

AMERICAN INDIAN MODEL SCHOOLS CONFLICT OF INTEREST CODE

I. ADOPTION

In compliance with the Political Form Act of 1974, California Government Code Section 87100, et. seq., and Government Code 1090 American Indian Model Schools (“Schools”) hereby adopts this Conflict of Interest Code (“Code”), which shall apply to all governing board members, candidates for member of the governing board, and all other designated employees of Schools as specifically required by California Government Code Section 87300.

II. DEFINITION OF TERMS

The definitions contained in the Political Reform Act of 1974 as amended, 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.

III. 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 the economic interests of such persons.

IV. STATEMENTS OF ECONOMIC INTERESTS: PLACE OF FILING.

The Code reviewing body shall instruct all designated employees within its Code to file Statements of Economic Interests with the agency filing officer in the agency's conflict of interest code.¹

V. STATEMENTS OF ECONOMIC INTERESTS: TIME OF FILING.

(A) Initial Statements. All designated employees employed by the agency 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.

¹ See Government Code section 81010 and Title 2, California Code of Regulations, section 18115 for the duties of filing officer and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

- (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.

VI. 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 Leaving Office Statement.

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:

- (A) File a written resignation with the appointing power; and
- (B) 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.

VII. 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.

VIII. 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) Investments and Real Property Disclosure. When an investment or an interest in real property² is required to be reported³ 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 equals or exceeds two thousand dollars (\$1,000),
- (B) Personal Income Disclosure. When personal income is required to be reported⁴ 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. When income of a business entity, including income of a sole proprietorship, is required to be reported⁵ the statement shall contain:

² For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

³ 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.

⁴ 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.

⁵ 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

(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

IX. 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 four hundred forty dollars (\$440) or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

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.

X. MANNER OF DISQUALIFICATION

A. Non-Governing Board Member Designated Employees – When a non-Governing Board member designated employee determines that he/she should not make a decision because of a disqualifying interest he/she should submit a written disclosure of the disqualifying interest to his/her immediate supervisor. The supervisor shall immediately reassign the matter to another employee and shall forward the disclosure to the Superintendent, who shall record the employee's disqualification. In the case of a designated employee who is head of any agency, this determination and disclosure shall be made in writing to his/her appointing authority.

B. Governing Board Member Designated Employees – Governing Board members shall disclose a disqualifying interest at the meeting during which consideration of the decision takes place. This disclosure shall be made part of the Board's official record. The Board member shall then refrain from participating in the decision in any way (i.e. the Board member with the disqualifying interest shall refrain from voting on the matter and shall leave the room during Board discussion and when the final vote is taken) and comply with any applicable provisions of the Schools bylaws.

XI. 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.

XII. 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.

XIII. VIOLATIONS.

This Code has the force and effect of law. Members of the Schools Governing Board, and designed employees violating any provision of this Code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act of 1974 as amended, Government Code sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this Code or of Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected Secretary of American Indian Model Schools, a California nonprofit public benefit corporation; that this conflict of interest code is in the conflict of interest code as adopted by the Board of Directors on _____, 2020; and that this conflict of interest code has not been amended or modified since that date.

Date

Adrien Abuyen, Secretary

APPENDIX A
Designated Officials with Indicated Required Disclosure Categories

POSITION	DISCLOSURE CATEGORIES
Board Directors	1
Superintendent	1
Chief Financial Officer	1
Heads of Schools	1
Deans	1
Operations Director	1
Executive Assistant to the Board of Directors	1
Consultants*	1

*Consultants defined by California Code of Regulations, title 2, section 18701, subdivision (a)(2) shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the Code subject to the following limitations:

The Filing Officer may determine in writing that a particular consultant, 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 described.

APPENDIX B DISCLOSURE CATEGORIES

INTRODUCTION

Each designated official is assigned to one of the following disclosure categories and must disclose reportable financial interests in each category assigned. Designated officials need not report any investment in a business entity or real property worth less than \$2,000 or any source of income, including gifts, loans and travel payments, which aggregated less than \$500 (if a gift, less than \$50) during the calendar year prior to filing. An interest in real property used as the designated official's principal residence need not be reported.

Disclosure Categories:

1. All interests in real property as defined in Government Code section 82033; all investments as defined in Government Code section 82034; all income, including gifts, loans and travel payments, as defined in Government Code section 82030, including gifts, loans and travel payments; and business positions as set forth California Code of Regulations, title 2, section 18730(b)(7)(D). The applicable jurisdiction is the State of California. Applicable schedules to be completed: A-1, A-2, B, C, E, F.
2. Investments and business positions in business entities and income, including gifts, loans and travel payments, from sources of the type which, within the previous two calendar years, have contracted with the District to supply goods or services to the District. Applicable schedules to be completed: A-1, A-2, C, E, F.

