

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

607A



FROM: County Counsel

SUBMITTAL DATE: September 15, 2008

SUBJECT: Approval of the Conflict of Interest Code for the Valley Health System

RECOMMENDED MOTION: That the Board of Supervisors approve the amended Conflict of Interest Code submitted by the Valley Health System.

BACKGROUND: Government Code section 87306.5 requires that all local agencies review their Conflict of Interest Code, and the listing of designated positions for employees who must disclose along with the types of disclosure required, and make appropriate amendments to each as required.

The Valley Health System recently revised its Conflict of Interest Code to be effective October 1, 2008, and has submitted it for approval by the Board of Supervisors as the code reviewing body.

This office has reviewed the revised code and has found that it complies with statutory requirements. It is recommended that the Valley Health System new revised code be approved and that the Clerk of the Board notify the Agency of the action taken.

B.T. Miller, Deputy County Counsel for
JOE S. RANK, County Counsel

C.E.O. RECOMMENDATION:

APPROVE

BY: Tina Grande

County Executive Office Signature

Policy

Poll

Consent

Consent

Department Recommendation:

Per Executive Office:

Prev. Agn. ref.

Dist.

AGENDA NO.

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

2.13

CONFLICT OF INTEREST CODE
OF
VALLEY HEALTH SYSTEM

Amended Effective October 1, ~~2006~~2008

A. PURPOSE.

1. Statement of Purpose. It is the purpose of this Conflict of Interest Code (this "Code") to provide for the disclosure of designated employees' assets and income which may be materially affected by his or her official actions, and, in appropriate circumstances, to provide that designated employees should be disqualified from acting in order that conflicts of interest may be avoided. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000 et seq.) (the "Act").

B. DEFINITION OF TERMS.

1. Definitions. This Conflict of Interest Code contains a number of key terms, which are defined in the Political Reform Act of 1974 and the Regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Sections 18100 et seq.) (the "Regulations"). The definitions in the Act and in the Regulations, and any amendments to the Act or the Regulations, are hereby incorporated by reference into this Conflict of Interest Code. Summaries of such definitions are contained in the attached Addendum, which is provided for convenience of reference only and is not a part of this Code. The definitions of key terms contained in the Act or the Regulations may be amended and changed from time to time, so that summaries of definitions contained in the Addendum will be updated accordingly on a periodic basis. [See Reg. 18730 §1]

C. DISCLOSURE STATEMENTS.

1. Definitions. The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regs. 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this Code.

2. Designated Employees. The persons holding positions listed in the left-hand column of 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 financial interests. [See Reg. 18730 §2]

3. Disclosure Categories. This Code does not establish any disclosure obligations for those designated employees who are also specified in Government Code Section 87200 if he or she is designated in this Code in that same capacity or if the geographical jurisdiction of Valley Health System, a California local health care district (the "District") is the same as or is wholly included within the jurisdiction in which those persons must report his or her financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Section 87200, et seq. [See Reg. 18730 §3]

FORM APPROVED COUNTY COUNSEL

BY: B.T. Miller 9/15/08
BEAUFORD T. MILLER, JR. DATE

(1)

In addition, this Code does not establish any disclosure obligations 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 the District is the same as or is wholly included within the jurisdiction of the other agency;
- (b) The disclosure assigned in the Code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, Government Code Section 87200; and
- (c) The filing officer is the same for both agencies.¹

The foregoing are covered by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office. [See Reg. 18730 §3]

4. Statements of Economic Interest: Time of Filing Statements; Contents Thereof.

(a) Initial Statements. All designated employees employed by the District on the effective date of this Code, as 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. 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. [See Reg. 18730 §5A and §6A; See also Govt. Code Section 87302(b)]

(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, disclosing any reportable investments, interests in real property and business positions held on the date of assuming office, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively. [See Reg. 18730 §5B and §6B; See also Govt. Code Section 87302(b)]

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 of Chapter 7 of the Political Reform Act for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code 81004. [See Reg. 18730 §3 and note 1]

