



# THE STATE BAR OF CALIFORNIA

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**DATE:** October 20, 2009

**TO:** Members of the Board Committee on Operations

**FROM:** Lawrence C. Yee, Acting General Counsel  
Mary Yen, Assistant General Counsel

**RE:** The State Bar of California's Conflict of Interest Code, Proposed Revisions  
– Request for 30-Day Public Comment

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## EXECUTIVE SUMMARY

The Political Reform Act, Government Code sections 81000 *et seq.* ("Act"), requires the State Bar to adopt a Conflict of Interest Code ("Code") for State Bar officers, employees or consultants who, during the course of their work for the State Bar, either make or participate in the making of decisions that may have a material effect on their financial interests ("Designated Employees"). The State Bar's Code includes a list of Designated Employee positions that are subject to the Code. The Act also requires regular revision of the Code in order to update the list of Designated Employees and to conform the Code to any changes in the Act.

In conformity with these requirements, it is requested that the Board Committee on Operations authorize circulation of the proposed revisions to the State Bar's Code for a 30-day public comment period.

Any questions or comments may be directed to Mary Yen at (415) 538-2369 or at [mary.yen@calbar.ca.gov](mailto:mary.yen@calbar.ca.gov).

## **I. PROPOSED REVISIONS TO THE LIST OF DESIGNATED EMPLOYEES, THE DISCLOSURE CATEGORIES, AND THE CODE**

The Political Reform Act (“Act”) requires state and local government agencies, such as the State Bar, to adopt and promulgate conflict of interest codes. The Act also requires agencies to revise their codes to reflect amendments to the mandatory standards set forth in the Act.<sup>1</sup>

The Act requires agencies to identify situations where persons who act on the agency’s behalf must disqualify themselves from decision-making because of a financial conflict of interest. The Act requires that agencies identify designated employees who must report particular financial interests. The State Bar identifies these employees and their reporting requirement by way of a list of Designated Employee Positions that states each designated employee position and the specific disclosure categories assigned to that position. Each disclosure category is represented by a number, which is the number of that disclosure category on a list of Disclosure Categories. The list of Designated Employee Positions and the list of Disclosure Categories are part of the State Bar’s Conflict of Interest Code. Under the Act, the State Bar is required to periodically add, modify, or delete designated employee positions or disclosure categories based on changes in employee positions or responsibilities.

### **A. Revisions to the List of Designated Employees**

The revisions in this agenda item relate to changes in the list of Designated Employee Positions (see **Appendix A**). The assigned disclosure categories are listed adjacent to the employee position on the list. The proposed revisions depict the current organizational structure and positions within the State Bar. In many instances, positions have been transferred from one office to another office to reflect changes in the reporting structure. For example, the Director of Professional Competence and two positions that report to the Director are deleted from the Office of General Counsel and added under the Office of the Executive Director. (see Section I, Office of the Executive Director, and Section VII, Office of General Counsel, **Appendix A**.) In another example, positions relating to Legal Services are deleted from the Office of the Executive Director and added under the Office of Member Services. (see Section I, Office of the Executive Director, and Section VI, Office of Member Services, **Appendix A**.) In addition, defunct positions are deleted and new positions are added. New positions, such as a Section Chief for Legal Specialization (see Section V, Office of Admissions, **Appendix A**) are added based on a reasonable foreseeability that employees in these positions will make or participate in the making of decisions that may have a material effect on their financial interests. Finally, modifications to certain Designated Employees’ disclosure category numbers are made because changes in the job duties trigger increased or

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<sup>1</sup> The State Bar is also subject to the conflict of interest standards mandated by Business and Professions Code sections 6035-6038. Section 6036 conforms to the definition of financial interest to that which is specified in Government Code Section 87103.

decreased reporting requirements [(for example, see Director of Administration for Member Services, Section VI, Office of Member Services, **Appendix A**.)]