[Not part of the Conflict of Interest Code. Included for informational purposes only]

Disclosure Categories

Category 1

A designated position in this category must report all investments, business positions, interests in real property, and sources of income, including gifts, loans, and travel payments.

Category 2

A designated position in this category must report:

Interests in real property.

Investments and business positions in business entities, and income, including gifts, loans, and travel payments, from sources that:

(A) Are, or were, during the previous two years a "candidate," "public official," "committee," "lobbyist," "lobbying firm," or "lobbyist employer" within the meaning of the Political Reform Act, or file periodic reports pursuant to Government Code sections 86114 and 86116; or

(B) Are attorneys that represent persons described in Category 2(A) in matters directly related to their status as described in Category 2(A); or

(C) Are committee treasurers; or

(D) Were the subject of a complaint to, investigation by, or enforcement action of, the Commission, that was acted upon or participated in by the filer during the period covered by the statement.

Category 3

A designated position in this category must report investments and business positions in business entities, and income, including gifts, loans, and travel payments, from sources that:

(A) Are, or were, during the previous two years a “candidate,” “public official,” “committee,” “lobbyist,” “lobbying firm,” or “lobbyist employer” within the meaning of the Political Reform Act, or file periodic reports pursuant to Government Code sections 86114 and 86116; or

(B) Are attorneys that represent persons described in Category 3(A) in matters directly related to their status as described in Category 3(A); or

(C) Are committee treasurers.

Category 4

A designated position in this category must report investments and business positions in business entities and income, including gifts, loans, and travel payments, from sources that are of the type that within the previous two years has provided services, equipment, leased space, materials, or supplies to the Commission.

Category 5

A designated position in this category must report investments and business positions in business entities, and income, including gifts, loans, and travel payments, from sources that manufacture, distribute, supply, or install computer hardware or software of the type utilized by the Commission, as well as entities providing computer consultant services.

DEFINITION OF TERMS

Assuming Office Statement -The document filed with the Filing Officer by a designated official appointed or promoted to a designated position.

Business Entity - Any organization operated for profit. (Gov. Code, § 82005.)

Calendar Year - January 1-December 31.

Consultant - California Code of Regulations, title 2, section 18701, subdivision (a)(2) defines "consultant" as an individual who, pursuant to a contract with a state or local government agency:

(a) Makes a governmental decision whether to:

(1) Approve a rate, rule, or regulation;

(2) Adopt or enforce a law;

(3) Issues, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;

(4) Authorize the agency enter into, modify, or renew a contract provided it is the type of contract that requires agency approval;

(5) Grant agency approval to a contract that requires agency approval and to which the agency is a party or to the specifications for such a contract;

(6) Grant agency approval to a plan, design, report, study, or similar item;

(7) Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof, or

(b) Serves in a staff capacity with the agency and in that capacity participates in making a governmental decision as defined in California Code of Regulations, title 2, section 18702.2 or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code under Government Code section 87302.

Designated Officials - Those persons holding positions listed in Appendix A who must file statements of economic interests (Form 700). It has been determined that these individuals make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

Disclosure Category - The specific type of financial interest which must be disclosed on the statement of economic interests of each designated official. A description of the various disclosure categories is contained in Appendix B.

Effect on the Public Generally - A financial interest of a designated official does not require disqualification if the District decision involved will not affect the designated official's financial interest in a way different from its effect on the public generally. "Public generally" refers to all members of the public or a significant segment of the public. (Gov. Code, § 87103; Cal. Code of Regs., tit. 2 § 18707; 2 FPPC Ops. 77, No. 76.005.)

Filer - The individual designated official who must file a Statement of Economic Interests with the Filing Officer. Designated officials must file statements of economic interests whether or not they have anything to disclose.

Filing - Delivery to the Filing Officer, by mail or otherwise, of a statement of economic interests.

Filing Officer - The Superintendent provided, however, that the Superintendent may delegate to other District employees all or part of the Filing Officer's responsibilities. Where such authority has been delegated, the term Filing Officer shall refer to the Superintendent and/or the appropriate delegate.

Financial Disclosure Statements - See Statements of Economic Interests.

Financial Interests - A designated official has a financial interest in a decision within the disqualification requirement of the Political Reform Act of 1974, as amended and of the Conflict of Interest Code if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the designated official, a member of his or her immediate family, or on:

(a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more;

(b) Any real property in which the public official 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 public official within twelve (12) months prior to the time when the decision is made;

(d) Any business entity in which the public official 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 four hundred forty dollars (\$440) or more in value provided to, received by, or promised to the public official within twelve (12) months prior to the time when the decision is made.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10 percent interest or greater. (Gov. Code, § 87103.)

