

## **CONFLICT OF INTEREST POLICY**

*(Adopted 3/31/00; Amended 10/23/03, 6/22/06, 12/05/16, and 12/3/18)*

### **SECTION 1: PURPOSE**

The purpose of this policy is to define a conflict of interest and to establish a procedure for recognizing and reporting conflict of interest issues.

### **SECTION 2: POLICY**

It is the policy of F5MC to avoid even the appearance of impropriety where conflict of interest issues are concerned. F5MC promotes business practices that comply with conflict of interest and disclosure requirements, including but not limited to, the California Political Reform Act of 1974 and California Government Code sections 1090-1097 and 1125-1129 (included as Appendix A). When a commissioner, executive staff member, staff, contractor or agent in a position to influence a decision or who has decision making power, identifies a conflict of interest, that person must not participate in or give consideration to the matter from that point forward. Once a potential conflict of interest is identified, legal counsel must be consulted to review the legal issues and advise what action should be taken.

Any F5MC Commissioner, executive staff member, F5MC employee, contractor or agent is prohibited from negotiating a contract with or participating in the hiring of a prospective employee, or, the supervising of an employee, if the contractor, prospective employee or employee is an immediate family member. For the purposes of this provision, an immediate family member is defined as: a spouse, mother, father, brother, sister, child, grandmother or grandfather, son-in-law, daughter-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle or grandchild, step-parent, step-child or any person living in the employee's household. The F5MC employee related to the contractor or prospective employee may not discuss, make, participate in making, or use his or her official position to influence, directly or indirectly, the negotiations or employment process in favor of his or her immediate family member.

### **SECTION 3: DEFINITIONS**

- A. Conflict of Interest. A person is deemed to have a conflict of interest if he or she, or his or her spouse or dependent child, has an “economic interest” in or relationship with a potential party to a contract with F5MC, or if he or she has other involvement with an individual or organization that could be perceived to impair his or her objectivity. A conflict of interest exists when:
1. The person involved makes, participates in, or uses his or her official position to influence a F5MC decision;
  2. It is foreseeable that the decision will have a material effect on the person’s “economic interest” (defined below); and,
  3. The effect of the decision on the person’s economic interest will be distinguishable from its effect on the public generally.

Legal counsel shall be consulted if there are any questions as to the application of these elements.

- B. Decision Making Position. A person is in a decision making position or has the ability to influence a decision when he or she discusses, advises, or makes recommendations to the

decision maker (i.e., a commissioner, the Commission or the executive director) either directly or indirectly, that is, without significant intervening substantive review. Such discussion or advice may include conducting research or investigating, preparing or presenting any report, analysis or opinion, providing information orally or in writing, which may be perceived as influencing the decision. This includes participating in a decision or using her or his official position to influence a decision if he or she contacts a commissioner or an employee of F5MC regarding the issue.

- C. Economic Interest. An “economic interest” is defined as any fee, money, or financial gain, or benefit directly or indirectly from or by reason of any dealings with or service for F5MC. An “economic interest” includes, but is not limited to, specific types of investments, business positions, interests in real property, and reportable sources of income of the person, his or her spouse or dependent child.

A Commissioner must recuse him or herself from making, participating in making, or in any way attempting to use his or her official position to influence a decision involving a grant or contract which financially benefits the Commissioner or the entity the Commissioner represents.

Government salaries, per diem expenses and reimbursement for travel from a nonprofit entity, are all specifically excluded from the definition of income under the Fair Political Practices Act. Salaries from a nonprofit agency are considered an “economic interest”.

A Government salary also does not constitute an interest in a contract (under Government Code section 1090) unless the contract directly involves the department of the entity that employs a Commissioner, in which case, the Commissioner discloses the interest on the record and does not participate in the decision. The member of the Board of Supervisors does not have an economic interest in a contract with the County, based upon the Government salary received; the Director of the Monterey County Department of Health and the Director of Monterey County Social and Employment Services cannot participate in any decision on a grant or contract involving their department.