**B. No Revisions to the State Bar's Conflict of Interest Code or List of Disclosure Categories**

The FPPC has not indicated that any changes will be required for the Code in 2010. Although every two years the FPPC adjusts the gift limitation authorized by statutes and regulations governing Sections 8.1 and 9 of the State Bar's Code (fn 2), the current aggregate gift limitation of \$420 per year is in effect through December 31, 2010. (fn 3) Section 8.1 deals with prohibitions on receipt of gifts in excess of the gift limitation amount, and Section 9 (e) deals with disqualification based on an aggregate gift amount. Accordingly, no changes are recommended for the Code.

Last year, the Board approved one addition to the list of Disclosure Categories at **Appendix B**. This year, no changes are recommended for the Disclosure Categories.

**II. FINANCIAL IMPACT**

None.

**III. BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT**

None.

**IV. STATE BAR RULES IMPACT**

None.

**V. RECOMMENDATION TO PUBLISH PROPOSED REVISIONS FOR A 30-DAY PUBLIC COMMENT PERIOD**

The Fair Political Practices Act and the State Bar's public comment rules (Rules 1.10 and 1.11 of the Rules of the State Bar) require that material changes to the Code (which includes the list of Designated Employee Positions) be circulated for public comment. (fn 4) Distribution of the Code to employees must occur by March 1, 2010.

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<sup>2</sup> Government Code sections 89103(e), 89503 and 2 Cal. Code Regs. Sections 18730, 18940.2. Under Government Code section 89503(f), the FPPC must adjust the gift limitation on January 1 of each odd-numbered year to reflect changes in the California Consumer Price Index ("CPI") rounded to the nearest ten dollars.

<sup>3</sup> The formula used to calculate the adjusted gift limit is at 2 Cal. Code Regs. Section 18940.2.

<sup>4</sup> Public comment is not required to correct clerical errors; clarify grammar; improve organization; conform to specific changes in a law; update references or citations; or make similar editorial changes.

The deadline for filing disclosure statements under the Code is April 1, 2010. (See Appendix C, State Bar's Conflict of Interest Code, Section 5(c).)

In order to comply with these timelines, staff requests a 30-day public comment period. (Title 1, rule 1.10(A) of the Rules of the State Bar.) This will ensure sufficient time for affected employees and members of the public to comment, and for staff to consider any comments received and prepare an agenda item for the action at the Board of Governors meeting held in January 2010.

## **VI. RECOMMENDATION/RESOLUTIONS**

Should the Board Committee on Operations agree with the proposed recommendation, adoption of the following resolution would be appropriate:

RESOLVED, that the Board Committee on Operations authorizes staff to make available, for a 30-day public comment period, the proposed revisions to The State Bar of California's Conflict of Interest Code, in the form attached hereto; and it is

FURTHER RESOLVED that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed item.

Enclosures:

*Appendix A – Designated Employee Positions*

*Appendix B – Disclosure Categories*

*Appendix C – Conflict of Interest Code*

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Title 1, rule 1.10(B), Rules of the State Bar. However, for administrative ease, these changes are included together with material changes published for public comment.

## APPENDIX A

### DESIGNATED EMPLOYEE POSITIONS<sup>1</sup>

(Amended by the Board of Governors on January 10, 2009)

(Public comment proposal - Deletions are in strike-out and Additions are in highlight)

<u>OFFICE AND POSITIONS</u>	<u>DISCLOSURE CATEGORIES</u>
<b>I. Office of the Executive Director</b>	
Executive Director & Secretary	1
Deputy Executive Director	1
Manager Planning and Administration	4, 11, 12
Senior Administrative Specialist JNE & Appointments	4, 11, 12
Senior Administrative Specialist	20
Attorney III (Confidential)	20
Director of Media Services & Information	2, 7, 14, 18, 19
Web Editor	2, 7, 19
Editor / General Manager Cal Bar Journal	2, 14, 19
Publication & Production Assistant	20
Public Information Officer	20
<b>Director Professional Competence</b>	<b>2, 4, 7, 9, 10, 11, 14, 17</b>
Senior Administrative Specialist	<b>2, 4, 7, 9, 10, 11, 14, 17</b>
Attorney, Professional Competence	<b>20</b>
<b>Director Legal Services, Access &amp; Fairness Programs</b>	<b>2, 4, 6, 10, 11, 14, 17, 18</b>
Program Developer	<b>2, 4, 10, 11, 14, 17, 18</b>
Senior Administrative Assistant	<b>2, 4, 10, 11, 14, 17, 18</b>
<del>Director Legal Services Outreach</del>	<del>2, 4, 10, 11, 14, 17, 18</del>
Program Coordinator	<b>2, 4, 10, 11, 18</b>
<del>Managing Director Legal Services Trust Fund Program</del>	<del>2, 4, 6, 10, 11, 14, 18</del>
Senior Grants Administrator	<b>20</b>
Senior Administrative Assistant	<b>20</b>
<del>Director Bar Relations Outreach</del>	<del>2, 4, 10, 11, 14, 17, 18</del>
Program Coordinator	<b>2, 4, 10, 11, 17, 18</b>
Manager Human Resources	5, 7, 8

