

ITEM 14

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 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, nonsubstantive amendments to the Conflict of Interest Code and Appendix may be submitted directly to the FPPC. However, substantive amendments require initiation of a rulemaking package. In 2009, the Commission submitted amendments to the Appendix as nonsubstantive amendments. The FPPC rejected those amendments as nonsubstantive, and directed the Commission to initiate regular rulemaking to adopt the amendments. On March 24, 2011, the Commission adopted the amendments to its Conflict of Interest Code. However, the FPPC then informed Commission staff that adopting amendments to a Conflict of Interest Code involves several additional minor steps not involved in regular rulemaking. Therefore, Commission staff is proposing that the Commission adopt an order to initiate rulemaking following the steps required by the FPPC.

Following adoption of the order, staff will publish a notice of hearing and 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 Appendix to 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 for purposes of clarity and consistency.

Proposed Order Number 11-01 (Exhibit A)

The proposed rulemaking includes the following amendments:

¹ Government Code sections 81000, et seq.

² California Code of Regulations, Title 2, section 18730

Section 1181.10. General Provisions

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

The proposed amendments:

- Add Staff Counsel III;
This revision will properly reflect the level of staff counsel used by the Commission.
- Delete Staff Services Manager III;
The Commission no longer uses the position of Staff Services Manager III. Therefore, this position is deleted.
- Delete Information Services Technician and Assistant Information Systems Analyst;
These revisions will properly reflect the level of IT staff used by the Commission.
- Add Senior Information Systems Analyst;
This revision will properly reflect the level of IT staff used by the Commission.
- 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 2, 2011	<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 12, 2011	Notice of Proposed Regulatory Action will be issued and published
October 11, 2011	End of public comment period
October 12, 2011	Last day to request public hearing
October 27, 2011	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 30 days after OAL files them with the Secretary of State

Staff Recommendation

Staff recommends the Commission adopt Proposed Order 11-01.