#### **SECTION 4: REPORTING A CONFLICT OF INTEREST**

When a Commissioner first becomes aware of a conflict of interest or potential conflict of interest regarding a matter before the Commission or Committee, he or she must notify F5MC’s legal counsel or the chairperson of the Commission or Committee. This notification shall include a description of the material facts relating to the conflict of interest. The chairperson and/or legal counsel will determine if a conflict of interest or potential conflict of interest exists and the appropriate action to take.

When a Commissioner has a conflict with a matter before the Commission or Committee, as the issue is called, the Commissioner must state on the record that he or she has or may have an interest in the matter that he or she has not participated in any discussions, and he or she will not be participating in the matter. The Commissioner should then leave the room while the matter is considered.

The facts of the conflict of interest and the commissioner’s abstention from the matter will be recorded in the minutes of the Commission or Committee meeting.

Each Commissioner is personally responsible for their conduct and can be prosecuted civilly and criminally for violations under the California Political Reform Act of 1974. Commissioners may contact the Fair Political Practices Commission, the State enforcement agency, directly to discuss

their individual issues. Resources available from the Fair Political Practices Commission include [www.fppc.ca.gov](http://www.fppc.ca.gov) and 1-866-ASK-FPPC.

Employees, contractors, consultants, or agents who identify a conflict of interest or potential conflict of interest, must notify the Executive Director immediately.

## **SECTION 5: ANNUAL REPORTING REQUIREMENTS**

All persons identified in Section 8 of the Commission's Conflict of Interest Code adopted by the Commission must file a Form 700, Statement of Economic Interest, in accordance with the California Political Reform Act of 1976. Other persons not listed on Exhibit A may be required to file a Form 700 if the individual's involvement with F5MC fits the definition of a person with decision making power as defined by this policy or as determined by the Executive Director.

To assist in the early identification of possible conflicts, Commissioners and employees must file an annual statement listing all organizations which they are affiliated with as an employee, director or officer. The statement should be updated when any changes occur.

## **SECTION 6: GRANT ELIGIBILITY REQUIREMENTS**

Commissioners and organizations with which they are affiliated are eligible to receive grant funds if the following requirements are adhered to: A Commissioner is required to recuse him or herself from any participation or consideration of the grant or contract before the Commission; and the Commissioner may not participate in any way in the presentation of the matter, in discussing the issue with other Commissioners or employees of F5MC, or participate in the vote on the grant. The recusal requirement applies to Committee meetings, as well as Commission meetings.

This provision also applies if the Commissioner or an organization the Commissioner is affiliated with has a subcontract with a F5MC grantee. In such a case, the Commissioner is required to recuse him or herself when the major grant is considered by the Commission since there is a financial benefit that may result from the grant award.

## **SECTION 7: INCOMPATIBLE ACTIVITIES**

F5MC encourages community engagement and volunteerism, it is also important, for continued transparency that Staff and Executive Director (ED) communicate regarding activities which might constitute or appear to constitute a conflict of interest. This policy is specifically designed to encourage this communication, provide information of explicitly incompatible activities, and provide support to determine the types of activities which warrant a discussion.

No Commissioner or commission employee shall engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties for the Commission. Commissioners and F5MC employees shall abide by the provisions of Government Code sections 1125 – 1129 regarding incompatible activities, included as Attachment 2 of this Policy Manual.

To ensure F5MC is utilizing its resources in alignment with our policies, vision, and mission, all Employees are required to discuss with the ED prior to using F5MC's time, facilities, resources, equipment, and/or supplies, for private gain or advantage, or to benefit anyone or entity other than for activities supported by the Commission. This includes allowing outside employment, activity, or enterprise to interfere with the employee's job performance, timely completion of duties, and/or attendance at F5MC.

Staff is required to insure that their involvement in any outside activity is kept separate from their employment from F5MC and purporting to represent or act on behalf of F5MC when performing work or volunteering for someone else is prohibited.