<sup>1</sup> Where employees in both San Francisco and Los Angeles have the same job title, only the job title appears and not the location. Employees in either location with the indicated job title should file conflicts reports according to the category listed.

**OFFICE AND POSITIONS**

**DISCLOSURE CATEGORIES**

Senior Human Resources Analyst	5, 7, 8
Human Resources Employment Representative	8
Human Resources Representative	20

**II. Operations**

Director Operations	1
Deputy Director Operations - LA	2, 4, 5, 6, 10,11,13,14,15,18
<del>Director Administrative Services – LA</del>	<del>2, 4, 10, 11, 13, 15,</del>
Supervisor of Facilities	10
Supervisor Office & Reception Services	2, 4, 10, 11
Administrative Specialist	4, 10,11, 13
Deputy Director Operations - SF	2, 4, 5, 6, 10,11,13,14,15,18
<del>Director Real Property Operations</del>	<del>2, 4, 5, 6, 10, 11, 13, 14 15, 18</del>
Supervisor Office & Reception Services	2, 4, 10, 11, 14, 18
Supervisor Offset Printing	2, 10, 14
Senior Librarian / Archivist	10, 17

**III. Office of the Chief Trial Counsel**

Chief Trial Counsel	1
Special Assistant to Chief Trial Counsel	20
Deputy Chief Trial Counsel	20
Assistant Chief Trial Counsel	20
Dir Central Administration	7, 10
Manager Central Administration	20
<del>Director Client Security Fund</del>	<del>20</del>
<del>Senior Administrative Supervisor</del>	<del>20</del>
<del>Senior Attorney, Probation</del>	<del>20</del>
<del>Director Fee Arbitration</del>	<del>4</del>
<del>Senior Administrative Assistant</del>	<del>20</del>

**IV. State Bar Court**

State Bar Court Judge	20
Administrative Officer	1
Director Client Security Fund	20
Senior Administrative Supervisor	20
Director Fee Arbitration	4
Senior Administrative Assistant	20
Chief Court Counsel	20
Chief Assistant Court Counsel	20

**OFFICE AND POSITIONS**

**DISCLOSURE CATEGORIES**

Court Administrator	20
Administrative Specialist II	20
Court Services Analyst Technician	20
Senior Attorney, Probation	20

