amended Code includes additional conflicts related prohibitions:

Honoraria and Gifts

The proposed amended Code prohibits acceptance of any honoraria for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering from a source reportable on a Trustee's Form 700. Exceptions include income earned in connection with personal services rendered by the Trustee if the services are provided in connection with a bona fide business, trade, or profession—such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting— so long as the services are customarily provided in connection with the business, trade, or profession.

The proposed amended Code also prohibits acceptance of gifts totaling more than \$590¹¹ from a single source reportable on a Trustee's Form 700 within a calendar year, subject to various exceptions including gifts from close family members and gifts of similar value exchanged between the filer and another individual on holidays, birthdays, and similar occasions

Loans

The proposed amended Code prohibits receipt of personal loans from any officer, employee, member, or consultant of the State Bar, or from any person who has a contract with the State Bar (excepting loans made by banks or other financial institutions or indebtedness as part of a retail installment or credit card transaction, as long as the loan is made or the indebtedness is created in the lender's regular course of business on terms available to members of the public without regard to the Trustee's official status). Attachment C at section 8.2(B), 8.2(D).¹² The proposed amended Code also sets forth terms under which loans may be considered gifts. *Id.* at § 8.4.

¹¹ This limit is for 2023 and 2024. The FPPC adjusts the limit to account for inflation every two years.

¹² These provisions of FPPC Regulation 18730 expressly apply to certain "public officials" that are exempt from the state civil service system; such public officials include members of boards and commissions. Cal. Const. Art. VII, § 4(d). However, Trustees are excluded from the Act's definition of "public official." Cal. Gov't Code § 82048(b)(2). Notwithstanding this, to conform to the conflicts of interest principles embodied in the Act, Trustees should be bound by these loan limitations. Accordingly, the first page of the proposed amended Code deems references in the Code to "public officials" to include Trustees. In so doing, the proposed amended Code imposes these loan limitations on Trustees; this is not an amendment to the Act itself.

Disqualification from Decisions Impacting Trustee or Their Financial Interests

Section 9 of the proposed amended Code requires Trustees to disqualify themselves from making, participating in making, or attempting to use their official position to influence the making of any governmental decision that the Trustee knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on:

- The Trustee or a member of their immediate family¹³;
- Any business entity in which the Trustee has an investment worth \$2,000 or more;
- Any real property in which the Trustee has an interest worth \$2,000 or more;
- 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 Trustee within 12 months prior to the time when the decision is made;
- Any business entity in which the Trustee is a director, officer, partner, trustee, employee, or holds any position of management; or
- Any donor of a gift or gifts aggregating \$590 or more provided to, received by, or promised to the Trustee within 12 months prior to the time when the decision is made.

This disqualification provision is more expansive than, and is in addition to, that applicable to Trustees under Business and Professions Code section 6036(a) in that it requires disqualification based on financial interests not only from Board or Board committee decisions, but from influencing any governmental decision using the Trustee's official position. This disclosure obligation is also in addition to the obligation to disqualify from decisions involving personal nonfinancial interests set forth in Business and Professions Code section 6036(b), as that section might be amended from time to time.

Disqualification from Decisions Regarding Certain Contracts

Finally, Section 9.5 of the proposed amended Code prohibits Trustees¹⁴ from making, participating in making, or using their official position to influence any governmental decision

¹³ "Immediate family" includes a Trustee's spouse or registered domestic partner and dependent children.

