



The State Bar of California

OPEN SESSION AGENDA ITEM 50-4 NOVEMBER 2023

DATE: November 16, 2023

TO: Members, Board of Trustees

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

SUBJECT: Proposed Changes to Conflict of Interest Code for Designated Employees of the State Bar of California: Request to Circulate for Public Comment

EXECUTIVE SUMMARY

This item requests that the Board of Trustees approve for circulation for a 45-day public comment an updated version of the Conflict of Interest Code for Designated Employees of the State Bar of California.

These changes update the list of designated employees to reflect several new, removed, and changed titles; increase reporting requirements for several positions to ensure all financial interests that are reasonably foreseeable to be affected by decisions made by those positions are disclosed; make additions to the prefatory instructions to conform to recent updates to the Conflict of Interest Code for the Board of Trustees of the State Bar of California; and make clarifying revisions to the descriptions of disclosure categories.

BACKGROUND

The Political Reform Act, Government Code section 81000, *et seq.* (PRA), requires that the State Bar, like other state agencies, adopt a conflict of interest code for officers, employees and consultants who, during the course of their work for the agency, make or participate in making decisions that may have a material impact on the interests defined in the code. Pursuant to the PRA, the State Bar has adopted a Conflict of Interest Code for Designated Employees of the State Bar of California (Code). The State Bar's Code adopts the model conflict of interest code promulgated and regularly updated by the California Fair Political Practices Commission (FPPC) in Regulation 18730 of Title 2, Division 6 of the California Code of Regulations.

The Code includes a list of designated employee positions (including volunteers and contractors) that are subject to the Code (Appendix A of the Code); these designated employees must report particular personal and financial interests because they make or participate in making decisions that could have an impact on those financial interests. The Code also includes a list of categories in which designated employees must disclose interests (Appendix B of the Code); these categories reflect the subject matter areas in which the designated employees may participate in decisions that could potentially be influenced by their own financial interests.

Government Code section 87306 requires periodic revisions of the Code to assure that the list of designated employees and disclosure categories are accurate, and to conform the Code to changes that may have occurred in the PRA or regulations of the FPPC.

DISCUSSION

This year, several substantive changes are proposed to the Code.

The Office of General Counsel, in consultation with Human Resources and management of each office, has reviewed and updated Appendix A, the list of designated employee positions that are subject to reporting requirements, as well as Appendix B, the description of disclosure categories.

Updated Appendix A reflects several title changes and new positions. Additionally, updated Appendix A increases the disclosure requirements for several employee positions and for volunteers on several State Bar subentities to comply with the requirement that State Bar positions that make or participate in the making of decisions that are reasonably foreseeable to affect financial interests disclose such interests. Finally, Appendix A now expressly provides for reporting by newly created positions that make or participate in the making of decisions that may foreseeably have a material effect on any financial interest, consistent with applicable law and FPPC regulations.

Updated Appendix B contains several revisions to clarify the meaning of the disclosure categories. For instance, Disclosure Category 1 was adjusted so that those who disclose at this level, mainly senior management, are not required to report financial interests in businesses that do not do business with the State Bar. This is consistent with applicable law and regulations and with the reporting to be required of Trustees under the new Conflict of Interest Code for the Board of Trustees of the State Bar of California, which is currently pending Supreme Court approval. Additionally, Disclosure Category 14 was adjusted to specify that contractors and consultants are required to make disclosures under the Code if directed by the executive director or if required by their contracts with the State Bar, or, if they make decisions or serve in a staff capacity, under disclosure categories 1 and 2, unless otherwise directed in writing. Language referring to consultation with the Board regarding requiring contractors to make disclosures was removed, as such consultation on individual contracting decisions is not practicable and, in practice, consultants and contractors have been required, where

appropriate, to submit to the Code through provisions in their contracts. Finally, Disclosure Category 15 was added, to provide for disclosures by newly created positions,

The prefatory statement at the beginning of the Code was also updated to provide more information to covered individuals regarding how to comply with their obligations under the Code. This language is adapted from language suggested by the Chief Justice of the Supreme Court for the Conflict of Interest Code for the Board of Trustees of the State Bar of California; staff recommends including it in the Conflict of Interest Code for Designated Employees of the State Bar of California for consistency and to provide additional clarifying instruction to designated employees.

