

**ITEM 13**  
**ADOPTION OF PROPOSED REGULATORY ACTION**  
**CONFLICT-OF-INTEREST CODE**

PROPOSED AMENDMENTS TO  
CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5  
Article 9. Conflict-of-Interest Code

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BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

In the Matter of:

Amendments to California Code of  
Regulations, Title 2, Division 2, Chapter 2.5,  
Article 9

No. 14-01

ORDER TO INITIATE RULEMAKING  
PROCEEDINGS

*Article 9. Conflict of Interest Code:*  
Section 1189.10 General Provisions  
and Appendix

Pursuant to California Code of Regulations, title 2, section 1188.2, the Commission on State Mandates (Commission) hereby adopts this order to institute rulemaking proceedings in accordance with the procedures of Government Code sections 11346.2, 11346.4, 11346.8, and 11346.9.

**PROPOSED REGULATORY ACTION.** The Commission proposes to amend California Code of Regulations, title 2, section 1189.10 to update its Conflict of Interest Code and Appendix to conform to the current regulation numbering scheme, accurately reflect the Commission employees who are designated to file economic interest statements with the Fair Political Practices Commission (FPPC) and their disclosure categories, and make other non-substantive changes in capitalization and punctuation.

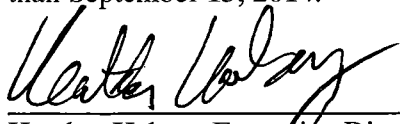
**AUTHORITY AND REFERENCE.** Government Code section 17527(g) authorizes the Commission to adopt the proposed regulations. The purpose of this rulemaking is to update the Commission's Conflict of Interest Code and Appendix to conform to the current regulation numbering scheme, accurately reflect the Commission employees who are designated to file economic interest statements with the FPPC and their disclosure categories, and make other non-substantive changes for purposes of consistency.

**WRITTEN COMMENT PERIOD.** Any interested person or authorized representative may submit written comments relevant to the proposed regulatory action to the Commission. The Commission will only consider written comments received at the Commission's office by 5:00 p.m. on September 29, 2014. Submit comments to:

Heidi Palchik, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Phone: (916) 323-3562

Written comments may be submitted electronically via the Commission website "Drop Box" at:  
<http://www.csm.ca.gov/dropbox.shtml>

**PUBLIC HEARING.** The Commission will hold a hearing on October 24, 2014, if it receives a written request for a public hearing from any interested person or authorized representative, no later than September 15, 2014.

  
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Heather Halsey, Executive Director

Dated: August 5, 2014

**CALIFORNIA CODE OF REGULATIONS  
TITLE 2. ADMINISTRATION  
DIVISION 2. FINANCIAL OPERATIONS  
CHAPTER 2.5. COMMISSION ON STATE MANDATES**

**AMENDMENTS TO ARTICLE 9**

**SECTION 1189.10 GENERAL PROVISIONS AND APPENDIX**

**TEXT**

Text proposed to be added is displayed in underlined type.

Text proposed to be deleted is displayed in ~~strikeout~~ type.

**Article 9. Conflict-of-Interest Code for the Commission on State Mandates**

**§ 1189.10. General Provisions.**

The Political Reform Act (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 (2 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency’s code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations, Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix, designating positions and establishing disclosure categories shall constitute the conflict-of-interest code of the Commission on State Mandates (Commission).

Individuals holding designated positions shall file their statements of economic interests with the Commission, which will make the statements available for public inspection and reproduction. (Gov. Code, § 81008.) Upon receipt of the statements for the Commission members, their alternates, and the Executive Director, the Commission shall make and retain a copy and forward the originals to the Fair Political Practices Commission. All other statements will be retained by the Commission.

Note: Authority cited: Sections 87300, 87301, 87302, 87304 and 87306, Government Code.  
Reference: Sections 81008, 82019, 87206, 87207, 87300, 87301, 87302, 87304 and 87306, Government Code.