¹⁴ This provision of FPPC Regulation 18730 expressly applies to certain "state administrative officials," which is a term that does not include State Bar officials. Cal. Gov't Code § 87400(a). Notwithstanding this, to conform to the conflicts of interest principles embodied in the Act, Trustees should be bound by this disqualification provision regarding contracts with parties with whom Trustees have done business on favorable terms. Accordingly, the first page of the proposed amended Code deems references in the Code to "state administrative official" to include Trustees. In so doing, the proposed amended Code imposes these disqualification obligations on Trustees; this is not an amendment to the Act itself.

directly relating to any contract where the Trustee knows or has reason to know that any party to the contract is a person with whom the Trustee or any member of their immediate family has, within 12 months prior to the time when the official action is to be taken, engaged in a business transaction(s) on terms not available to members of the public, regarding the rendering of goods or services totaling in value \$1,000 or more or regarding any investment or interest in real property.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

After an amended Conflict of Interest Code for the Board of Trustees of the State Bar of California is approved by the Chief Justice of California or designee, staff will update the sections of the Board of Trustees Policy Manual addressing Financial Disclosures (Section 11.1.1) and Disqualification (11.1.2), as well as the appendix setting forth the code (Appendix C).

STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS

Goal 4. Protect the Public by Engaging Partners

- d. 1. Collaborate with the legislature and other stakeholders to increase public protection and support the State Bar's mission.

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees approves for submission to the Chief Justice of California the proposed amended Conflict of Interest Code for the Board of Trustees of the State Bar of California set forth in Attachment C; and it is

FURTHER RESOLVED, that staff is directed to develop and implement training for the Board of Trustees on the updated Code once it is adopted by the Chief Justice of California or designee, and to submit to the Board of Trustees a plan for future trainings complying, at a minimum, with the requirements of Government Code section 11146.3; and it is

FURTHER RESOLVED, that staff is directed to update the relevant sections of the Board of Trustees Policy Manual once the updated Code is adopted by the Chief Justice of California or designee.

ATTACHMENTS LIST

- A.** Current Conflict of Interest Code for the Board of Trustees of the State Bar of California
- B.** April 19, 2023, Letter to Leah Wilson from Clerk and Executive Officer of the Supreme Court
- C.** Proposed Amended Conflict of Interest Code for the Board of Trustees of the State Bar of California

CONFLICT OF INTEREST CODE FOR THE BOARD OF TRUSTEES OF THE STATE BAR OF CALIFORNIA

Section 1: Definitions

The definitions set forth in Government Code section 82000 et seq. are incorporated by reference in this code.

(Source: Board of Governors' Resolution April 1986, adopted by the Supreme Court, effective June 30, 1986.)

Section 2: Enumeration of Positions Subject to This Code

All members of the Board of Trustees are subject to this code.

(Source: Board of Governors' Resolution April 1986, adopted by the Supreme Court, effective June 30, 1986; Bus. and Prof. Code § 6010, amended January 1, 2012.)

Section 3: Reportable Financial Interests

A member shall disclose an investment, interest in real property, and income as required by Government Code sections 87206 and 87207 if, during a reporting period, the Board of Trustees has made a decision that materially affects the investment, interest in real property, or income. Disclosures required by this code are in addition to disclosures required by Business and Professions Code section 6036.

(Source: Board of Governors' Resolution April 1986, adopted by the Supreme Court, effective June 30, 1986; Bus. and Prof. Code § 6010, amended January 1, 2012.)

Section 4: Disclosure Statements: Contents, Time for Filing, and Reporting Periods

Disclosures shall be made on forms prescribed by the Fair Political Practices Commission. Contents, time for filing, and reporting periods shall be as follows:

- a) Initial Statements: Each member who is incumbent on the date this code first becomes effective shall, within 30 days after that date, file a statement identifying the member.
- b) Assuming Office Statements: Each person who becomes a member of the Board of Trustees after this code becomes effective shall, within 30 days after taking the oath of office, file a statement identifying the member.
- c) Annual Statements: Each member shall by March 1 file an annual statement disclosing information required by section 3 of this code. The period covered by the annual statement shall be the prior calendar year or that portion of the prior calendar year during which the person making the disclosure was a member of the Board of Trustees.

d) Leaving Office Statements: After leaving office, each former Board member shall, within 30 days after the date of leaving office, file a statement disclosing information required by section 3 of this code for the period beginning the day after the closing date of the last statement filed and the date of leaving office.