A redline comparison showing the changes to the proposed Conflict of Interest Code is attached as Attachment B.

Consistent with the past practice of circulating substantive changes to the Code for public comment, and in satisfaction of the statutory requirement under Government Code section 87311.5 that preparation of conflict of interest codes by judicial branch agencies be “carried out under procedures which guarantee to officers, employees, members, and consultants of the agency and to residents of the jurisdiction adequate notice and a fair opportunity to present their views,” State Bar staff recommends that the proposed updated Code be circulated for public comment for 45 days. Staff will discuss the effect of the proposed updated Code in more detail when the Code returns to the Board in January for adoption.

FISCAL/PERSONNEL IMPACT

None

AMENDMENTS TO RULES

None

AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL

None

STRATEGIC PLAN GOALS & OBJECTIVES

Goal: None – compliance

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 circulating for a 45-day public comment period for circulation for public comment for 45 days the proposed Conflict of Interest

Code for Designated Employees of the State Bar of California as set forth in Attachment A.

ATTACHMENT LIST

- A.** Conflict of Interest Code for Designated Employees of the State Bar of California
- B.** Redline comparison showing proposed changes to the Conflict of Interest Code for Designated Employees of the State Bar of California

CONFLICT OF INTEREST CODE FOR DESIGNATED EMPLOYEES OF THE STATE BAR OF CALIFORNIA

(Current Version Approved by the Board of Trustees on January __, 2024)

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, California Code of Regulations, title 2, section 18730 ("Regulation 18730"), which contains the terms of a standard conflict of interest code.

The Board of Trustees of the State Bar of California has incorporated the terms of Regulation 18730 to constitute the adoption and amendment of the Conflict of Interest Code for Designated Employees of the State Bar of California. The provisions of Regulation 18730, which appear below, along with this and the following page, Appendix A (Designated Employee Positions), and Appendix B (Disclosure Categories), constitute the complete Conflict of Interest Code for Designated Employees 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 Business and Professions Code section 6036, as that section or any other provision of the State Bar Act (Bus. & Prof. Code, § 6000, et seq.) concerning disqualification due to conflicts of interest may be amended from time to time. Under Business and Professions Code section 6036, designated employees (which includes individuals designated in Appendix A, even if volunteers or otherwise not employees) must disqualify themselves from making, participating in the making of, or attempting to influence any decision of the State Bar of California (1) when the designated employee has a financial interest and it is reasonably foreseeable that the interest may be affected materially by the decision; or (2) when the designated employee has a personal interest that may prevent the designated employee from applying disinterested skill and undivided loyalty to the State Bar in making or participating in the making of the decision.

Pursuant to California Business and Professions Code section 6001, subdivision (e)(3), designated employees are additionally subject to the conflicts of interest provisions relating to contracts set forth in Government Code sections 1090 to 1097.2, inclusive, and are deemed state officers thereunder. These provisions generally provide, subject to certain exceptions, that state officers shall not be financially interested in any contract made by them in their official capacity or by any board of which they are members.

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

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

Statements of Economic Interests (also known as Form 700) of designated employees of the State Bar of California shall be filed with the State Bar using the Netfile electronic filing system or as otherwise directed by the State Bar's Office of Human Resources and/or Office of General Counsel.

Privileged Information Withheld from a Statement of Economic Interests (Form 700)

If a designated employee 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 Designated Employees of the State Bar of California, would violate a legally recognized privilege under California law, the designated employee may assert the privilege as follows:

- a) The designated employee shall not report in the disclosure statement the information asserted to be privileged.
- b) The designated employee shall file with the disclosure statement a separate statement under penalty of perjury that (1) advises 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 Office of General Counsel shall determine if the privilege is applicable. The Office of General Counsel may request additional information from the designated employee. If the Office of General Counsel determines that disclosure is required, the designated employee shall disclose the unreported information within 15 days after the Office of General Counsel issues its determination.