Employees are required, if the outside activity may constitute a conflict of interest with their duty to F5MC, to discuss with the ED prior to engaging in the activity. The list of possible incompatible activities includes but is not limited to: (1) performing work for compensation or other consideration for a for-profit, non-profit, or public/governmental agency in Monterey County that provides the same or similar services as F5MC in Monterey County; (2) performing work for compensation or other consideration that would normally be provided without charge by F5MC; (3) working or volunteering when such outside employment, activity, or enterprise may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement of the Commission or any other F5MC Employee; (4) providing, sharing, or utilizing F5MC's proprietary, confidential information, or trade secret information, including contact information, with anyone except as is necessary in the normal performance of the Employee's job; or (5) serving on the board of directors for an entity whose mission is opposed to F5MC's best interests. If an Employee has any hesitation that an outside activity may create even the appearance of a conflict of interest, the Employee needs to communicate with the ED in order to foster transparency.

Once the F5MC Employee and the ED have discussed the proposed off-duty activity, the ED will evaluate, at their sole discretion, the activity in relation to F5MC's interests. Within two (2) weeks the ED will inform the Employee of the determination of whether the off duty activity constitutes a conflict of interest. If the Executive Director determines that the Employee's requested activities are a conflict of interest, the Employee is prohibited from engaging in such activities. Within one week of receiving the ED's decision, the Employee may make an appeal in writing to the Chair of the Finance and Personnel Committee, with a copy to the Executive Director.

If a F5MC Employee engages in any outside employment, activity, or enterprise which is specifically included in the policy above without discussing with the Executive Director or engages in an activity which the ED has, through the process delineated above, determined that the off duty activity constitutes a conflict of interest, the Employee shall be subject to discipline, up to and including termination of employment. Within two weeks of learning of such outside activities, the ED shall inform the Employee of what disciplinary action will be taken. Within one week of receiving the Executive Director's disciplinary decision, the Employee may make an appeal in writing to the Chair of the Finance and Personnel Committee, with a copy to the ED.

Nothing in the policy is intended to interfere with Employees' rights to participate in concerted activity such as communicating with their co-workers regarding their wages, hours, or terms and conditions of employment, or with any other rights protected under the National Labor Relations Act, or with the rights of public employees. Nothing in this policy may be used as part of the determination of compensation in a collective bargaining agreement with public Employees.

## **SECTION 8: CONFLICT OF INTEREST CODE**

The Political Reform Act of 1974 (Government Code sections 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, section 18730 of Title 2 of the California Code of Regulations, which contains the terms of a standard conflict of interest code that can be incorporated by reference in an agency's code. After public notice and hearing, the Fair Political Practices Commission may amend the standard code to conform to amendments of the Political

Reform Act. Therefore, the terms of section 18730 of Title 2 of the California Code of Regulations and any amendments to it duly adopted by the Fair Political Practices Commission together with the attached Appendices designating positions and establishing disclosure categories are hereby incorporated by reference and together constitute the Conflict of Interest Code of First 5 Monterey County (hereafter "Agency").

Individuals holding designated positions shall file their statement of economic interests with the First 5 Monterey County filing official, which will make the statements available for public inspection and reproduction pursuant to Government Code section 81008. Upon receipt of the statements for the First 5 Monterey County Commission members and the Executive Director, the Agency shall make and retain copies and forward the original of the statements to the code reviewing body. Statements for all other designated positions shall be retained by the Agency/Special District.

Originally Adopted: March 31, 2000 \_\_\_\_\_ Marie A. Glavin, Chair  
 Monterey County Children  
 and Families Commission

Amended: October 23, 2003 \_\_\_\_\_ Edith Johnsen, Chair  
 Monterey County Children  
 and Families Commission

Amended: June 22, 2006 \_\_\_\_\_ Jerry Smith, Chair  
 Monterey County Children  
 and Families Commission (dba First  
 5 Monterey County)

Amended: December 5, 2016 \_\_\_\_\_ Simón Salinas, Chair  
 Monterey County Children  
 and Families Commission (dba First  
 5 Monterey County)

Amended: December 8, 2018 \_\_\_\_\_ **Simón Salinas, Chair**  
**Monterey County Children**  
**and Families Commission (dba First**  
**5 Monterey County)**