(Source: Board of Governors' Resolution April 1986, adopted by the Supreme Court, effective June 30, 1986; Bus. and Prof. Code § 6010, amended January 1, 2012.)

Section 5: Place of Filing Statements

Disclosure statements shall be filed with the secretary of the State Bar. The secretary shall make and retain a copy of each statement and forward the originals to the clerk of the Supreme Court within five days after the filing deadline or within five days after receipt in the case of statements filed late.

(Source: Board of Governors' Resolution April 1986, adopted by the Supreme Court, effective June 30, 1986.)

Section 6: Assistance to Members

As provided by Government Code section 83114, members may request advice and assistance from the Fair Political Practices Commission with respect to their duties under this code.

(Source: Board of Governors' Resolution April 1986, adopted by the Supreme Court, effective June 30, 1986.)

Section 7: Privileged Information Withheld from a Statement of Economic Interests

If a member of the Judicial Council, Commission on Judicial Performance, or the Board of Trustees of the State Bar of California believes that disclosure under Government Code section 87207(b)(2) of the name of a person who paid fees or made payments to a business entity would violate a legally recognized privilege under California law, the member may assert the privilege as follows:

- a) The member shall not report in the disclosure statement the information asserted to be privileged.
- b) The member shall file with the disclosure statement a separate statement under penalty of perjury that (1) advises the filing officer that a reportable source of income has not been reported, (2) asserts the applicable privilege, (3) states the legal basis for the assertion, and (4) states, as specifically as possible without defeating the privilege, facts that demonstrate why the privilege is applicable.
- c) The Supreme Court shall designate one or more persons who are not members of the court to act as the code-reviewing body solely to determine if the privilege is applicable. The designated code-reviewing body may request additional information from the member and

consider additional evidence in camera. If the designated code-reviewing body determines that disclosure is required, the member shall disclose the unreported information within 15 days after the clerk of the Supreme Court mails notice of the determination.

(Source: The Supreme Court as code-reviewing body under Government Code section 82011(e) adopted the above procedure effective June 30, 1986; Bus. and Prof. Code § 6010, amended January 1, 2012.)



ATTACHMENT B

Supreme Court of California

JORGE E. NAVARRETE
CLERK AND EXECUTIVE OFFICER
OF THE SUPREME COURT

EARL WARREN BUILDING
350 McALLISTER STREET
SAN FRANCISCO, CA 94102
(415) 865-7000

April 19, 2023

SENT VIA USPS AND EMAIL

Leah Wilson, Executive Director
State Bar of California
180 Howard Street
San Francisco, CA 94105
leaht.wilson@calbar.ca.gov

RE: Conflicts of Interest Policy for the Board of Trustees

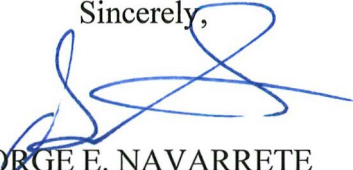
Dear Ms. Wilson:

The court understands and appreciates that the State Bar has taken several steps to strengthen its internal reporting requirements and procedures regarding its employees' potential conflicts of interest. The court is also aware that the State Bar has recently recognized the Conflict of Interest Code for the Board of Trustees of the State Bar of California is out of date and should be amended.

To facilitate their prompt review, the Chief Justice, with the support of the other members of the court, directs the State Bar to expedite the drafting of amendments to the Conflict of Interest Code for the Board of Trustees of the State Bar of California and submit these amendments to the Chief Justice for consideration no later than August 1, 2023. (Gov. Code, §§ 87304, and 87306, subd. (b).) In addition, the State Bar is directed to develop policies, consistent with Government Code section 11146.3, concerning when and how often trustees should be trained on ethics and conflicts of interest.

Finally, the court would like to remind the State Bar of its individual and organizational filing obligations related to conflicts of interest. (Gov. Code, §§ 87306, subd. (b), 87500, subd. (k).)