(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 EMPLOYEE POSITIONS

OFFICE AND POSITIONS	DISCLOSURE CATEGORIES
I. Executive Director	
Executive Director/Chief Executive Officer	1, 2
Principal Program Analyst	2, 13
Senior Program Analyst	2, 13
<i>Strategic Communications & Stakeholder Engagement</i>	
Program Director I	1, 2
Senior Program Analyst	2, 8, 12, 13
Program Analyst	2, 8, 12, 13
Program Coordinator	2, 8, 12, 13
<i>Public Trust Liaison</i>	
Public Trust Liaison	1, 2
Principal Program Analyst	2, 13
Program Supervisor	2, 13
Attorney II	2, 13
II. Office of General Counsel	
General Counsel	1, 2
Deputy General Counsel	1, 2
Program Supervisor	2, 3, 5, 13
Attorney I, II, III, IV	2, 3, 4, 5, 6, 8, 9, 13
Attorney V	1, 2
III. Office of Chief Trial Counsel	
Chief Trial Counsel	1, 2
Deputy Chief Trial Counsel	1, 2
Assistant Chief Trial Counsel	1, 2
Program Supervisor	2, 3, 5, 7, 13
Supervising Attorney	2, 3, 5, 7, 13
Attorney I, II, III, IV, V	2, 7, 13
Investigator I, II, III	2, 7, 13
Forensic Accountant	2, 7, 13
Lead Program Analyst	2, 7, 13
IV. Administrative Division	
Chief Administrative Officer	1, 2
Principal Program Analyst	1, 2
<i>Human Resources</i>	
Director, Human Resources	1, 2
Principal Human Resources Analyst	2, 6, 9, 13
Lead Human Resources Analyst	2, 6, 9, 13
Senior Human Resources Analyst	2, 6, 9, 13
Human Resources Analyst	2, 6, 9, 13
<i>General Services</i>	

Director, General Services	1, 2
Principal Program Analyst	1, 2
Program Supervisor	2, 3, 5, 6, 8, 10
Senior Program Analyst	2, 3, 5, 6, 8, 10
Program Analyst	2, 3, 5, 6, 8, 10
Program Coordinator	2, 3, 5, 6, 8, 10
General Services Specialist III	2, 3, 5, 6, 8, 10
Information Technology	
IT Director III	1, 2
IT Director I	2, 8, 13
IT Manager III	2, 8, 13
IT Manager II	2, 8, 13
IT Manager I	2, 8, 13
Principal Program Analyst	2, 8, 13
Lead IT Analyst	2, 8, 13
Senior IT Analyst	2, 8, 13
Senior IT Business Systems Analyst	2, 8, 13
Senior Program Analyst	2, 8, 13
Program Analyst	2, 8, 13
V. Office of Finance	
Chief Financial Officer	1, 2
Controller	1, 2
Finance Manager	2, 7, 13
Principal Financial Analyst	2, 7, 13
Senior Financial Analyst	2, 7, 13
VI. Programs Division	
Chief of Programs	1, 2
Deputy Chief of Programs	1, 2
Senior Program Analyst (Legislative Affairs)	1, 2
Access & Inclusion	
Program Director II	1, 2
Program Director I	1, 2
Program Supervisor	2, 3, 4, 5, 7, 13
Lead Program Analyst	2, 4, 5, 7, 13
Senior Program Analyst	2, 4, 5, 7, 13
Senior Financial Analyst	2, 7, 13
Program Analyst	2, 4, 5, 7, 13
Admissions	
Program Director III	1, 2
Program Director I	1, 2
Program Manager III	2, 4, 13
Program Manager II	2, 4, 13
Program Manager I	2, 4, 13
Principal Program Analyst	2, 4, 13
Attorney III	2, 4, 13
Investigator I, II, III	2, 4, 13
Program Supervisor	2, 4, 5, 13
Senior Program Analyst	2, 4, 5, 13