Foreseeable or Foreseeably - Reasonably foreseeable means that the designated official knows or should know that it is likely or there is substantial probability that an action will have a particular result (e.g., will materially affect a financial interest). (1 FPPC Ops. 198, 203-204, No. 75-089, pp. 6-7; 2 FPPC Ops. 157,160-162, No. 76-071.)

Gift - Government Code section 82028 defines gift as follows:

"Gift" means, except as provided below, any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

The term "gift" does not include:

(a) Informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material";

(b) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a non-profit entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code without being claimed as a charitable contribution for tax purposes;

(c) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin or the spouse of any such person; provided that a gift from any such person shall be considered

a gift if the donor is acting as an agent or intermediary or any person not covered by this paragraph;

(d) Campaign contributions required to be reported under Chapter 4 of this title (Political Reform Act);

(e) Any devise or inheritance;

(f) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

The term "gift" (as further defined in Cal. Code of Regs., tit. 2, § 18942) also does not include the value of:

(a) Hospitality (including food, beverages or occasional lodging) provided by an individual in his or her home when the individual or a member of the individual's family is present, to an official;

(b) Exchanges between a public official filing a statement of economic interests and an individual other than a lobbyist, on holidays, birthdays, or similar occasions provided the presents exchanged are not substantially disproportionate in value.

Further information may be obtained from your Conflict of Interest Coordinator regarding reporting of specific types of gifts, including:

Valuation of gifts; general rule for receipt of gifts, promised gifts, and return, donation, or reimbursement of gifts; valuation of gifts to an official and his or her family; testimonial dinners and events; valuation of wedding gifts; reporting of gifts from multiple donors; and valuation of gift passes and season tickets. (Cal. Code of Regs., tit. 2, §§ 18940, et seq.)

Honorarium - Government Code section 89501 defines honorarium as follows: "Honorarium" means, except as provided below, any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

"Honorarium" does not include earned income for personal services which are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting, unless the sale or predominant activity of the business, trade, or profession is making speeches.

Income - Government Code section 82030 defines income as follows:

"Income" means, except as provided below, a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly, or beneficially, a 10 percent interest or greater. "Income" other than a gift, does not include income received from any source outside the jurisdiction and not doing business

within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title. (Political Reform Act.)

"Income" also does not include:

(a) Campaign contributions required to be reported under Chapter 4 of this title. (Political Reform Act);

(b) Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide non-profit entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code;

(c) Any devise or inheritance;

(d) Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency;

(e) Dividends, interest or any other return on a security which is registered with the Securities and Exchange Commission of the United States government, or a commodity future registered with the Commodity Futures Trading Commission of the United States government, except proceeds from the sale of these securities and commodity futures;

(f) Redemption of a mutual fund;

(g) Alimony or child support payments;

(h) Any loan or loans from a commercial lending institution which are made in the Lender's regular course of business on terms available to members of the public without regard to official status if:

(1) The loan is secured by the principal residence of filer; or

(2) The balance owed does not exceed ten thousand dollars (\$10,000);

(i) Any loan from or payments received on a loan made to an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or the spouse of any such person, provided that a loan from any such person shall be considered income if the lender is acting as an agent or intermediary for any person not covered by this paragraph;

(j) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender's regular course of business on terms available to members of the public without regard to official status, so long as the balance owed to the creditor does not exceed ten thousand dollars (\$10,000);

(k) Payments received under a defined benefit pension plan qualified under subsection (a) of Internal Revenue Code section 401; or

(l) Proceeds from the sale of securities registered with the Securities and Exchange Commission of the United States government or from the sale of commodities futures registered with the Commodities Futures Trading Commission of the United States government

if the filer sells the securities or the commodities futures on a stock or commodities exchange and does not know or have reason to know the identity of the purchaser.

Interest in Real Property - Government Code section 82033 defines interest in real property as follows:

"Interest in real property" includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is two thousand dollars (\$2,000) or more. Interests in real property of an individual includes pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, or indirectly, or beneficially, a 10 percent interest or greater.

"For purposes of disclosure, 'interest in real property' does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer." (Gov. Code, § 87206(£).)

Investments - Government Code section 82034 defines investments as follows: "Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. (Political Reform Act.) No asset shall be deemed an investment unless its fair market value is two thousand dollars (\$2,000) or more. The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or a common trust fund which is created pursuant to section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency. Investments of an individual include a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly or indirectly or beneficially, a 10 percent interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by the California Code of Regulations.