(i) A designated employee who transfers from one designated position to another designated position within the District is not deemed to have assumed or left office within the meaning of this Code. The next Statement of Economic Interests filed by such a designated employee shall disclose both:

(A) Interests made reportable by the employee's original disclosure category which were held or received at any time during the period from the opening date of the statement to the transfer date; and

(B) Interests made reportable by the employee's new disclosure category which were held or received at any time during the period from the date of the transfer through the closing date of the statement. [Reg. 18735]

(ii) In addition to the disclosure obligations described in paragraph (i) above, a designated employee who transfers to the position of board member, executive director or other chief executive officer shall, within ten (10) days following the transfer, amend his or her most recent Statement of Economic Interests to disclose any investments or interests in real property held on the date of transfer which are made reportable by the new disclosure category, but which were not previously reported. Such amended statement shall be filed with the Clerk of the Board of the District, who shall make and retain a copy and forward the original to the code reviewing body. If the employee has no new interests to report, he or she shall file a copy of his or her most recent statement within ten (10) days of transferring. In either case, either the statement or an accompanying letter should indicate the employee's new position and the date on which the transfer occurred. [Reg. 18735]

(iii) A designated employee who, at the expiration of his or her term, begins a term ~~of~~in the same position within the District within 30 days is not deemed to be a new employee within the meaning of Government Code Section 87302(b). Such person shall continue filing annual statements at the time specified in his or her agency's conflict of interest code. [Reg. 18735]

(iv) Filing Assuming Office Statements of Economic Interests; Alternates and Designees. For the purposes of Government Code Sections 87202 and 87302 and this Code, the date of assuming office is the date that a person either:

(A) Is authorized to serve in the position, as by being sworn in; or

(B) Except in the case of an elected official who is required to be sworn into office, begins to perform the duties of the position, as by making, participating in making, or attempting to use his or her official position to influence a governmental decision; whichever occurs earlier.

(v) For the purposes of Government Code sections 87202(a) and 87302(b), the date that a person is appointed or nominated to an office is the date the appointment or nomination is submitted to the confirming body.

(c) Annual Statements. All designated employees shall file statements no later than April 1, disclosing 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. [See Reg. 18730 §5C and §6C; See also Govt. Code Section 87302(b)]

(i) When a person assumes office or comes under the coverage of a newly effective Code between October 1 and December 31 and files an initial Statement of Economic Interests pursuant to this Code, that person need not file an annual Statement of Economic Interests until one year following the date specified in the Code if the filing deadline for the annual statement is April 1 or earlier. [Reg. 18732]

(ii) If a person leaves an office between January 1 and the filing deadline for his or her annual Statement of Economic Interests, the leaving office statement may serve as that person's annual statement, provided that prior to the deadline of the annual statement, the person notifies the filing officer in writing of his intention to follow this procedure. [Reg. 18732]

(iii) Dates for Filing Annual Statements of Economic Interests. [Reg. 18723] The filing deadline shall be April 1.

(A) If a person assumes an office specified in Government Code Section 87200 between October 1 and December 31 and files an assuming office Statement of Economic Interests pursuant to Government Code Section 87202, that person need not file an annual Statement of Economic Interests pursuant to Section 87203 until one year later than the date specified in subsection (ii).

(B) If a person leaves an office specified in Government Code Section 87200 between January 1 and the filing deadline for his or her annual Statement of Economic Interests, the leaving office Statement of Economic Interests filed pursuant to Government Code Section 87204 may serve as that person's annual Statement. Prior to the filing deadline for the annual Statement the person shall notify the filing officer in writing that he intends to follow this procedure.

(d) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office, disclosing reportable investments, interests in real property, and 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. [See Reg. 18730 §5D and §6D; See also Govt. Code Section 87302(b)]

(i) The date that a person permanently leaves office, for the purposes of Government Code Sections 87204 and 87302, is the date that the person is no longer authorized to perform the duties of the office, and stops performing those duties, including making, participating in making, or attempting to use his or her official position to influence any governmental decision. For purposes of this subdivision, a person shall not be deemed to have left office permanently because he or she is on a leave of absence or serves as an intermittent employee. However, a person shall be deemed to have left office permanently if the person merely receives compensation for accrued leave credits. [Reg. 18722(b)]

(ii) Every person who holds an office specified in Government Code sections 87200 or 87302, subdivision (a), as an alternate or as a designee, shall be required to disclose his or her economic interests in the same manner as any other person holding the office. Note: Authority cited: Section 83112, Government Code. Reference: Sections 87202, 87204 and 87302, Government Code.