Program Analyst	2, 4, 5, 13
Program Coordinator	2, 4, 5, 13
Program Specialist I, II, III	2, 4, 5, 13
Professional Support and Client Protection (includes CSF, LAP Probation, and Mandatory Fee Arbitration)	
Program Director III	1, 2
Client Security Fund	
Managing Attorney	2, 13
Attorney II, III	2, 13
Program Supervisor	2, 3, 5, 13
LAP	
Program Supervisor	2, 3, 5, 11, 13
Senior Program Analyst	2, 11, 13
Clinical Monitoring Analyst	2, 11, 13
Probation	
Supervising Attorney	2, 3, 5, 13
Probation Case Coordinator	2, 13
Mandatory Fee Arbitration	
Attorney III	2, 13
Senior Program Analyst	2, 13
Professional Competence	
Program Director III	1, 2
Managing Attorney	2, 13
Attorney II	2, 13
Program Manager I	2, 4, 5, 13
Lead Program Analyst	2, 13
Senior Program Analyst	2, 11, 13
Program Specialist III	2, 11, 13
JNE Commission	
Program Supervisor	2, 13
Program Analyst	2, 13
Program Coordinator	2, 13
VII. State Bar Court	
Clerk of the Court	1, 2
Court Counsel	1, 2
State Bar Court Judge	2, 13
Program Manager II	1, 2
Attorney I, II, III, IV	2, 13
Attorney V	1, 2
Supervising Attorney	1, 2
Program Supervisor	2, 13
Paralegal II	2, 8, 13
VIII. Mission Advancement & Accountability Division	
Chief Mission Officer	1, 2
Program Director I	1, 2
Program Manager III	1, 2
Principal Program Analyst	1, 2
Senior Program Analyst	2, 8, 12, 13

Lead Program Analyst	2, 8, 12, 13
Senior Program Analyst	2, 8, 12, 13
Program Analyst	2, 8, 12, 13
IX. Regulation Division	
Special Counsel, Regulation	1, 2
Deputy Special Counsel, Regulation	1, 2
Program Director II	1, 2
Program Manager I	2, 13
Program Supervisor	2, 13
Principal Program Analyst	2, 13
Lead Program Analyst	2, 13
Senior Program Analyst	2, 13
X. Committees and Other	
Lawyer Assistance Program Oversight Committee	2, 11, 13
California Board of Legal Specialization	2, 4, 13
Committee of Bar Examiners	2, 4, 13
Client Security Fund Commission	2, 13
Legal Services Trust Fund Commission	2, 7, 13
Committee on Professional Responsibility and Conduct	2, 13
Commission on Judicial Nominees Evaluation	2, 13
Special Deputy Trial Counsel and Special Deputy Trial Counsel Administrator	2, 13
Consultants/Contractors	14
Newly Created Positions	15

APPENDIX B

DISCLOSURE CATEGORIES

Category 1.	Designated Employees in this category shall disclose all reportable interests in real property located in California or within two miles of California, and all reportable investments in, sources of income (including loans, gifts, travel or other payments) received from, or positions held 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 falling within Disclosure Categories 3 through 12, below.
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Designated Employees in the following categories shall disclose, as required by this Code, all reportable investments in, business positions held in, and sources of income including gifts, loans, and other payments received from sources described below:

Category 2.	Sources that are subject to the regulatory, permit or licensing authority of the State Bar of California or have an application for a license, permit or other certification 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; applicants to become licensed by the State Bar of California; California lawyer referral services; and California legal aid providers.
Category 3.	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 or security services.
Category 4.	Accredited and unaccredited law schools, admissions related consultants and sources that provide education, training or education and training products used to qualify for or maintain a license to practice law in California including providers of continuing legal education, legal publications, and online legal research.
Category 5.	Travel agencies, hotels, meeting planning services, airlines, car rental agencies, ground transport entities, vendors of meeting space, food services, and entertainment.
Category 6.	Insurance companies, brokerage firms, carriers, holding companies, underwriters, brokers, solicitors, agents, adjusters, claims managers, actuaries, and third-party administrators.

Category 7.	Banks and other financial institutions.
Category 8.	Vendors of computers, computer hardware, maintenance, software, data processing, web hosting, web design, computer consulting services, video or telecom supplies, services, consulting or equipment and providers of audio-visual production services.
Category 9.	Employee benefit providers and administrators of employee benefits, personnel consulting services and employment agencies.
Category 10.	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.
Category 11.	Providers of consulting, rehabilitative, educational treatment or other services concerning the prevention, treatment or rehabilitation of persons suffering from chemical dependency.
Category 12.	Public relations and / or media management consultants.
Category 13.	An individual required to report for this category must disclose a financial interest if, during the reporting period, a decision that was reasonably foreseeable to materially affect that financial interest, in a manner distinguishable from the effect on the public generally, came before the individual in their work for the State Bar. (Under such circumstances, such individual would be required by Business and Professions Code, sections 6036 and 6038, to disqualify themselves from making, participating in making, or attempting to influence the decision.)

