

**2010 CONFLICT OF INTEREST CODE  
BIENNIAL REVIEW REPLY FORM**

2010 AUG 25 PM 1 08

THOMAS J. PASTUSZKA  
CLERK OF THE BOARD  
OF SUPERVISORS

Contact Person: Monica Yrineo Telephone Number: (619) 428-4476

Name of Agency: San Ysidro School District

Mailing Address 4350 Otay Mesa Road, San Ysidro, CA 92173

This agency has reviewed its conflict of interest code and has determined that:

**Amendments are necessary:** (Attach Amended Code)  
(Check all that applies)

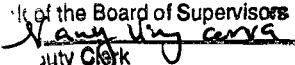
- Include new positions (including consultants) which must be designated
- Revise the titles of existing positions
- Delete titles of positions that have been abolished
- Delete positions that manage public investments
- Revise disclosure categories
- Other \_\_\_\_\_

**No amendments are necessary.** Our agency's code accurately designates all positions which make or participate in the making of governmental decisions; the disclosure assigned to those positions accurately requires the disclosure of all investments, business positions, interests in real property and sources of income which may foresee-ably be affected materially by the decision made by those designated positions; and the code includes all other provisions required by Government Code Section 87302.

Signature of Chief Executive Officer:  Date: 8-24-10

You must complete this report regardless of how recently your code was approved or amended. **Please return this report no later than August 31, 2010 to:**

**Clerk of the Board of Supervisors  
(Conflict of Interest Code)  
1600 Pacific Highway, Room 402  
San Diego, CA 92101**

Approved and/or authorized by the Board  
of Supervisors of the County of San Diego  
Date: 8/24/10 Minute Order No. 4  
THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors  
  
Deputy Clerk

San Ysidro School District  
Resolution #10/11-0002

COUNTY OF SAN DIEGO  
BOARD OF SUPERVISORS  
2010 AUG 25 PM 1 08

THOMAS J. PASTUSZKA  
CLERK OF THE BOARD  
OF SUPERVISORS

RESOLUTION TO ADOPT REVISIONS )  
TO THE CONFLICT OF INTEREST CODE )

On motion of Member Randolph, seconded by Member Marquez-Maden, the following resolution is adopted by the Governing Board of the San Ysidro School District.

WHEREAS, the San Ysidro School District ("District") has determined that its Conflict of Interest Code ("Code") requires amending;

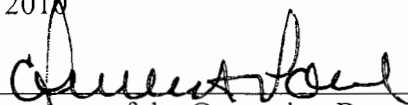
NOW, THEREFORE, BE IT RESOLVED that

1. Board Bylaw ("BB") 9720 and E 9720 are hereby amended as set forth in the Attached Exhibit 1. The amended bylaw outlines the ongoing requirements for Governing Board members and designated personnel with respect to the Code and E 9720 restates the updated Code.
2. The Superintendent is hereby directed to forward the amended list of designated employees and disclosure categories to the San Diego County Board of Supervisors, the Code reviewing body, as is required by the Political Reform Act and state regulations.
3. Each designated employee of the District shall be provided with information regarding both disclosure and disqualification requirements pursuant to the Code, the Political Reform Act and state regulations.
4. The District shall provide a copy of this Resolution to all designated employees.

PASSED AND ADOPTED by the Governing Board of the San Ysidro School District, County of San Diego, State of California, this 12th day of August, 2010.

AYES: 5 NOES: 0 ABSENT: 0 ABSENTIONS: 0

I, Manuel H. Paul, Secretary of the Governing Board of the San Ysidro School District, do hereby certify that the foregoing is a full, true and correct copy of a resolution passed and adopted by the Governing Board of the San Ysidro School District at a regular meeting of said Board held on the 12<sup>th</sup> day of August, 2010

  
Secretary of the Governing Board  
of the San Ysidro School District

**Bylaws of the Board**

**Conflict of Interest**

Governing Board members shall comply with the District's Conflict of Interest Code as set forth in this bylaw and E 9270. Designated employees of the District, including Governing Board members, shall adhere to the financial disclosure requirements of the District's Conflict of Interest Code adopted pursuant to the provisions of Government Code § 87300.

**Conflict of Interest Code**

The terms of 2 California Code of Regulations § 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated into the Conflict of Interest Code of this District by reference. This regulation, restated in E 9270 for convenience, and the attached Appendix specifying designated positions and categories of disclosure constitute the Conflict of Interest Code of this District.

All designated officials and employees required to submit a statement of economic interest shall file their statements with the Superintendent, or his or her designee. The District shall make and retain a copy of all statements filed by its Members of the Governing Board and its Superintendent, and forward the originals of such statements to the Executive Office of the Board of Supervisors of San Diego County.