(e) Statements for Persons Who Resign Prior to Assuming Office. Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office provided he or she did not make or participate in the making of, or use his or her position to influence, any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement. [See Reg. 18730 §5.5]

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:

- (i) File a written resignation with the appointing power; and
- (ii) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position. [See Reg. 18730 §5.5]

(f) Privileged Information. An official or candidate need not disclose under Government Code Section 87207(b) the name of a person who paid fees or made payments to a business entity if disclosure of the person's name would violate a legally recognized privilege under California law. Such a person's name may be withheld in accordance with the following procedure:

(i) An official who believes that a person's name is protected by a legally recognized privilege may decline to report the name, but shall file with his or her Statement of Economic Interests an explanation for such nondisclosure. The explanation shall separately state for each undisclosed person the legal basis for assertion of the privilege and, as specifically as possible without defeating the privilege, facts which demonstrate why the privilege is applicable.

(ii) With respect to each undisclosed person, the official shall state that to the best of his or her knowledge he or she has not and will not make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision when to do so constituted or would constitute a violation of Government Code Section 87100.

(iii) The Executive Director of the Fair Political Practices Commission may request further information from the official or candidate and, if no legal or factual justification sufficient to support assertion of the privilege is shown, may order that the disclosure required by the Act be made. The official or candidate shall, within 14 days after

receipt of an order from the Executive Director of the Fair Political Practices Commission, either comply with the order or, if he or she wants to challenge the determination of the Executive Director of the Fair Political Practices Commission, appeal the determination, in writing, to the Fair Political Practices Commission.

(iv) If the Executive Director of the Fair Political Practices Commission determines that nondisclosure is justified because of the existence of a privilege, the matter shall be referred to the Fair Political Practices Commission.

(v) The Fair Political Practices Commission shall review an appeal filed under paragraph (iii) or a recommendation made by the Executive Director of the Fair Political Practices Commission under paragraph (iv) at a meeting held no less than 14 days after notice of the meeting is mailed to the official, the Attorney General and both the district attorney and the city attorney of the jurisdictions in which the official's residence and principal place of business are located. The Fair Political Practices Commission shall decide whether nondisclosure is warranted by issuing an opinion under Government Code Section 83114 and shall treat the explanation for nondisclosure accompanying the official's Statement of Economic Interests as an opinion request. The procedures set forth in 2 Cal. Code of Regs. Sections 18320-18324, however, shall not apply to opinions issued pursuant to this regulation.

(vi) If the Fair Political Practices Commission orders an official to disclose, the official must comply within 14 days. The Executive Director of the Fair Political Practices Commission may, for good cause, extend any of the time periods established in this regulation. [Reg. 18740]

Whenever a designated employee appeals a provision of this Conflict of Code pursuant to Section 87307, the code reviewing body may, in its discretion, suspend or modify the disclosure obligations of the appellant and persons similarly situated pending resolution of the appeal. [Reg. 18737]

5. Place of Filing Statements. All designated employees who are required to submit a statement of economic interests shall file the original with the Clerk of the Board of the District. The Clerk of the Board of the District shall make and retain a copy of all statements filed by designated employees and forward the original of each statement to the appropriate filing officer. [See Reg. 18730 §4, Govt. Code 81010, and Reg. 18115]

6. Forms for Statements. Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and shall be supplied by the District.

D. MANNER OF REPORTING.

1. Contents of Reports of Investments and Interests in Real Property. Investments and interests in real property which have a fair market value of less than Two Thousand Dollars (\$2,000) are not investments and interests in real property within the meaning of the 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. [See Reg. 18730 §7A and note 4]