Sincerely,


JORGE E. NAVARRETE
Clerk and
Executive Officer of the Supreme Court

cc: Ruben Duran, Chair, State Bar Board of Trustees
Brandon Stallings, Vice-Chair State Bar Board of Trustees

CONFLICT OF INTEREST CODE FOR THE BOARD OF TRUSTEES OF THE STATE BAR OF CALIFORNIA

(Current Version Approved by the Chief Justice of California or Designee on _____)

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730), which contains the terms of a standard conflict of interest code.

The Chief Justice of California, or designee, has incorporated the terms of Regulation 18730 of the Regulations of the Fair Political Practices Commission Title 2, Division 6, California Code of Regulations, set forth below (and any future amendments thereto as may be duly adopted by the Fair Political Practices Commission), to constitute the amended Conflict of Interest Code for the Board of Trustees of the State Bar of California. The provisions of Regulation 18730, which appear below, along with this page, Appendix A (Designated Positions of the Board of Trustees of the State Bar of California), Appendix B (Disclosure Categories for the Members of the Board of Trustees of the State Bar of California), and Appendix C (Privileged Information Withheld from a Statement of Economic Interests), constitute the complete Conflict of Interest Code for the Board of Trustees of the State Bar of California.

The disqualification obligations set forth in Sections 9 and 9.5 of Regulation 18730 are in addition to those set forth in California Business & Professions Code section 6036, as that section or any other provision of the State Bar Act concerning disqualification due to conflicts of interest may be amended from time to time. Trustees remain subject to section 6036 or any other applicable provision of the State Bar Act relating to conflicts of interest and must disqualify themselves from decision making under the circumstances set forth therein.

All references to “public official” in Regulation 18730 shall be deemed to include Trustees of the State Bar of California, notwithstanding California Government Code section 82048, subdivision (b)(2). All references to “state administrative official” in Regulation 18730 shall be deemed to include Trustees of the State Bar of California, notwithstanding California Government Code section 87400, subdivision (a).

Place of Filing of Statements of Economic Interests (Form 700)

Statements of Economic Interests (also known as Form 700) of members of the Board of Trustees shall be filed with the Board Secretary of the State Bar. The Board Secretary shall make and retain a copy of each statement and forward the originals to the clerk of the Supreme Court within ten days after the filing deadline or within ten days after receipt in the case of statements filed late. In the event of electronic filing of the statement, the Board Secretary shall submit an electronic copy of the filed statement to the Supreme Court, which shall be deemed an original.

(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. [FN1]

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 the employee's statement of economic interests those economic interests the employee has which are of the kind described in the disclosure categories to which the employee 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 the employee foreseeably can affect materially through the conduct of the employee's 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. [FN2]

(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 the person's 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 the person is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of the person's 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 the person did not make or participate in the making of, or use the person's position to influence any decision and did not receive or become entitled to receive any form of payment as a result of the person's 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 the person 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 property [FN3] is required to be reported, [FN4] 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, [FN5] 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, [FN6] 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 the employee is a director, officer, partner, trustee, employee, or in which the employee 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 the member's or employee's 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 \$590.

(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 \$590 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 the member's or employee's 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 the election to office through the date that the officer 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 the election to office through the date that the officer 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 the official 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 the officer's election to office through the date the officer 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 the employee's official position to influence the making of any governmental decision which the employee 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 the official's 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 \$590 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 the employee's 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 the employees' 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 the official's 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 the official's 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 the employee should not make a governmental decision because the employee 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 the 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 the employee's 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 the employee's community property interest in the income of the employee's 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.

Credits

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).

35. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-12-2018; operative 1-11-2019 pursuant to Cal. Code Regs., tit. 2, section 18312(e). 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 and not subject to procedural or substantive review by OAL) (Register 2018, No. 50).

36. Amendment of subsections (b)(8.1)-(8.1)(A) filed 12-23-2020; operative 1-1-2021 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 2020, No. 52).