**V. Admissions**

Senior Executive Admissions	1
Sr. Administrative Assistant	2, 3, 4, 7, 9, 10, 11, 13
Administrative Specialist	20
Director for Educational Standards	2, 3, 4, 7, 10, 11, 13, 14, 17, 18
Sr. Administrative Assistant	4, 11, 17
Director for Examinations	2, 3, 4, 7, 10, 11, 13, 14, 18
Examination Technician	2, 4, 7, 10, 11, 18
Director <del>Special Admissions</del> for Legal Specialization	2, 3, 4, 7, 10, 11, 13, 14, 17, 18, 19
Senior Administrative <del>Supervisor</del> Assistant	20 4, 11
Section Chief, Legal Specialization	2, 4, 7, 8, 9, 10, 11, 13, 14
Director for Administration	2, 3, 4, 7, 8, 9, 10, 11, 13, 14, 18
<del>Deputy Director for Administration</del>	<del>2, 3, 4, 7, 10, 11, 13, 14</del>
Section Chief, Administration	2, 4, 7, 10, 14
Section Chief, Examinations Grading	2, 4, 7, 10, 14
Director for Moral Character Determinations	2, 3, 4, 7, 10, 11, 16, 18
Section Chief, Moral Character Determinations	20
Director Operations & Management – LA	2, 4, 6, 7, 10, 11, 13, 14
Deputy Director Operations & Management	2, 4, 6, 7, 10, 11, 13, 14
Section Chief, <del>Operations</del> Examination Administration	2, 4, 7, 8, 9, 10, 11, 13, 14
Section Chief, <del>Receipts</del> Application Preprocessing	20
Section Chief, Eligibility	20
Section Chief, <del>Petitions / Information Services</del> Applicant Services	20

**VI. Office of Member Services**

Senior Executive, Member Services	1
Managing Director Diversity Outreach	2, 4, 10, 11, 14, 17, 18
Senior Administrative Assistant	2, 4, 10, 11, 14, 17, 18
Director of Legal Services Outreach	2, 4, 6, 10, 11, 14, 17, 18
Director Office of Legal Services	2, 4, 6, 10, 11, 14, 17, 18
Program Coordinator	2, 4, 10, 11, 18

## OFFICE AND POSITIONS

## DISCLOSURE CATEGORIES

Managing Dir Legal Services Trust Fund	2, 4, 6, 10, 11, 14, 18
Senior Grants Administrator	20
Senior Administrative Assistant	20
Managing Director Bar Relations Outreach	2, 4, 10, 11, 14, 17, 18
Program Coordinator	2, 4, 10, 11, 14, 17, 18
Director Lawyer Assistance Program	2, 4, 7, 10, 16, 17, 18, 19
Special Assistant to the Director of LAP	2, 4, 7, 10, 16, 17, 18, 19
Clinical Director	2, 4, 7, 10, 16, 17, 18, 19
Director Administration, Member Services	2, 4, 5, 6, 7, 10, 11, 14, 17
Senior Administrative Assistant	4, 5
Senior Administrative Assistant	4, 5
Senior Administrative Supervisor	2, 4, 5, 6, 7, 10, 11, 14, 17
Senior Administrative Supervisor	20
Director Section Education & Meeting Services	2, 4, 10, 11, 17, 18
Manager Section Education & Meeting Services	2, 4, 10, 11, 17, 18
Meeting & Event Administrator	2, 4, 10, 11, 17, 18
Section Coordinator	2, 4, 10, 11, 17, 18
Senior Administrative Assistant	2, 4, 11, 14

## **VII. Office of General Counsel**

General Counsel	1
Chief Assistant General Counsel	20
Assistant General Counsel	20
Managing Director of Administration	9, 10
<del>Director Professional Competence</del>	<del>2, 4, 7, 9, 10, 11, 14, 17</del>
<del>Senior Administrative Specialist</del>	<del>2, 4, 7, 9, 10, 11, 14, 17</del>
<del>Attorney, Professional Competence</del>	<del>20</del>

## **VIII. Office of Administration & Finance**

Senior Executive for Finance / CFO	1
Manager Finance	1
Supervisor of Accounting	6
Senior Financial Analyst	6

## **IX. Office of Information Technology**

Senior Executive for Information Technology	1
Director Technology Systems – LA	7, 10
Director Information Systems – SF	7, 10
Manager Systems Development	7, 10

**OFFICE AND POSITIONS**

**DISCLOSURE CATEGORIES**

**~~Manager Systems Operations~~**

**~~7, 10~~**

Manager Telecommunications

7, 10

Manager Information Technology/Systems  
Projects

7, 10

Technical Support Administrator

20

**~~Senior Librarian / Archivist~~**

**~~10, 17~~**

**X. Miscellaneous Boards & Commissions**

Committee on Group Insurance

20

Committee on Professional Liability Insurance

20

Lawyer Assistance Program Oversight Committee

20

Board of Legal Specialization

20

Advisory Commission, Legal Specialization

20

Committee of Bar Examiners

20

Client Security Fund Commission

20

Legal Services Trust Fund Commission

20

Consultants/Contractors

30

## **APPENDIX B**

### **DISCLOSURE CATEGORIES**

(Amended by the Board of Governors on January 10, 2009)

Category 1. Designated Employees in this category shall disclose, as required by Government Code sections 87206 and 87207 and this Code sections 6 and 7, all reportable investments, business positions in business entities, interests in real property, and sources of income.