Category 14.	Consultants and contractors are deemed Designated Employees hereunder if designated by the Executive Director and/or so deemed by the consultant's or contractor's contract with the State Bar, and shall report financial interests pursuant to the disclosure category or categories specified by the Executive Director and/or in the consultant's or contractor's contract with the State Bar. Notwithstanding the above, any contractor whose specific position is not listed in Appendix A of this Code who makes government decisions or serves in a staff capacity shall make disclosures pursuant to Disclosure Categories 1 and 2 unless otherwise directed by the State Bar in writing.
Category 15.	Newly created positions not yet listed in Appendix A of this Code that make or participate in the making of decisions that may foreseeably have a material effect on any financial interest shall make disclosures pursuant to Disclosure Categories 1 and 2, unless the State Bar directs in writing that other disclosure categories apply.

CONFLICT OF INTEREST CODE FOR DESIGNATED EMPLOYEES OF THE STATE BAR OF CALIFORNIA

(Current Version Approved by the Board of Trustees on January __, 2024)

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, California Code of Regulations, title 2, section 18730 ("Regulation 18730"), which contains the terms of a standard conflict of interest code.

The Board of Trustees of the State Bar of California has incorporated the terms of Regulation 18730 ~~of the Regulations of the Fair Political Practices Commission Title 2, Division 6, California Code of Regulations~~ to constitute the adoption and amendment of the Conflict of Interest Code for Designated Employees of the State Bar of California. The provisions of Regulation 18730, which appear below, along with this and the following page, Appendix A, ~~the list of the State Bar's~~ (Designated Employee Positions), and Appendix B, ~~the~~ (Disclosure Categories ~~for Designated Employees~~), constitute the complete Conflict of Interest Code for Designated Employees of the State Bar of California. ~~(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)~~

The disqualification obligations set forth in Sections 9 and 9.5 of Regulation 18730 are in addition to those set forth in Business and Professions Code section 6036, as that section or any other provision of the State Bar Act (Bus. & Prof. Code, § 6000, et seq.) concerning disqualification due to conflicts of interest may be amended from time to time. Under Business and Professions Code section 6036, designated employees (which includes individuals designated in Appendix A, even if volunteers or otherwise not employees) must disqualify themselves from making, participating in the making of, or attempting to influence any decision of the State Bar of California (1) when the designated employee has a financial interest and it is reasonably foreseeable that the interest may be affected materially by the decision; or (2) when the designated employee has a personal interest that may prevent the designated employee from applying disinterested skill and undivided loyalty to the State Bar in making or participating in the making of the decision.

Pursuant to California Business and Professions Code section 6001, subdivision (e)(3), designated employees are additionally subject to the conflicts of interest provisions relating to contracts set forth in Government Code sections 1090 to 1097.2, inclusive, and are deemed state officers thereunder. These provisions generally provide, subject to certain exceptions, that state officers shall not be financially interested in any contract made by them in their official capacity or by any board of which they are members.

All references to "public official" in Regulation 18730 shall be deemed to include designated employees of the State Bar of California, notwithstanding Government Code section 82048, subdivision (b)(2). All references to "state administrative official" in Regulation 18730 shall be

deemed to include designated employees of the State Bar of California, notwithstanding Government Code section 87400, subdivision (b).

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

Statements of Economic Interests (also known as Form 700) of designated employees of the State Bar of California shall be filed with the State Bar using the Netfile electronic filing system or as otherwise directed by the State Bar's Office of Human Resources and/or Office of General Counsel.