**Appendix**

<i>Designated Positions</i>	<i>Disclosure Categories</i>
Members and alternates of the Commission on State Mandates	1
Executive Director	1
Chief Legal Counsel (Career Executive Assignment)	1
<del>Staff Counsel III</del> <u>Attorney III</u>	1
<del>Staff Counsel</del> <u>Attorney</u>	1
<u>Senior Legal Analyst</u>	2, 3
Staff Services Manager I, II	2, 3

Staff Services Analyst	2, 3
Associate Governmental Program Analyst	2, 3
Graduate Legal Assistant	1
Senior Information Systems Analyst	2
Staff Information Systems Analyst	2
Consultants/New Positions*	

*Disclosure Categories*

Category 1 designated positions must disclose all investments, and business positions in business entities, interests in real property, and income, including gifts, loans, and travel payments, from any source.

Category 2 designated positions shall report all investments, business positions in any business entity, interests in real property, and income, including gifts, loans, and travel payments, from any source of the type which has contracted, or in the future may contract, with the Commission to provide services, supplies, materials, machinery or equipment.

Category 3 designated positions shall report all business positions and income, including gifts, loans, and travel payments, from any school district, local governmental agency or special district which has received, or in the future may receive, state reimbursement under article XIII B, section 6 of the California Constitution.

\*Consultants and new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The ~~E~~xecutive ~~D~~irector may determine in writing that a particular consultant or new position, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The ~~E~~xecutive ~~D~~irector 's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code § 81008.)

TITLE 2. ADMINISTRATION  
 DIVISION 2. FINANCIAL OPERATIONS  
 CHAPTER 2.5. COMMISSION ON STATE MANDATES

**NOTICE OF PROPOSED RULEMAKING**

The Commission on State Mandates (Commission) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Commission has not scheduled a public hearing for this proposed action. However, if it receives a written request for a public hearing from any interested person or his or her authorized representative no later than 15 days before the close of the written comment period, the Commission will conduct a public hearing on this proposed action on October 24, 2014, and will notify all persons of the date, time, and location of the hearing pursuant to Government Code section 11346.8(a).

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on September 29, 2014**. The Commission will consider only comments received at the Commission offices by that time. Submit comments to:

Heidi Palchik, Program Analyst  
 Commission on State Mandates  
 980 Ninth Street, Suite 300  
 Sacramento, CA 95814

Written comments may be submitted electronically via the Commission website “Drop Box” at <http://www.csm.ca.gov/dropbox.shtml>

**AUTHORITY AND REFERENCE**

Government Code section 17527(g) authorizes the Commission to adopt the proposed regulations.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Commission is a seven-member quasi-judicial body authorized to resolve disputes regarding the existence of state-mandated local programs (Gov. Code, § 17500 et seq.) and to hear matters involving applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6). The purpose of this rulemaking is to update the Commission’s Conflict of Interest Code and Appendix to conform to the current regulation numbering scheme, accurately reflect the Commission employees who are designated to file economic interest statements with the Fair Political Practices Commission (FPPC) and their disclosure categories, and make other non-substantive changes in capitalization and punctuation.

Therefore, the Commission proposes to amend Article 9, section 1189.10 to the California Code of Regulations, Division 2, Title 2, Chapter 2.5 with a proposed effective date per the quarterly schedule after filing with the Secretary of State.

The Political Reform Act requires state and local government agencies to adopt and promulgate conflict of interest codes. A conflict of interest code includes an appendix that identifies the officials and employees who are required to file statements of economic interest with the FPPC and designates disclosure categories for each official and employee. The FPPC's regulations contain a standard Conflict of Interest Code, which state agencies can incorporate by reference into their own regulations. Therefore, the Commission adopts the FPPC's standard Conflict of Interest Code as its own under section 1189.10 of the Commission's regulations, along with the Appendix in which officials and employees are designated disclosure categories.