The District shall retain the originals of statements for all other Designated Positions named in the District's Conflict of Interest Code. All retained statements, originals or copies shall be available for public inspection and reproduction. (Cal. Gov't Code § 81008)

When a change in the district's conflict of interest code is necessitated by changed circumstances such as the creation of new positions, amendments or revisions shall be submitted to the code reviewing body within 90 days. (Government Code § 87306)

The Governing Board shall review the district's conflict of interest code in even-numbered years and send the code reviewing body either an amended code or, by October 1 of that year, a statement to the effect that no change is necessary. (Government Code § 87306.5)

When reviewing and preparing conflict of interest codes, the district shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code § 87311)

Statements of economic interests submitted to the district by designated employees in accordance with the conflict of interest code shall be available for public inspection and reproduction. (Government Code § 81008)

**Prohibited Transactions**

Members of the Governing Board, district Employees, and members of citizens' oversight committees (collectively, "school personnel") shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. (Government Code § 1090).

School personnel shall not be deemed to be interested in a contract entered into by a body or board of which they are members if the Governing Board member, school officer, or employee has only a remote interest in the contract and if the fact of that interest is disclosed to the body or board of which the Governing Board member, school officer, or employee is a member and noted in its official records. The affected Governing Board member, school officer or employee shall not vote or debate on the matter or attempt to influence any other Board member to enter into the contract. "Remote interest" shall be defined as in California Government Code § 1091(b).

A Governing Board member may enter into a contract if the rule of necessity or legally required participation applies as defined in Government Code Section 87101.

School personnel shall not be considered to be financially interested in a contract if their interest is including, but not limited to, any of the following: (Government Code § 1091.5)

1. The ownership of less than 3 percent of the shares of a corporation for profit, provided that the total annual income to him or her from dividends, including the value of stock dividends, from the corporation does not exceed 5 percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed 5 percent of his or her total annual income.
2. That of an officer in being reimbursed for his/her actual and necessary expenses incurred in the performance of an official duty;
3. That of a recipient of public services generally provided by the public body or board of which he/she is a member, on the same terms and conditions as if he or she were not a member of the board;
4. That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or an public corporation or special, judicial or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee has such interest as landlord or tenant in which even his/her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Government Code 1091;
5. That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he or she serves as a member of the board of commissioners of the authority or of a community development

commission created pursuant to part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.

6. That of a spouse of an officer or employee of a public agency in his or her spouse's employment or officeholding if his/her spouse's employment or office-holding has existed for at least one year prior to his/her election or appointment;
7. That of a non-salaried member of a nonprofit corporation, provided that such interest is disclosed to the board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records;
8. That of a non-compensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the board or to which the board has legal obligation to give particular consideration, and provided further that such interest is noted in its official records;
9. That of a person receiving salary, per diem, or reimbursement for expenses from a government entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that the interest is disclosed to the body or board at the time of consideration of the contract, and provided further that the interest is noted in its official record.
10. That of an attorney of the contracting party of that of an owner, officer, employee or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm or real estate firm.
11. Except as provided in Government Code section 1091.5(b), that of an officer or employee of or a person having less than 10-percent ownership interest in a bank, bank holding company, or savings and loan association with which a party to the contract has a relationship of borrower or depositor, debtor, or creditor.
12. That of (A) a bona fide nonprofit, tax-exempt corporation having among its primary purposes the conservation, preservation, or restoration of park and natural lands or historical resources for public benefit, which corporation enters into an agreement with a public agency to provide services related to park and natural lands or historical resources and which services are found by the public agency, prior to entering into the agreement or as part of the agreement, to be necessary to the public interest to plan for, acquire, protect, conserve, improve, or restore park and natural lands or historical resources for public purposes and (B) any officer, director, or employee acting pursuant to the agreement on behalf of the nonprofit corporation. For purposes of this paragraph, "agreement" includes contracts and grants, and "parks," "natural lands," and "historical resources" shall have the meanings set forth in subdivisions (d), (g), and (i) of Section 5902 of the Public Resources Code. Services to be provided to the public agency may include those studies and related services,

acquisitions of property and property interests, and any activities related to those studies and acquisitions necessary for the conservation, preservation, improvement, or restoration of park and natural lands or historical resources.

In addition, school personnel shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if their sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor. (Government Code § 1091.5(b))

School personnel shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

Each Governing Board member shall abstain from voting on personnel matters that uniquely affect his or her relative(s), but the member may vote on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. "Relative" means an adult who is related to the member by blood or affinity within the third degree, or an individual in an adoptive relationship within the third degree. (Cal. Educ. Code § 35107(e).)

A relationship within the third degree includes the individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

Pursuant to Education Code § 35107(b)(1), a Governing Board member may not be sworn into office until he/she resigns as an employee. If the employee does not resign, the employment automatically terminates when he/she is sworn into office.