37. Amendment of subsections (b)(3)(C), (b)(5)(C), (b)(5.5), (b)(5.5)(A)(2), (b)(7)(D), (b)(8)(A), (b)(8.1)(A), (b)(8.2)(A), (b)(8.2)(C)-(D), (b)(8.3)(A), (b)(9), (b)(9.3), (b)(9.5), (b)(10) and (b)(11) and footnote 5 filed 5-12-2021; operative 6-11-2021 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 2021, No. 20).

38. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-20-2022; operative 1-19-2023 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 2022, No. 51).

Appendix A – Designated Positions of the Board of Trustees of the State Bar of California

<u>Designated Position</u>	<u>Disclosure Categories</u>
Member of the Board of Trustees	1, 2, 3

DRAFT

Appendix B – Disclosure Categories for the Members of the Board of Trustees of the State Bar of California

Category 1

All reportable interests in real property located in California or within two miles of California.

Category 2

All reportable investments, income (including loans, gifts, and travel payments) and business positions with, from, or in persons or entities that are subject to the regulatory or licensing authority of the State Bar of California or have an application for a license or other certification or approval pending before the State Bar of California, including but not limited to: California attorneys and law firms, including without limitation law corporations and limited liability partnerships; law schools; law students; applicants to become licensed by the State Bar; California lawyer referral services; California legal aid providers; providers of mandatory continuing legal education in California; California lawyer referral services; and financial institutions offering IOLTA accounts in California.

Category 3

All reportable investments, income (including loans, gifts, and travel payments) and business positions with, from, or in businesses that are located in or do business in California and manufacture, provide, or sell in California goods, services, supplies, materials, machinery or equipment of a type purchased or leased by the State Bar of California, including without limitation:

- (a) Legal services;
- (b) Legal publications and legal research providers;
- (c) Vendors of office supplies, office equipment, office furniture or business maintenance supplies or services, typesetting, printing or duplicating services or equipment, messenger services, mass mailing services, and security services;
- (d) Travel agencies, hotels, meeting planning services, event or meeting rental services, conference rooms or similar event rentals, airlines, car rental agencies, ground transport entities, vendors of meeting space, and food services;
- (e) Insurance companies, brokerage firms, carriers, holding companies, underwriters, brokers, solicitors, agents, adjusters, claims managers, actuaries, and third-party administrators;
- (f) Banks and other financial institutions;
- (g) Vendors of computers, computer hardware, maintenance, software, SaaS, data processing, web hosting, web design, computer consulting services, video or telecom supplies, services, consulting or equipment, providers of audio-visual production services and IT related services;

- (h) Real estate brokerage firms, real estate agents, real estate brokers and companies that engage in property management, land development, construction or the acquisition or sale or leasing or subleasing of real property;
- (i) Providers of consulting, rehabilitative, educational treatment or other services concerning the prevention, treatment or rehabilitation of persons suffering from chemical dependency; and
- (j) Public relations and/or media management consultants.

DRAFT

Appendix C – Privileged Information Withheld from a Statement of Economic Interests

If a member of the Board of Trustees of the State Bar of California believes that disclosure in a Statement of Economic Interests of the name of a person or entity, the disclosure of which would otherwise be required under this Conflict of Interest Code for the Board of Trustees of the State Bar of California, would violate a legally recognized privilege under California law, the member may assert the privilege as follows:

- a) The member shall not report in the disclosure statement the information asserted to be privileged.
- b) The member shall file with the disclosure statement a separate statement under penalty of perjury that (1) advises the filing officer that a reportable person or entity has not been reported, (2) asserts the applicable privilege, (3) states the legal basis for the assertion, and (4) states, as specifically as possible without defeating the privilege, facts that demonstrate why the privilege is applicable.
- c) The Chief Justice of California, or designee(s), shall determine if the privilege is applicable. The Chief Justice of California, or designee(s), may request additional information from the member and consider additional evidence in camera. If the Chief Justice of California, or designee(s), determines that disclosure is required, the member shall disclose the unreported information within 15 days after the clerk of the Supreme Court mails notice of the determination.