

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

Section 1. Definitions

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

Section 2. Enumeration of Positions Subject to this Code

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

Section 3. Disqualification of Board Member for Financial Conflict

(A) No board member shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any board, board committee, or other State Bar 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 board member or a member of his or her immediate family or on:

- (1) Any business entity in which the board member has a direct or indirect investment worth one thousand dollars (\$1,000) or more;**
- (2) Any real property in which the board member has a direct or indirect interest worth one thousand dollars (\$1,000) or more;**
- (3) 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 two hundred and fifty dollars (\$250) or more in value provided to, received by or promised to the board member within 12 months prior to the time when the decision is made;**
- (4) Any business entity in which the board member is a director, officer, partner, trustee, employee, or holds any position of management; or**
- (5) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$250 or more provided to; received by, or promised to the board member within 12 months prior to the time when the decision is made.**

(B) Disqualification required by this code is in addition to the disqualification required by Business and Professions Code section 6036.

Section 4. Reportable Financial Interests

~~A member shall disclose an investment, interest in real property, and income as required by Government Code Sections 87206 and 87207 if during a reporting period the Board of Governors has made a decision that materially affects the investment, interest in real property, or income.~~

A member shall disclose his or her personal financial interests if during a reporting period the Board of Governors has made a decision that had a reasonably foreseeable effect on his or her private financial interests, as defined in Section 3 of this code. Disclosures required by this code are in addition to the disclosures required by Business and Professions Code section 6036. Required disclosures must include the following information:

A) Investments and Real Property Disclosure. When an investment or an interest in real property is required to be reported, 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 (\$1,000), 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, the statement shall contain:

- 1. The name and address of each source of income aggregating five hundred dollars (\$250) 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;**
- 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, 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.

Section 5. Disclosure Statements: Contents, Time for Filing, and Reporting Periods

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

- (A) Initial Statement --** Each member who is incumbent on the date this code first becomes effective shall, within thirty (30) days after that date, file a statement identifying the member.
- (B) Assuming -- Office Statements --** Each person who becomes a member of the board after this code becomes effective shall, within thirty (30) days after taking the oath of office, file a statement identifying the member.
- (C) Annual Statements --** Each member shall by April 1 file an annual statement disclosing information required by section 4 of this code. The period covered by the annual statement shall be the prior calendar year or that portion of the prior calendar year during which the person making the disclosure was a member of the Board of Governors.
- (D) Leaving Office Statements --** After leaving office, each former board member shall, within thirty (30) days after the date of leaving office, file a statement disclosing information required by section 3 of this code for the period beginning the day after the closing date of the last statement filed and the date of leaving office.

Section 6. Prohibition on Receipt of Honoraria.

No Board member shall accept any honorarium from any source, if the Board member would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

Government Code section 89501 and Government Code section 89502(c) 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.

Section 7. Prohibition on Receipt of Gifts of \$320 or more.

No board member shall accept gifts with a total value of more than three hundred twenty dollars (\$320) in a calendar year from any single source, if the board member would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

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

Section 8. Personal Loans.

(A) Except as set forth in Section 8(B) below, a personal loan received by any board member shall become a gift to the board member 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 candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this Code.
3. A loan that would otherwise not be a gift as set forth under Section 8(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 Section 8(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.

Section 9. Legally Required Participation.

No Board member 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 Board member 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.

Section 10. Place of Filing Statements

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

Section 11. Assistance to Members

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

SUPREME COURT OF CALIFORNIA

The Supreme Court as code-reviewing body under Government Code section 82011(e) adopted the following procedure effective June 30, 1986:

Privileged Information Withheld from a Statement of Economic Interests

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

- (1) The member shall not report in the disclosure statement the information asserted to be privileged.
- (2) The member shall file with the disclosure statement a separate statement under

penalty of perjury that (a) advises the filing officer that a reportable source of income has not been reported, (b) asserts the applicable privilege, (c) states the legal basis for the assertion, and (d) states as specifically as possible without defeating the privilege facts that demonstrate why the privilege is applicable.

- (3) The Supreme Court shall designate one or more persons who are not members of the court to act as the code-reviewing body solely to determine if the privilege is applicable. The designated code-reviewing body may request additional information from the member and consider additional evidence in-camera. If the designated code-reviewing body determines that disclosure is required, the member shall disclose the unreported information within 15 days after the Clerk of the Supreme Court mails notice of the determination.