Designated Employees in this category shall disclose, as required by Government Code sections 87206 and 87207 and the State Bar's Conflict of Interest Code, all reportable investments in, business positions held in, and sources of income received from the following business entities or individuals:

Category 2. Vendors of typesetting, printing or duplicating services or equipment, and vendors of messenger services.

Category 3. Accredited and unaccredited law schools, admissions related consultants.

Category 4. Vendors of meeting space, food services, and entertainment.

Category 5. Insurance companies, insurance brokerage firms, carriers, holding companies, underwriters, brokers, solicitors, agents, adjusters, claims managers, actuaries, and third-party administrators.

Category 6. Banks and other financial institutions.

Category 7. Vendors of computers, computer hardware, computer maintenance, software, data processing, web hosting, web design, and computer consulting services.

Category 8. Employee benefit providers and administrators of employee benefits, personnel consulting services and employment agencies.

Category 9. Court reporting services.

Category 10. Vendors of office supplies, office equipment, office furniture or building maintenance supplies or services, video or telecom supplies, services, or equipment, and moving and storage services.

Category 11. Travel agencies, hotels, meeting planning services, airlines, car rental agencies and ground transport.

Category 12. Providers of voting and election related services.

Category 13. Security services.

- Category 14. Mass mailing services.
- Category 15. Real estate brokerage firms, real estate agents, real estate brokers and companies that engage in property management, land development, construction or the acquisition or sale or leasing or subleasing of real property.
- Category 16. Providers of treatment or services related to chemical dependency.
- Category 17. Providers of continuing legal education, legal publications, online legal research.
- Category 18. Providers of audio-visual production services.
- Category 19. Public relations and / or media management consultants.
- Category 20. Designated Employees in this category shall only be required to disclose financial interests on their Statement of Economic Interests under the following circumstances: If during a reporting period, a Designated Employee in this category has been required to make a disclosure under the provisions of Business and Professions Code section 6036, he or she shall disclose the disqualifying interest on a Statement of Economic Interests.
- Category 30. The disclosure category for Designated Employees in this category shall be determined by the Executive Director in consultation with the Board of Governors.

## **APPENDIX C**

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

(Amended by the Board of Governors on January 10, 2009)

#### **Section 1. Definitions.**

The definitions contained in chapter 2 of the Political Reform Act of 1974 (Government Code sections 81000 et seq.), 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 Amended Conflict Of Interest Code (hereinafter "Code").

#### **Section 2. Designated Employees.**

The persons holding the positions listed in Appendix A (which is attached to this Code and made a part hereof), are **Designated Employees** of The State Bar of California. These persons have been so designated, based on this agency's determination that they make or participate in the making of decisions, which may foreseeably have a material effect on their financial interests.

#### **Section 3. Statement of Economic Interests. Where to File.**

Each Designated Employee shall file his or her original Statement of Economic Interests, disclosing all reportable financial interests applicable to his or her position, with the Office of the Secretary of the State Bar of California.

The Secretary shall promptly forward all such Statements of Economic Interests to the State Bar's Code Reviewing Body, the Board of Governors of the State Bar of California, within five days after the filing deadlines enumerated in Section 5 of this Code.