**APPENDIX A: DESIGNATED POSITIONS**

<u>Designated Positions</u>	<u>Assigned Disclosure Category</u>
Commission Member	1
Ex Officio Commissioner	1
Executive Director	1
Controller	1
Consultants <sup>1</sup>	1

<sup>1</sup> Consultants are included in the list of designated positions. For purposes of this Code, "consultant" has the same meaning as set forth in 2 Cal. Code Regs. title 2, section 18701(a)(2), as follows:

"Consultant" means an individual who, pursuant to a contract with a state or local government agency:

- (A) Makes a governmental decision whether to:
  1. Approve a rate, rule, or regulation;

2. Adopt or enforce a law;
  3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
  4. Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval;
  5. Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract;
  6. Grant agency approval to a plan, design, report, study, or similar item;
  7. Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof; or
- (B) Serves in a staff capacity with the agency and in that capacity participates in making a governmental decision or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code [BR1x1].

Consultants to First 5 Monterey County shall be subject to disclosure under Category 1 (as defined on Appendix B of this document), subject to the following limitation: First 5 Monterey County may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply with the disclosure requirements of Category 1. In such cases, the Executive Director may designate a different disclosure requirement. Such determination must be made in writing and shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the consultant's disclosure requirements. Such determination by the Executive Director is a public record and shall be retained for public inspection in the same manner and location as the Agency's Conflict of Interest Code.

## **APPENDIX B: DISCLOSURE CATEGORIES**

### General Provisions Applicable to All Categories

When an individual who holds a designated position is required to disclose investments and sources of income, he or she shall disclose investments in business entities and sources of income which do business in the jurisdiction, plan to do business in the jurisdiction, or have done business in the jurisdiction within the past two years. In addition to other activities, a business entity is doing business within the jurisdiction if it owns real property within the jurisdiction.

When an individual who holds a designated position is required to disclose sources of income, he or she shall include gifts received from donors located inside as well as outside the jurisdiction.

When an individual who holds a designated position is required to disclose interests in real property, he or she shall disclose the type of real property described below if it is located within the jurisdiction, or not more than two miles outside the boundaries of the jurisdiction, or within two miles of any land owned or used by Agency.

When an individual who holds a designated position is required to disclose business position, he or she shall disclose positions in business entities that do business in the jurisdiction, plan to do business in the jurisdiction, or have done business in the jurisdiction within the past two years.

For purposes of this Conflict of Interest Code, the jurisdiction of the First 5 Monterey County is the County of Monterey.

### Category 1

- (A) all investments, business positions, and income (including gifts, loans and travel payments) from:
  - (1) any source that provides, plans to provide, or has provided in the last two years, leased facilities, goods, equipment, vehicles, machinery or services, including training or consulting services, of the type utilized by the Commission;
  - (2) any source that is related in any way to the provision of health, welfare and/or educational services for young children and their families;
  - (3) any source that receives, is planning to apply to receive, or has received in the last two years, grants or other monies from or through the Commission; and
- (B) all interests in real property located entirely or partly within the County of Monterey, or within two miles of County boundaries, or of any land owned or used by the Commission.

## SECTION 8a: CONFLICT OF INTEREST CODE - ATTACHMENT 1

### ARTICLE 2. DISCLOSURE

California Administrative Code, Title 2  
s 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 Government Code section 87300 or the amendment of a conflict of interest code within the meaning of Government Code section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code section 81000, et seq. The requirements of conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code section 87100, and to other state or local laws pertaining to conflicts of interest.

(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 (2 Cal. Code of Regs. sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

#### (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 making of decisions which may foreseeably have material effect on financial interests.

#### (3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which

those persons must report their financial interests pursuant to article 2 or chapter 7 of the political Reform act, Government Code sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of the agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code section 87200; and

(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 financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial 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 financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

#### (4) Section 4. Statements of Economic Interest: 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.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5 Statements for Persons Who Resign Prior to Assuming Office.

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

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

(1) File a written resignation with the appointing power: and

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

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual

statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later.

(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 and 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 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).

(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 five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of business activity, if any, or 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 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);
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 ten thousand dollars (\$10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the

period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. 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.

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

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$340.

(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 \$340 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. 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.