Under the FPPC's regulations, substantive amendments to the Conflict of Interest Code and Appendix require initiation of a rulemaking package. The following is a summary of the proposed regulations:

**Section 1189.10. General Provisions**

*Specific Purpose of the Regulation*

This section contains the Commission's Conflict of Interest Code and the Appendix that specifies which Commission employees are designated to file statements of economic interest with the FPPC and their disclosure categories.

*Proposed Changes*

The proposed changes revise existing classification titles and add a new civil service classification as follows:

- Revise Staff Counsel III;
- Revise Staff Counsel;
- Add Senior Legal Analyst; and
- Make other non-substantive changes in capitalization and punctuation.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

The Commission has made the following initial determinations:

Mandate on local agencies and school district:	None
Cost or savings to any state agency:	None
Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:	None
Other non-discretionary cost or savings imposed on local agencies:	None
Cost or savings in federal funding to the state:	None
Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:	None
Significant effect on housing costs:	None

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

*Small Business Determination:* Because the Commission has no jurisdiction over small businesses, the proposed regulatory action will have no impact on small businesses.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

### **CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Heidi Palchik, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562  
(heidi.palchik@csm.ca.gov)

The backup contact person for these inquiries is:

Jason Hone, Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562  
(jason.hone@csm.ca.gov)

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Heidi Palchik at the above address or download it from the Commission’s website at <http://csm.ca.gov/rulemaking.shtml>.

### **AVAILABILITY OF TEXT OF PROPOSED REGULATIONS**

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the notice of intention to amend, and the Commission order to initiate rulemaking proceedings.

Copies may be obtained on the Commission's website (see below) or by contacting Ms. Heidi Palchik at the address or phone number listed above. All persons on the Commission's rulemaking mailing list will be notified of the rulemaking file on the Commission's website.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, and holding a public hearing, if necessary, the Commission may adopt the proposed regulations substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Ms. Heidi Palchik at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of this notice, the text of the proposed regulations in ~~strikeout~~ and underline, and the notice of intention to amend can be accessed through the Commission's website at <http://csm.ca.gov/rulemaking.shtml>.



NOTICE OF INTENTION TO AMEND THE CONFLICT OF INTEREST CODE  
OF THE COMMISSION ON STATE MANDATES

NOTICE IS HEREBY GIVEN that the Commission on State Mandates (Commission), pursuant to the authority vested in it by section 87306 of the Government Code, proposes to amend its Conflict of Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Commission proposes to amend its Conflict of Interest Code to include employee positions that involve the making or participation in the making of decisions that may have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment updates the Conflict of Interest Code and Appendix to conform to the current regulation numbering scheme, accurately reflect the Commission employees who are designated to file economic interest statements with the Fair Political Practices Commission, and their disclosure categories, and make other non-substantive changes in capitalization and punctuation. Copies of the proposed text are available at <http://www.csm.ca.gov/> on the Commission's website or may be requested from the contact person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than September 29, 2014, or at the conclusion of the public hearing, if requested, whichever comes later, to the contact person set forth below. Written comments may be submitted electronically via the Commission website "Drop Box" at <http://www.csm.ca.gov/dropbox.shtml>.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than September 15, 2014, by contacting the contact person set forth below.

The Commission has available the information on which the amendments are based. Copies of the proposed amendments and the information on which the amendments are based may be obtained by contacting the contact person set forth below or downloading it from the Commission's website at <http://csm.ca.gov/rulemaking.shtml>.

The Commission has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts;
2. Impose no costs or savings on any state agency;
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code;
4. Will not result in any nondiscretionary costs or savings to local agencies;
5. Will not result in any costs or savings in federal funding to the state; and
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the Commission must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective as and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Heidi Palchik, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300, Sacramento, CA 95814  
Phone: (916)323-3562 FAX: (916)445-0278  
Email: [heidi.palchik@csm.ca.gov](mailto:heidi.palchik@csm.ca.gov)