When an investment or interest in real property² is required to be reported under this Code, the statement shall contain the following:

- (a) A statement of the nature of the investment or interest;
- (b) 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;
- (c) The address or other precise location of the real property;
- (d) A statement whether the fair market value of the investment or interest in real property equals or exceeds Two Thousand Dollars (\$2,000), exceeds Ten Thousand Dollars (\$10,000), exceeds One Hundred Thousand Dollars (\$100,000), or exceeds One Million Dollars (\$1,000,000).
- (e) In the event the statement is being filed as a supplemental annual statement or a statement of persons leaving office, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.
- (f) For purposes of disclosure under this section, "interest in real property" does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer. [See Reg. 18730 §7A and Govt. Code 87206]

When an official is required to disclose a leasehold interest as defined in Government Code Section 82033, the official shall:

- (a) Identify the interest as a leasehold interest;
- (b) Disclose the number of years remaining on the lease;
- (c) Provide the address or other precise location of the leased property;
- (d) Provide the date upon which the lease became effective or terminated if either such date occurred during the period covered by the statement; and
- (e) Disclose the value of the leasehold interest.

The value of the leasehold interest is the amount of rent owed during a twelve (12) month period. For purposes of disclosure on a Statement of Economic Interests, the value of a leasehold interest is the amount of rent owed during a twelve (12) month period. The twelve (12) month period shall be computed as follows:

² For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer. [See Reg. 18730 §7A note]

(a) In the case of an annual or leaving office statement, the first day of the twelve (12) month period is the first day of the reporting period or the first day of the lease, which occurs later.

(b) In the case of an assuming office or candidate's statement, the first day of the twelve (12) month period is the date the statement is due.

If the value of an official's leasehold interest is less than two thousand dollars (\$2,000) when the rent owed is computed as detailed above, but the official knows that the actual fair value of the leasehold during the twelve (12) month period exceeds two thousand dollars (\$2,000), the value of the leasehold is the actual fair market value, rather than the rent owed, during the twelve (12) month period. [See Reg. 18729]

2. Contents of Reports of Personal Income. A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, federal or local governmental agency. [See Reg. 18730 §7B and note 5]

When personal income is required to be reported under this Code, the statement shall contain, except as provided in paragraph 3 (business entity income) below:

(a) The name and address of each source of income aggregating Five Hundred Dollars (\$500) or more in value per year or more in value, or Fifty Dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

(b) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was One Thousand Dollars (\$1,000) or less, greater than One Thousand Dollars (\$1,000), greater than Ten Thousand Dollars (\$10,000), or greater than One Hundred Thousand Dollars (\$100,000);

(c) A description of the consideration, if any, for which the income was received;

(d) 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;

(e) 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 [See Reg. 18730 §7B and Govt. Code 87207(a)]

3. Contents of Reports of Business Entity Income. 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 ten percent (10%) or greater interest. 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. [See Reg. 18730 §7C and note 6]

When income of a business entity, including income of a sole proprietorship, is required to be reported under this Code, the statement shall contain:

(a) The name, address and a general description of the business activity of the business entity;

(b) 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 Ten Thousand Dollars (\$10,000). [See Reg. 18730 §7C, note and Govt. Code 87207(b)]

4. Contents of Reports of Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity. [See Reg. 18730 §7D. See also Govt. Code 87209]

5. Acquisition or Disposal During Reporting Period. In the case of an annual statement or a 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. [See Reg. 18730 §7E]

6. Prohibition on Receipt of Honoraria. No designated employee of the District shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not limit or prohibit payments, advances or reimbursements for travel and related lodging and subsistence authorized by Government Code Section 89506. [See Reg. 18730 §8A]

7. Prohibition on Receipt of Gifts in Excess of \$360.390. No designated employee of the District shall accept gifts with a total value of more than Three Hundred ~~Sixty~~Ninety Dollars (~~\$360~~390) in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. . [Reg. 18730 §8.1]

Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

8. Loans to Public Officials.

(a) No elected officer of the District shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the District. [See Reg. 18730 §8.2]

(b) No official of the District shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of District. This subdivision shall not apply to loans made to a District official whose duties are solely secretarial, clerical, or manual. [See Reg. 18730 §8.2]

(c) No elected officer of the District shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the District. 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. [See Reg. 18730 §8.2]

(d) No official of the District shall, while he or she holds office, receive a personal loan from any person who has a contract with the District. 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 District official whose duties are solely secretarial, clerical, or manual. [See Reg. 18730 §8.2]

(e) This section shall not apply to the following:

(i) Loans made to the campaign committee of an elected officer or candidate for elective office.