Privileged Information Withheld from a Statement of Economic Interests (Form 700)

If a designated employee 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 Designated Employees of the State Bar of California, would violate a legally recognized privilege under California law, the designated employee may assert the privilege as follows:

a) The designated employee shall not report in the disclosure statement the information asserted to be privileged.

b) The designated employee shall file with the disclosure statement a separate statement under penalty of perjury that (1) advises 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 Office of General Counsel shall determine if the privilege is applicable. The Office of General Counsel may request additional information from the designated employee. If the Office of General Counsel determines that disclosure is required, the designated employee shall disclose the unreported information within 15 days after the Office of General Counsel issues its determination.

(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 EMPLOYEE POSITIONS

OFFICE AND POSITIONS	DISCLOSURE CATEGORIES
I. Executive Director	
Executive Director/Chief Executive Officer	1, 2
Principal Program Analyst	2, 13
<u>Senior</u> Program Analyst	2, 13
Strategic Communications & Stakeholder Engagement	
Program Director I	1, 2
Senior Program Analyst	2, 8, 12, 13
<u>Program Analyst</u>	<u>2, 8, 12, 13</u>
Program Coordinator	2, 8, 12, 13
Public Trust Liaison	
Public Trust Liaison	1, 2
<u>Principal Program Analyst</u> <u>Program Manager I</u>	2, 13
<u>Program Supervisor</u>	<u>2, 13</u>
<u>Attorney II</u>	<u>2, 13</u>
II. Office of General Counsel	
General Counsel	1, 2
Deputy General Counsel	1, 2
Program Supervisor	2, 3, 5, 13
Attorney I, II, III-, IV-, V	2, <u>3, 4, 5, 6, 8, 9, 13</u>
<u>Attorney V</u>	<u>1, 2</u>
III. Office of Chief Trial Counsel	
Chief Trial Counsel	1, 2
Deputy Chief Trial Counsel	1, 2
Assistant Chief Trial Counsel	<u>1, 2, 13</u>
Program Supervisor	2, 3, 5, <u>7, 13</u>
Supervising Attorney	2, 3, 5, <u>7, 13</u>
Senior Attorney <u>Attorney I, II, III, IV, V</u>	2, <u>7, 13</u>
<u>Attorney</u>	2, <u>7, 13</u>
Investigator I, II, III	2, <u>7, 13</u>
Forensic Accountant	2, <u>7, 13</u>
<u>Lead Program Analyst</u>	<u>2, 7, 13</u>
IV. Administrative Division	
Chief Administrative Officer	1, 2
Principal Program Analyst	1, 2
Human Resources	
Director, Human Resources	1, 2

Principal Human Resources Analyst	2, 6, 9, 13
Lead Human Resources Analyst	2, 6, 9, 13
Senior Human Resources Analyst	2, 6, 9, 13
Human Resources Analyst	2, 6, 9, 13

General Services	
Director, General Services	1, 2
Principal Program Analyst	1, 2
Program Supervisor	2, 3, 5, <u>6, 8, 10</u>
Senior Program Analyst	2, 3, 5, <u>6, 8, 10</u>
Program Analyst	2, 3, 5, <u>6, 8, 10</u>
Program Coordinator	2, 3, 5, <u>6, 8, 10</u>
General Services Specialist III	2, 3, 5, <u>6, 8, 10</u>
Information Technology	
IT Director III	1, 2
IT Director I	2, 8, 13
IT Manager III	2, 8, 13
IT Manager II	2, 8, 13
IT Manager I	2, 8, 13
<u>Principal Program Analyst</u>	<u>2, 8, 13</u>
<u>Lead IT Analyst</u>	<u>2, 8, 13</u>
<u>Senior IT Analyst</u>	<u>2, 8, 13</u>
<u>Senior IT Business Systems Analyst</u>	<u>2, 8, 13</u>
<u>Senior Program Analyst</u>	<u>2, 8, 13</u>
Program Analyst	2, 8, 13

V. Office of Finance	
Chief Financial Officer	1, 2
Controller	1, 2
Finance Manager	2, 7, 13
Principal Financial Analyst	2, 7, 13
Senior Financial Analyst	2, 7, 13
VI. Programs Division	
Chief of Programs	1, 2
Deputy Chief of Programs	1, 2
Senior Program Analyst (Legislative Affairs)	1, 2
Access & Inclusion	
Program Director II	1, 2
Program Director I	1, 2
Program Supervisor	2, 3, 4, 5, 7, 13
Lead Program Analyst	2, 4, 5, 7, 13
Senior Program Analyst	2, 4, 5, 7, 13
<u>Senior Financial Analyst</u>	<u>2, 7, 13</u>
Program Analyst	2, 4, 5, 7, 13
<u>Senior Financial Analyst</u>	<u>2, 7, 13</u>
Admissions	