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

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive

a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a Retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

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

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

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this sections.

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

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date her 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.

(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 b 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 one hundred dollars (\$100) or more was made on the loan.
- c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars (\$250) during the previous 12 months.

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

- 1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
- 2. A loan that would otherwise not be a gift as defined in this title.
- 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
- 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
- 5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

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

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

- (A) Any business entity in which the designated employee has a direct or indirect investment worth 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 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 \$340 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

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

(9.5) Section 9.5. Disqualification of State Officers and Employees.

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

- (A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
- (B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services or 18705.2(c) totaling in value one thousand dollars (\$1,000) or more.

(10) Section 10. Disclosure of Disqualifying Interest.

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

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from

The Fair Political Practices Commission Pursuant to Government Code section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code sections 81000-91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code sections 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.

[FN-----]

[FN1] Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different Jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

[FN2] See Government Code section 81010 and 2 Cal. Code of Regs. Section 18115 for the duties of filing officers and persons in agencies who make and Retain copies of statements and forward the original to the filing officer.

[FN3] For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

[FN4] 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 and 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.

[FN5] A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

[FN6] 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 customer are within one of the disclosure categories of the filer.

## SECTION 8a: CONFLICT OF INTEREST CODE - ATTACHMENT 2

### ARTICLE 4.7. INCOMPATIBLE ACTIVITIES [1125 - 1129]

#### California Government Code, Title 2 General

#### DIVISION 4. PUBLIC OFFICERS AND EMPLOYEES [1000 - 3599]

1125. "Local agency," as used in this article, means a county, city, city and county, political subdivision, district, or municipal corporation.

(Added by Stats. 1971, Ch. 633.)

1126. (a) Except as provided in Sections 1128 and 1129, a local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed. The officer or employee shall not perform any work, service, or counsel for compensation outside of his or her local agency employment where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of his or her employing body, unless otherwise approved in the manner prescribed by subdivision (b).

(b) Each appointing power may determine, subject to approval of the local agency, and consistent with the provisions of Section 1128 where applicable, those outside activities which, for employees under its jurisdiction, are inconsistent with, incompatible to, or in conflict with their duties as local agency officers or employees. An employee's outside employment, activity, or enterprise may be prohibited if it: (1) involves the use for private gain or advantage of his or her local agency time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local agency office or employment or, (2) involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his or her local agency for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her local agency employment or as a part of his or her duties as a local agency officer or employee or, (3) involves the performance of an act in other than his or her capacity as a local agency officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee or the agency by which he or she is employed, or (4) involves the time demands as would render performance of his or her duties as a local agency officer or employee less efficient.

(c) The local agency shall adopt rules governing the application of this section. The rules shall include provision for notice to employees of the determination of prohibited activities, of disciplinary action to be taken against employees for engaging in prohibited activities, and for appeal by employees from such a determination and from its application to an employee. Nothing in this section is intended to abridge or otherwise restrict the rights of public employees under Chapter 9.5 (commencing with Section 3201) of Title 1.

(d) The application of this section to determine what outside activities of employees are inconsistent with, incompatible with, or in conflict with their duties as local agency officers or employees may not be used as part of the determination of compensation in a collective bargaining agreement with public employees.

1127. It is not the intent of this article to prevent the employment by private business of a public employee, such as a peace officer, fireman, forestry service employee, among other public employees, who is off duty to do work related to and compatible with his regular employment, or past employment, provided the person or persons to be employed have the approval of their agency supervisor and are certified as qualified by the appropriate agency.

1128. Service on an appointed or elected governmental board, commission, committee, or other body by an attorney employed by a local agency in a non-elective position shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the attorney as an officer or employee of the local agency and shall not result in the automatic vacation of either such office.

1129. Service on the Board of Directors of the Local Agency Self-Insurance Authority by an officer or employee of a local agency, as defined by subdivision (a) of Section 6599.02, or by a person who serves in an appointed or employed position with an agency or entity created by a joint powers agreement pursuant to Section 6503.5 to provide insurance pooling, shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to, duties of the officer or employee in either capacity.