(ii) 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.

(iii) Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.

(iv) Loans made, or offered in writing, before January 1, 1998.
[See Reg. 18730 §8.2]

9. Loan Terms.

(a) Except as set forth in subdivision (b), no elected officer of the District shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$ 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. [See Reg. 18730 §8.3]

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

(i) Loans made to the campaign committee of the elected officer.

(ii) 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.

(iii) 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. [See Reg. 18730 §8.3]

10. 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:

(i) If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

(ii) If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

(A) The date the loan was made.

(B) The date the last payment of one hundred dollars (\$100) or more was made on the loan.

(C) The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months. [See Reg. 18730 §8.4]

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

(i) A loan made to the campaign committee of an elected officer or a candidate for elective office.

(ii) A loan that would otherwise not be a gift as defined in this title.

(iii) 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.

(iv) 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.

(v) A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy. [See Reg. 18730 §8.4]

(c) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code. [See Reg. 18730 §8.4]

11. Commission Income. A public official required to disclose income pursuant to this title must disclose commission income, as defined in Reg. 18703.3(c)(1). A public official shall report commission income as follows: [Reg. 18728.5 (a) and (b)]

(a) The total amount of commission income received during the period covered by the statement, shall be reported if it equals five hundred dollars (\$500) or more.

(i) The source of the income shall be listed as the official if he or she is self-employed or is reporting as a business entity. For purposes of this subdivision, a public official who receives commission income on a regular basis is a business entity.

(ii) If the official conducts business through a firm or other business entity, the source of income shall be listed as the firm or other business entity.

(b) If the official reports commission income as a business, in addition to the information reported pursuant to subdivision (b)(1) of this regulation, the name of each source of gross commission income shall be reported if the source provided commission income of ten thousand dollars (\$10,000) or more during the period covered by the statement. [Reg. 18728.5 (b)(2)]

(c) The full gross value of any commission income for a specific sale or similar transaction shall be attributed to each source of income in that sale or transaction. [Reg. 18728.5 (b)(3)]

12. Incentive Compensation. A public official required to disclose income pursuant to this title must disclose incentive compensation, as defined in Reg. 18703.3(d), as described by this regulation.

(a) In addition to salary, reimbursement of expenses, and other income received from his or her employer, a public official shall separately report the name of each person who purchased products or services sold, marketed or represented by the public official if the official received incentive compensation of five hundred dollars (\$500) or more attributable to the purchaser during the period covered by the statement.

(b) If an official's incentive compensation is paid by his or her employer in a lump sum, without allocation of amounts to specific customers, the official shall determine the amount of the incentive compensation attributable to each of the official's customers. This may be based on the volume of sales to or purchases made by those customers and the amount of incentive compensation attributable to each customer according to the formula utilized by the official's employer. [Reg. 18728.5(c)]

13. Travel Advance or Reimbursement. When a payment, including an advance or reimbursement, for travel is required to be reported pursuant to the Code, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interest. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the

services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income. [Govt. Code 87207(c)]

(a) Travel costs and reimbursements therefor paid by a "committee" as defined in the Appendix, including a "controlled committee," shall be valued as follows:

(i) A reimbursement, advance, or other payment for actual travel expenses (including meals and lodging) or for other actual and legitimate campaign expenses made by such a committee or controlled committee is neither income nor a gift to an official and need not be disclosed on the official's or candidate's Statement of Economic Interests if the expenditures are reported by the committee in accordance with the provisions of Government Code Sections 84100 et seq.

