

LEGISLATIVE DIGEST

[Campaign and Governmental Conduct Code - Updating Conflict of Interest Code]

Ordinance amending the San Francisco Campaign and Governmental Conduct Code to update the City's Conflict of Interest Code.

Existing Law

The Political Reform Act of 1974, California Government Code § 87300, *et seq.*, requires that San Francisco adopt a Conflict of Interest Code and review and update the Code every two years. The City's Conflict of Interest Code is set forth in Article III, Chapter 1 of the Campaign and Governmental Conduct Code. The Code designates those City officials and employees who periodically must file public statements disclosing their personal financial interests. The Code also specifies the types of financial interests – *i.e.*, disclosure categories – that designated officials and employees must disclose.

Amendments to Current Law

The proposed amendments to the Conflict of Interest Code add, delete, and change the titles of designated employees to reflect organizational and staffing changes made by City departments and agencies since the Code was last amended in 2010. The proposed amendments also revise the disclosure requirements applicable to some designated officials and employees.

The proposed amendments amend the sections of the Conflict of Interest Code governing the following local agencies: Airport, Board of Appeals, Arts Commission, Assessor-Recorder, Board of Supervisors, Department of Building Inspection, City Attorney, Controller, Office of Economic Workforce and Development, Department of Emergency Management, Department of the Environment, Fine Arts Museums, General Services Agency – City Administrator, General Services Agency – Department of Technology, Department of Human Resources, Human Rights Commission, Human Services Agency, Municipal Transportation Agency, Planning Department, Port, Recreation and Park, Retirement System, San Francisco Unified School District, Office of Small Business, Transportation Authority, Treasurer – Tax Collector, and Department on the Status of Women.

The proposed amendments also delete the section of the Conflict of Interest Code governing the Redevelopment Agency.

Background

The City's conflict of interest code must list those employees and officers who make or participate in the making of governmental decisions on behalf of the City. 2 C.C.R. § 82019(a)(3). A City employee or officer "makes a governmental decision" when he or she:

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(1) votes on a matter; (2) appoints a person; (3) obligates or commits his or her agency to any course of action; or (4) enters into any contractual agreement on behalf of his or her agency. *Id.* § 18702.1. A City employee or officer "participates in making a governmental decision" when he or she directly, without significant substantive review: (1) negotiates with a governmental entity or private person regarding a governmental decision; or (2) advises or makes recommendations to the final decision-maker by conducting research or an investigation, or preparing or presenting a report, analysis or opinion. *Id.* § 18702.2. The City's conflict of interest code should not include employees who carry out solely clerical or ministerial tasks. See *id.* § 18702.4 (a).

A "filing officer" is the officer with whom any original statement of economic interests is required to be filed. Cal. Gov. Code § 82027. Filing officers are required to supply the necessary forms, determine whether the required forms have been filed, notify persons who have failed to file correctly, and report apparent violations to the appropriate agency. 2 C.C.R. § 18115(a). A "filing official" makes and retains a copy of a statement of economic interests and forwards the original statement to the appropriate filing officer. See *Durant Adv. Ltr.*, CA FPPC Adv. A-02-299, 2002 WL 31819179 at *1-2 (Dec. 4, 2002); *County Clerk Adv. Ltr.*, CA FPPC Adv. A-99-030, 1999 WL 129903 at *1 n.2 (Feb. 25, 1999); 2 C.C.R. § 18115(b).

The Fair Political Practices Commission is the filing officer for the District Attorney, Treasurer, members of the Board of Supervisors, City Administrator, City Attorney, Mayor, and members of the Planning Commission. Cal. Gov. Code § 87500(e)-(g). For these officials, the filing official is the Ethics Commission.