#### **Section 4. Disclosure Categories.**

Appendix B (which is attached to this Code and made a part hereof) contains a description of various enumerated disclosure categories. Adjacent to each Designated Employee position in Appendix A are number(s) that correspond to the various disclosure categories contained in Appendix B. Each 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 his or her assigned disclosure categories. It has been determined by the Board of Governors that the financial interests set forth in a Designated Employee's assigned disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

**Section 5. Time for filing Statement of Economic Interests.**

The time for filing Statements of Economic Interests shall be as follows:

- (a) **Initial Statements:** All Designated Employees employed by the State Bar on the effective date of this Code, as originally adopted, promulgated and approved by the Board of Governors, shall file Statements of Economic Interest within thirty (30) days after the effective date of this Code. Thereafter, each person already in a position when it is designated by a future amendment to this Code as a Designated Employee position shall file an initial statement within thirty (30) days after the effective date of the amendment.
- (b) **Assuming Office Statements:** All persons assuming Designated Employee positions after the effective date of this Code shall file

Statements of Economic Interests within thirty (30) days after assuming the designated positions.

- (c) **Annual Statements**: All Designated Employees shall file Statements of Economic Interests no later than April 1st of each year.
- (d) **Leaving Office Statements**: All persons who leave Designated Employee positions shall file Statements of Economic Interests within thirty (30) days after leaving office.
- (e) **Statements for Persons who Resign Prior to Assuming Position**: 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 that they did not make or participate in the making of, or use their position to influence any decision and did not receive or become entitled to receive any form of payment as a result of their appointment. Such persons shall not file either an assuming or leaving office statement.
  - 1. Any person who resigns a position within 30 days of the date of notice from the filing officer shall do both of the following:
    - file a written resignation with the appointing power;
    - 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.

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

- (a) **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 month period prior to the effective date of the Code.
- (b) **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 and income received during the 12 months prior to the date of assuming office.
- (c) **Annual Statements.** Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during 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) **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.

**Section 7. Reportable Interests. Manner of Reporting.**

Statements of Economic Interests shall be made on forms prescribed by the Fair Political Practices Commission (hereinafter "FPPC") and supplied by the State Bar, and shall contain the following information:

(a) **Investments and Real Property Disclosure.** When an investment or an interest in real property is required to be reported,<sup>1</sup> the statement shall contain the following:

1. A statement of the nature of the investment or interest;
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars (\$2,000) but does not exceed ten thousand dollars (\$10,000), whether it exceeds ten thousand dollars

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<sup>1</sup> Reportable Investments and Interests in Real Property. For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

In addition, 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 and are therefore not reportable. 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.

(\$10,000) but does not exceed one hundred thousand dollars (\$100,000), whether it exceeds one hundred thousand dollars (\$100,000) but does not exceed one million dollars (\$1,000,000), or whether it exceeds one million dollars (\$1,000,000).

(b) **Personal Income Disclosure.** When personal income is required to be reported,<sup>2</sup> 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 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

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<sup>2</sup> **Reportable 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, local or federal government agency.

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,<sup>3</sup> 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.

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<sup>3</sup> **Reportable Business Entity Income Disclosure.** Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

- (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 8. Prohibition on Receipt of Honoraria.**

No Designated Employee shall accept any honorarium from any source, if the Designated Employee 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 (a), (b) and (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 8.1 Prohibition on Receipt of Gifts In Excess of \$420.** No

Designated Employee shall accept gifts with a total value of more than four hundred twenty dollars (\$420) in a calendar year from any single source, if the Designated Employee 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 8.2 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:
    - The date the loan was made.
    - The date the last payment of one hundred dollars (\$100) or more was made on the loan.
    - 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 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.

**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 Designated Employee 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 made 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 four hundred twenty dollars (\$420) or more provided to, received by, or promised to the Designated Employee within 12 months prior to the time when the decision is made.

**Section 10. 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.

**Section 11. 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. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a Designated Employee

who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other Designated Employees, this determination and disclosure shall be made in writing to the Designated Employee's supervisor.

**Section 12. 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 FPPC pursuant to Government Code section 83114 or from the State Bar Office of General Counsel, provided that nothing in this Section requires the attorneys for the agency to issue any formal or informal opinion.

**Section 13. 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 - 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.

**Section 14. Interpretation With Other Laws.**

The financial disclosure and disqualification requirements of this Code are in addition to the disclosures required under California Business and Professions Code sections 6035, et seq.