(ii) A reimbursement, advance, or other payment for personal travel expenses not covered by subsection (1) shall be reported by the recipient pursuant to Government Code Sections 87207 and 87302.

(b) Any other payment not covered by subsection (a), including a payment for personal services, such as salary, consulting fees, etc., from a committee is income or a gift (except as provided in Section 18950.3) and reported by the recipient pursuant to Government Code Section 87207 or 87302. [Reg. 18727.5]

14. Incorporation of Information by Reference. Except in statements required by Govt. Code Section 87203, investments and interests in real property which have been disclosed on a statement of economic interests filed in the same jurisdiction within the previous sixty (60) days may be incorporated by reference. [Govt. Code 87208]

E. DISQUALIFICATION.

1. Basic Disqualification Requirements.

(a) No public official at any level of state or local government may make, participate in making or in any way use or attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know he or she has a disqualifying conflict of interest. A public official has a conflict of interest if the decision will have a reasonably foreseeable material financial effect on one or more of his or her economic interests, unless the public official can establish either: (1) that the effect is indistinguishable from the effect on the public generally, or (2) a public official's participation is legally required. [See Reg. 18700 and Govt. Code 87100]

(b) To determine whether a given individual has a disqualifying conflict of interest under the Act, proceed with the following analysis:

(i) Determine whether the individual is a public official, within the meaning of the Act. (See Government Code §82048; Regulation 18701.) If the individual is not a public official, he or she does not have a conflict of interest within the meaning of the Act.

(ii) Determine whether the public official is making, participating in making, or using or attempting to use his or her official position to influence a government decision. (See Regulation 18702.) If the public official is not making, participating in making, or using or attempting to use his or her official position to influence a government decision, then he or she does not have a conflict of interest within the meaning of the Act.

(iii) Notwithstanding (ii) above, determine whether the public official who holds an office specified in Government Code §87200 is making, participating in making, or using or attempting to use his or her official position to influence a governmental decision relating to an agenda item which is noticed for a meeting subject to the provisions of the Brown Act (Government Code §54950 et seq.). (See section 6&7 of the Addendum). [Reg. 18702].

(iv) Identify the public official's economic interests. (See Regulation 18703.)

(v) For each of the public official's economic interests, determine whether that interest is directly or indirectly involved in the governmental decision which the public official will be making, participating in making, or using or attempting to use his or her official position to influence. (See Regulation 18704.)

(vi) Determine the applicable materiality standard for each economic interest, based upon the degree of involvement determined pursuant to Regulation 18704. (See Regulation 18705.)

(vii) Determine whether it is reasonably foreseeable that the governmental decision will have a material financial effect (as defined in Regulation 18705) on each economic interest identified pursuant to Regulation 18703. (See Regulation 18706.) If it is not reasonably foreseeable that there will be a material financial effect on any of the public official's economic interests, he or she does not have a conflict of interest within the meaning of the Act. If it is reasonably foreseeable that there will be a material financial effect on any of the public official's economic interests, and the official does not participate in the decision, determine whether the official may segment the decision into separate decisions to allow his or her participation in subsequent decisions. (See Regulation 18709.)

(viii) Determine if the reasonably foreseeable financial effect is distinguishable from the effect on the public generally. If the reasonably foreseeable material financial effect on the public official's economic interest is indistinguishable from the effect on the public generally, he or she does not have a conflict of interest within the meaning of the Act. If the reasonably foreseeable material financial effect on the public official's economic interest is distinguishable from the effect on the public generally, he or she has a conflict of interest within the meaning of the Act. (See Regulation 18707.)