### **Incompatible Activities**

Members of the Governing Board, District employees, and members of citizens' oversight committees shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a member of the Governing Board, employee, or committee member or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed.

The outside employment, activity, or enterprise of school personnel is prohibited if it: (1) involves the use for private gain or advantage of his or her local District time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local District office or employment or, (2) involves receipt or acceptance by school personnel of any money or other consideration from anyone other than the District for the performance of an act which the school personnel member, if not performing such act, would be required or expected to render in the regular course or hours of his or her local District employment or as a part of his or her duties as a local District officer or employee or, (3) involves the time demands as would render performance of his or her duties as a local District school personnel member less efficient.

Nothing in this policy shall be interpreted to prohibit any outside employment, activity, counsel, or enterprise on behalf of another governmental entity, subject to common law and professional conflict of interest rules.

School personnel who violate this policy may be subject to discipline as set forth in applicable Collective Bargaining Agreements and Board policies and regulations. Governing Board members who violate this section may be subject to censure. Disciplinary appeals by school personnel shall be handled pursuant to applicable Collective Bargaining Agreements and Board policies and regulations.

**Disqualification for Board Members Who Manage Public Investments**

A Board member who manages public investments pursuant to Government Code 87200 and who has a financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

1. Publicly identify the financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required. (Government Code 87105)
2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100. This Board member shall not be counted toward achieving a quorum while the item is discussed. (Government Code 87105; 2 CCR 18702.5)
3. Leave the room until after the discussion, vote and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters. (Government Code 87105)

If the item is on the consent calendar, the Board member must recuse himself/herself from discussing or voting on that matter, but the Board member is not required to leave the room during the consent calendar. (2 CCR 18702.5)

The Board member may speak on the issue during the time that the general public speaks on the issue. The Board member shall recuse himself/herself from voting on the matter and leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion of the matter with members of the public. (Government Code 87105; 2 CCR 18702.5)

If the Board's decision is made during closed session, the public identification may be made orally during the open session before the Board goes into closed session and shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government Code 87100. The Board member shall not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the Board's decision. (2 CCR 18702.5)

### Gifts

Board members and designated employees may accept gifts only under the conditions and limitations specified in Government Code 89503 and 2 CCR 18730.

The limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

Gifts of travel and related lodging and subsistence shall be subject to the prevailing gift limitation except as described in Government Code 89506.

A gift of travel does not include travel provided by the District for Board members and designated employees. (Government Code 89506)

### Honoraria

Board members and designated employees shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering, in accordance with law. (Government Code 89501, 89502)

The term honorarium does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade or profession unless the sole or predominant activity of the business, trade or profession is making speeches
2. Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes

### **Legal Reference:**

#### EDUCATION CODE

1006 Qualifications for holding office  
35107 School district employees  
35230-35240 Corrupt practices  
35233 Prohibitions applicable to members of governing boards  
35239 Compensation for board members in districts under 70 ADA

#### GOVERNMENT CODE

1090-1098 Prohibitions applicable to specified officers  
1125-1129 Incompatible activities  
81000-91015 Political Reform Act of 1974, especially:  
82011 Code reviewing body  
82019 Definition of designated employee  
82028 Definition of gifts  
82030 Definition of income

87100-87103.6 General prohibitions  
87200-87210 Disclosure  
87300-87313 Conflict of interest code  
87500 Statements of economic interests  
89501-89503 Honoraria and gifts  
91000-91014 Enforcement

CODE OF REGULATIONS, TITLE 2

18110-18997 Regulations of the Fair Political Practices Commission, especially:  
18702.5 Public identification of a conflict of interest for Section 87200 filers

COURT DECISIONS

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th. 655  
Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

ATTORNEY GENERAL OPINIONS

86 Ops.Cal.Atty.Gen. 138(2003)  
85 Ops.Cal.Atty.Gen. 60 (2002)  
82 Ops.Cal.Atty.Gen. 83 (1999)  
81 Ops.Cal.Atty.Gen. 327 (1998)  
80 Ops.Cal.Atty.Gen. 320 (1997)  
69 Ops.Cal.Atty.Gen. 255 (1986)  
68 Ops.Cal.Atty.Gen. 171 (1985)  
65 Ops.Cal.Atty.Gen. 606 (1982)

Management Resources:

WEB SITES

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Bylaw  
Approved: October 19, 1987  
Revised: December 9, 2004  
Revised: August 17, 2006  
Revised: September 11, 2008  
Revised: August 12, 2010

