

ITEM 8
ADOPTION OF COMMISSION ORDER TO INITIATE RULEMAKING
CONFLICT-OF-INTEREST CODE

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

EXECUTIVE SUMMARY

The Political Reform Act¹ 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 Fair Political Practices Commission (FPPC), and designates disclosure categories for each official and employee. The FPPC's regulations² contain a standard conflict-of-interest code, which state agencies can incorporate by reference into their own regulations. Therefore, the Commission on State Mandates (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.

Section 1188.2 of the Commission's regulations authorizes the Commission to adopt an order to initiate rulemaking. Following adoption of the order, Commission staff will publish a notice of hearing and electronically mail the notice and rulemaking package to all interested persons for public comment.

The purpose of the proposed regulations 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 non-substantive changes in capitalization and punctuation.

Proposed Order Number 14-01 (Exhibit A)

The proposed rulemaking includes the following amendments:

Article 9. Conflict-of-Interest Code, Section 1189.10. General Provisions

The proposed change to the Commission's conflict-of-interest code renumbers the General Provisions section to conform to the current regulation numbering scheme.

Appendix

The proposed changes to the Commission's Conflict-of-Interest Code Appendix add a new civil service classification and revise classification titles to accurately reflect the Commission employees designated to file economic interest statements with the FPPC.

¹ Government Code sections 81000, et seq.

² California Code of Regulations, Title 2, section 18730.

The proposed amendments:

- Add Senior Legal Analyst;
This revision will properly reflect the level of legal analyst used by the Commission.
- Rename the class of Staff Counsel and Staff Counsel III as Attorney and Attorney III respectively;
These revisions will update the civil service titles of the Commission's legal staff to those titles currently designated by the California State Personnel Board.
- Make other non-substantive changes for purposes of consistency.

Text of Proposed Amendments (Exhibit B)

Staff's draft of the proposed text is attached as Exhibit B. Before filing with the Office of Administrative Law (OAL), staff may make technical corrections as required.

Timetable

If the order is adopted, staff will proceed pursuant to the following timetable:

Date	Action
August 5, 2014	<ul style="list-style-type: none">• Notice Publication, Notice of Rulemaking, Initial Statement of Reasons, and Proposed Text will be filed with OAL for publication• Notice Publication and Notice of Intention to Amend will be submitted to Fair Political Practices Commission
August 15, 2014	Notice of Proposed Regulatory Action will be issued and published
September 15, 2014	Last day to request public hearing
September 29, 2014	End of public comment period
October 24, 2014	Public Hearing will be held, if requested
Upon FPPC approval	<ul style="list-style-type: none">• Commission adopts proposed rulemaking package• Commission staff files adopted regulations with OAL• Regulations become effective per the quarterly schedule below:<ol style="list-style-type: none">1. January 1 if the regulation or order of repeal is filed on September 1 to November 30, inclusive.2. April 1 if the regulation or order of repeal is filed on December 1 to February 29, inclusive.3. July 1 if the regulation or order of repeal is filed on March 1 to May 31, inclusive.4. October 1 if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

Staff Recommendation

Staff recommends the Commission adopt Proposed Order 14-01. Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections.

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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 for purposes of consistency.

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.

Heather Halsey, Executive Director

Dated: July 28, 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
Staff Counsel III <u>Attorney III</u>	1
Staff Counsel <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.)