(ix) Determine if the public official's participation is legally required despite the conflict of interest. If the official can establish that his or her participation is legally required, he or she may participate in the governmental decision despite the conflict of interest. (See Regulation 18708.) [See Reg. 18700 and Govt. Code 87100]

2. Mandatory Disqualification Requirements. No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect upon the public generally, on the official or a member of his or her immediate family or on: [See Reg. 18730 §9]

(a) Any business entity in which the designated employee has a direct or indirect investment worth Two Thousand Dollars (\$2,000) or more;

(b) Any real property in which the designated employee has a direct or indirect interest worth Two Thousand Dollars (\$2,000) or more;

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating Five Hundred Dollars (\$500) or more in value provided to, received by or promised to the designated employee within twelve (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 Three Hundred ~~Sixty~~Ninety Dollars (~~\$360~~390) or more provided to, received by, or promised to the designated employee within twelve (12) months prior to the time when the decision is made. [See Reg. 18730 §9]

3. Disclosure of Disqualifying Interest. When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. [See Reg. 18730 §10]

(a) Board Member: Notice of disqualification shall be given at the meeting during which consideration of the decision takes place and shall be made part of the official record of the board.

(b) Chief Executive Officer: Within a reasonable time, he or she must report, in writing, the nature of the matter and the existence of the conflict to his or her appointing authority (i.e. the Board of Directors).

(c) Designated employee who is a Consultant: Within a reasonable time, he or she must, in writing, report the nature of the matter and the existence of the conflict to the Chief Executive Officer.

(d) Other designated employee: Within a reasonable time, he or she must, in writing, report the nature of the matter and the existence of the conflict to his or her supervisor. [See Reg. 18730 §10]

4. Rights as Citizen; Public Generally. Nothing contained herein shall abridge the right of any citizen, whether or not a designated employee, to submit information or

express views on the same basis as any other citizen, provided such is done in public and provided that the person clearly indicates he or she is acting in a private capacity.

5. Rule of Necessity; Legally Required Participation. This Code does not prevent a designated employee from making or participating in the making of any decision to the extent that his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for the purposes of this section. The attorney for the District shall advise any designated employee on a case-by-case basis whether or not the "Rule of Necessity" is applicable. [See Reg. 18730 §9.3 and Gov. Code 87101]

F. OPINIONS ASSISTANCE OF THE COMMISSION AND COUNSEL.

1. Assistance of the Commission and Counsel. Any designated employee who is unsure of his or her duties under this Code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 and Regs. sections 18329 and 18329.5 or from the attorney for the District, provided that nothing in this section requires the attorney for the District to issue any formal or informal opinion. [See Reg. 18730 §11]

2. Evidence of Good Faith. Whether or not a violation is inadvertent, negligent or deliberate, the presence or absence of good faith shall be considered in applying the remedies and sanctions under the Code. [Gov. Code 91001(c)]

G. LEGISLATIVE OR JUDICIAL AMENDMENTS.

1. Automatic Amendments of Code. All amendments or changes to the provisions of the Act, occurring as the result of legislative amendment or judicial decision only, shall automatically and immediately be incorporated into this Code and this Code shall, without further action, thereupon be deemed amended and changed to reflect such legislative or judicial amendment or decision.

H. FORCE AND EFFECT OF CODE.

1. 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 by in the Political Reform Act, Government Code Sections 81000 - 91014. In addition, a decision in relation to which a violation of the disqualification provisions of this Code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003. [Reg. 18730 §12]

Disclosure Categories

The disclosure categories listed below identify the types of investments, business entities, sources of income, or real property which the designated employee must disclose for each disclosure category to which he or she is assigned.

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

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

Category 3: All investments and management positions in, and sources of income from, business entities (i) subject to the regulatory, permit or licensing authority of the designated employee's department or (ii) have been subject to such authority during the past two (2) years, or (iii) will be subject to such authority in the next two (2) years.

Category 4: All investments in, and sources of income from, business entities that (i) are engaged in land development, construction or the acquisition or sale of real property within the boundaries of the District, (ii) have engaged in such activities within the boundaries of the District in the past two (2) years, or (iii) plan to engage in such activities within the boundaries of the District during the next (2) two years.

Category 5: All investments and management positions in, and sources of income from, business entities that are banking, savings and loan or other financial institutions.

Category 6: All investments and management positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type purchased or leased by the District.

Category 7: All investments and management positions in, and sources of income from, business entities that provide services, supplies, materials, machinery or equipment of a type used or administered by the designated employee's department.