**SAN YSIDRO SCHOOL DISTRICT**  
San Ysidro, California

**APPENDIX**

**DESIGNATED POSITIONS/DISCLOSURE CATEGORIES**

1. Person occupying the following positions are designated employees in **Category 1:**

Governing Board Members  
Superintendent  
Assistant Superintendents

Designated persons in this category must report:

- a. Interests in real property located entirely or partly within district boundaries, or within 2 miles of district boundaries or of any land owned or used by the district. Such interests include any leasehold, beneficial or ownership interest or option to acquire such interest in real property.
- b. Investments or business positions in or income from sources which:
  - (1) Are engaged in the acquisition or disposal of real property within the district
  - (2) Are contractors of subcontractors which are or have been within the past two years engaged in work or services of the type used by the district, or
  - (3) Manufacture or sell supplies, books, machinery or equipment of the type used by the district.

2. Persons occupying the following positions are designated employees in **Category 2:**

Principals  
Assistant Principals/Vice Principals  
Director of Information Management Services  
Director of State and Federal Projects  
Director of Maintenance, Operations and Transportation  
Coordinator of Preschool and Child Development Programs  
Custodial Operation Supervisor

Designated person in this category must report investments or business positions in or income from sources which:

- a. Are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or
- b. Manufacture or sell supplies, books, machinery or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a principal's department is his/her entire school.

3. Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with the District's Conflict of Interest Code.

A Consultant is an individual who, pursuant to a contract with the district, makes any of several specified governmental decisions or serves in a staff capacity with the district, performing the same or substantially the same duties for the district that would otherwise be performed by an individual holding a position specified in the district's Conflict of Interest Code. Consultants are individuals who decide whether to: (Code of Regulations, Title 2, Section 18700).

- a. Approve a rate, rule or regulation;
- b. Adopt or enforce a law;
- c. Issue, deny, suspend or revoke a permit, license, application, certificate, approval, order or similar authorization or entitlement;
- d. Authorize the district to enter into, modify or renew a contract that requires district approval;
- e. Grant district approval to a contract or contract specifications which require district approval and in which the district is a party;
- f. Grant district approval to a plan, design, report, study or similar item; or
- g. Adopt or grant district approval of district policies, standards or guidelines.

**FPPC Regulation 18730 (2 California Code of Regulations, Section 18730)****Section 1. Definitions.**

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. §§ 18100, *et seq.*), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

**Section 2. Designated Employees.**

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

**Section 3. Disclosure Categories.**

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code sections 87200, *et seq.*

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code section 87200; and

(C) The filing officer is the same for both agencies.<sup>1</sup>

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has

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<sup>1</sup> Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's 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 4. Statements of Economic Interests: Place of Filing.**

All designated employees within this code shall file statements of economic interests in accordance with Section 200 of Board Policy 2300.<sup>2</sup>

**Section 5. Statements of Economic Interests: Time of Filing.**

(A) Initial Statements.

All designated employees on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements.

All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements.

All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements.

All persons who leave designated positions shall file statements within 30 days after leaving office.

**Section 5.1. Statements for Persons Who Resign Prior to Assuming Office.**

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 he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or a leaving office statement.

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<sup>2</sup> See California Government Code § 81010 and section 18115 of Title 2 of the California Code of Regulations for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

1. File a written resignation with the appointing power; and
2. 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) Contents of 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 months prior to the effective date of the code.

##### (B) Contents of 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 or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

##### (C) Contents of Annual Statements.

Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the 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) Contents of 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. Manner of Reporting.**

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

##### (A) Investment and Real Property Disclosure.

When an investment or an interest in real property<sup>3</sup> is required to be reported,<sup>4</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 exceeds two thousand dollars (\$2,000), 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,<sup>5</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 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.

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<sup>3</sup> For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>4</sup> 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. 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.

<sup>5</sup> 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.

When income of a business entity, including income of a sole proprietorship, is required to be reported,<sup>6</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.

(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.**

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

Subdivisions (a), (b), and (c) of Government Code Section 89501 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 \$420 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

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

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<sup>6</sup> 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.

**Section 8.2. Loans to Public Officials.**

No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.
2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed five hundred dollars (\$500) at any given time.
4. Loans made, or offered in writing, before January 1, 1998.

### **Section 8.3. Loan Terms.**

Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars (\$500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

This section shall not apply to the following types of loans:

5. Loans made to the campaign committee of the elected officer.
6. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
7. Loans made, or offered in writing, before January 1, 1998.

Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

### **Section 8.4 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:
  - 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 a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

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 official 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 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 \$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 9.1. 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 9.5. Disqualification of State Officers and Employees.**

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

1. Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
2. Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.

### **Section 10. 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 may be accompanied by disclosure of the disqualifying interest.

### **Section 11. 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 Fair Political Practices Commission pursuant to Government Code section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

### **Section 12. 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 81000-91015. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of

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Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.

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