Program Director III	1, 2
Program Director I	1, 2
Program Manager III	2, 4, 13
Program Manager II	2, 4, 13
Program Manager I	2, 4, 13
Principal Program Analyst	2, 4, 13
Senior Attorney III	2, 4, 13
Investigator I, II, III	2, 4, 13
Program Supervisor	2, 4, 5, 13
Senior Program Analyst	2, 4, 5, 13
Program Analyst	2, 4, 5, 13
Program Supervisor	2, 4, 5, 13
Program Coordinator	2, 4, 5, 13

Program Specialist <u>I, II, III</u>	2, 4, 5, 13
<u>Professional Support and Client Protection (includes CSF, LAP and Probation, and Mandatory Fee Arbitration)</u>	
<u>Program Director III</u>	<u>1, 2</u>
<u>Client Security Fund</u>	
Program Director III	1, 2
Managing Attorney	2, 13
Senior Attorney	2, 13
Attorney <u>II, III</u>	2, 13
Program Supervisor	2, 3, 5, 13
<u>LAP</u>	
Program Supervisor	2, 3, 5, 11, 13
Senior Program Analyst	2, 11, 13
Clinical Monitoring Analyst <u>Rehabilitation Coordinator</u>	2, 11, 13
<u>Probation</u>	
Supervising Attorney	2, 3, 5, 13
Probation Case Specialist <u>Coordinator</u>	2, 13
<u>Mandatory Fee Arbitration</u>	
<u>Attorney III</u>	<u>2, 13</u>
<u>Senior Program Analyst</u>	<u>2, 13</u>
<u>Professional Competence</u>	
Program Director <u>II</u>	1, 2
Managing Attorney	2, 13
Senior Attorney II	2, 13
Program Manager I	2, 4, 5, 13
Lead Program Analyst	2, 13
Senior Program Analyst	2, <u>11</u> , 13
<u>Program Specialist III</u>	<u>2, 11, 13</u>
<u>JNE Commission</u>	
Program Supervisor	2, 13
Program Analyst	2, 13
Program Coordinator	2, 13

VII. State Bar Court	
Clerk of the Court	1, 2
Court Counsel	1, 2
State Bar Court Judge	2, 13
Program Manager II	1, 2
Attorney I, II, III, IV	2, 13
Attorney V	<u>1, 2</u>
Supervising Attorney	<u>2, 13</u> , <u>1, 2</u>
Senior Attorney	<u>2, 13</u>
Attorney	<u>2, 13</u>
Program Supervisor	2, 13
Court SpecialistClerk	<u>2, 13</u>
Paralegal II	<u>2, 8, 13</u>
VIII. Mission Advancement & Accountability Division	
Chief Mission Officer	1, 2
Program Director I	1, 2
Program Manager III	<u>1, 2</u>
Principal Program Analyst	1, 2
Senior Program Analyst	2, 8, 12, 13
Lead Program Analyst	2, 8, 12, 13
Senior Program Analyst	<u>2, 8, 12, 13</u>
Program Analyst	2, 8, 12, 13

IX. Regulation Division	
Special Counsel, Regulation	<u>1, 2</u>
Deputy Special Counsel, Regulation	<u>1, 2</u>
Program Director II	<u>1, 2</u>
Program Manager II	<u>2, 13</u>
Program Supervisor	<u>2, 13</u>
Principal Program Analyst	<u>2, 13</u>
Lead Program Analyst	<u>2, 13</u>
Senior Program Analyst	<u>2, 13</u>
X. Committees and Other	
Lawyer Assistance Program Oversight Committee	<u>2, 11, 13</u>
California Board of Legal Specialization	<u>2, 4, 13</u>
Committee of Bar Examiners	<u>2, 4, 13</u>
Client Security Fund Commission	<u>2, 13</u>
Legal Services Trust Fund Commission	<u>2, 7, 13</u>
Committee on Professional Responsibility and Conduct	<u>2, 13</u>
Commission on Judicial Nominees Evaluation	<u>2, 13</u>
Special Deputy Trial Counsel and Special Deputy Trial Counsel Administrator	<u>2, 13</u>
Consultants/Contractors	14
Newly Created Positions	<u>15</u>

APPENDIX B

DISCLOSURE CATEGORIES

Category 1.	Designated Employees in this category shall disclose, as required by sections 6 and 7 of this Code, all reportable <u>interests in real property located in California or within two miles of California, and all reportable investments in, sources of income (including loans, gifts, and travel or other payments) received from, or positions held 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 falling within disclosure categories 3 through 12, below.</u> investments, business positions in business entities, interests in real property, and sources of income including gifts, loans, and other payments from sources identified in Categories 2 through 13 below.
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Designated Employees in the following categories shall disclose, as required by this Code, all reportable investments in, business positions held in, and sources of income including gifts, loans, and other payments received from sources described below:

Category 2.	Sources that are subject to the regulatory, permit or licensing authority of the State Bar of California or have an application for a license, permit or other certification pending before the State Bar of California, <u>including but not limited to: California attorneys and law firms, including without limitation law corporations and limited liability partnerships; applicants to become licensed by the State Bar of California; California lawyer referral services; and California legal aid providers.</u>
Category 3.	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 or security services.
Category 4.	Accredited and unaccredited law schools, admissions related consultants and sources that provide education, training or education and training products used to qualify for or maintain a license to practice law in California including providers of continuing legal education, legal publications, and online legal research.
Category 5.	Travel agencies, hotels, meeting planning services, airlines, car rental agencies, ground transport entities, vendors of meeting space, food services, and entertainment.

Category 6.	Insurance companies, brokerage firms, carriers, holding companies, underwriters, brokers, solicitors, agents, adjusters, claims managers, actuaries, and third-party administrators.
Category 7.	Banks and other financial institutions.
Category 8.	Vendors of computers, computer hardware, maintenance, software, data processing, web hosting, web design, computer consulting services, video or telecom supplies, services, consulting or equipment and providers of audio-visual production services.
Category 9.	Employee benefit providers and administrators of employee benefits, personnel consulting services and employment agencies.
Category 10.	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.
Category 11.	Providers of consulting, rehabilitative, educational treatment or other services concerning the prevention, treatment or rehabilitation of persons suffering from chemical dependency.
Category 12.	Public relations and / or media management consultants.

Category 13.	<p>An individual required to report for this category must disclose <u>a financial interest</u>s if, during <u>a the</u> reporting period, the individual was required to make a disclosure under the provisions of Business and Professions Code sections 6038 and 6036. Volunteer members of State Bar bodies who are required to report for this category, although not specifically enumerated in Business and Professions Code section 6038, shall make disclosures as if they were specifically enumerated therein <u>a decision that was reasonably foreseeable to materially affect that financial interest, in a manner distinguishable from the effect on the public generally, came before the individual in their work for the State Bar. (Under such circumstances, such individual would be required by Business and Professions Code, sections 6036 and 6038, to disqualify themselves from making, participating in making, or attempting to influence the decision.)</u></p>
Category 14.	<p>The disclosure category for Designated Employees in this category <u>Consultants and contractors are deemed Designated Employees hereunder shall be determined by if designated by the Executive Director in consultation with the Board of Trustees and/or so deemed by the consultant's or contractor's contract with the State Bar, and shall report financial interests pursuant to the disclosure category or categories specified by the Executive Director and/or in the consultant's or contractor's contract with the State Bar. Notwithstanding the above, any contractor whose specific position is not listed in Appendix A of this Code who makes government decisions or serves in a staff capacity shall make disclosures pursuant to Disclosure Categories 1 and 2 unless otherwise directed by the State Bar in writing.</u></p>
<u>Category 15.</u>	<p><u>Newly created positions not yet listed in Appendix A of this Code that make or participate in the making of decisions that may foreseeably have a material effect on any financial interest shall make disclosures pursuant to Disclosure Categories 1 and 2, unless the State Bar directs in writing that other disclosure categories apply.</u></p>