Leaving Office Statement - The document filed with the Filing Officer by a designated official after he or she leaves office.

Legally Required - California Code of Regulations, title 2, section 18708 defines "legally required participation" as follows:

(a) A public official is not legally required to make or participate in the making of a governmental decision within the meaning of Government Code section 87101 unless there exists no alternative source of decision consistent with the purposes and terms of the statute authorizing the decision.

(b) Whenever a public official who has a financial interest in a decision is legally required to make or to participate in making such a decision, he or she shall state the existence of the potential conflict as follows:

(1) The public official shall disclose the existence of the conflict and describe with particularity the nature of the economic interest. "Particularity" as used in this regulation shall be satisfied if the official discloses;

(A) Whether the conflict involves an investment, business position, interest in real property, or the receipt of income, loans or gifts;

(B) If the interest is an investment, the name of the business entity in which each investment is held; if the interest is a business position, a general description of the business activity in which the business entity is engaged; if the interest is real property, the address or another indication of the location of the property, unless the property is the official's principal or personal residence, in which case the official shall disclose this fact. For income, loans or gifts, the official shall disclose the person or entity that is the source.

(2) The public official or another officer or employee of the agency shall give a summary description of the circumstances under which he or she believes the conflict may arise.

(3) Either the public official or another officer or employee of the agency shall disclose the legal basis for concluding that there is no alternative source of decision.

(4) The disclosures required by this regulation shall be made in the following manner:

(A) If the governmental decision is made during an open session of a public meeting, the disclosures shall be made orally before the decision is made, by either the public official or by another officer or employee of the agency. The information contained in the disclosures shall be made part of the official public record either as a part of the minutes of the meeting or as a writing filed with the agency. The writing may be prepared by the public official and/or any officer or employee of the agency within 30 days after the meeting and shall be placed in a public file; or

(B) If the governmental decision is made during a closed session of a public meeting, the disclosures shall be made orally during the open session either before the body goes into closed session or immediately after the closed session. The information contained in the disclosures shall be made part of the official public record either as a part of the minutes of the meeting or as a writing filed with the agency. The writing may be prepared by the public official and/or any officer or employee of the agency within 30 days after the meeting and shall be placed in a public file; or

(C) If the government decision is made or participated in other than during the open or closed session of a public meeting, the disclosures shall be made in writing and made part of the official public record, either by the public official and/or by another officer or employee of the agency. The writing shall be filed with the public official's appointing authority or supervisor and shall be placed in a public file within 30 days after the public official makes or participates in the decision. Where the public official has no appointing authority or supervisor, the disclosure(s) shall be made in writing and filed with the agency official who maintains the records of the

agency's statements of economic interests, or other designated office for the maintenance of such disclosures, within 30 days on the making of or participating in the decision.

(c) This regulation shall be construed narrowly, and shall:

(1) Not be construed to permit an official, who is otherwise disqualified under Government Code section 87100, to vote to break a tie.

(2) Not be construed to allow a member of any public agency, who is otherwise disqualified under Government Code section 87100, to vote if a quorum can be convened of other members of the agency who are not disqualified under Government Code section 87100, whether or not such other members are actually present at the time of the disqualification.

(3) Require participation by the smallest number of officials with a conflict that are "legally required" in order for the decision to be made. A random means of selection may be used to select only the number of officials needed. When an official is selected, he or she is selected for the duration of the proceedings in all related matters until his or her participation is no longer legally required, or the need for invoking the exception no longer exists.

(d) For purposes of this section, a "quorum" shall constitute the minimum number of members required to conduct business and when the vote of a supermajority is required to adopt an item, the "quorum" shall be that minimum number of members needed for that adoption.

Comment: Nothing in the provisions of subdivision (b)(4)(B) is intended to cause an agency or public official to reveal the confidences of a closed session contemplated by law.

For example, under the Brown Act (Gov. Code, §§ 54950, et. seq.) a city council may enter a closed session to discuss personnel matters and need not publicly disclose the name of the employee who is the subject of the meeting. (Gov. Code, § 54957.) This regulation does not require a city council person who is legally required to participate in that closed session to disclose that employee's name when the council member makes the report required by this regulation.

Makes a Decision or Participates in the Making of a Decision - California Code of Regulations, title 2, sections 18702 through 18702.4, in pertinent part, defines "makes a decision or participates in the making of a decision" as follows:

(a) A public official "makes a governmental decision," except as provided in California Code of Regulations, title 2, section 18702.4, when the official is acting within the authority of his or her office or position:

(1) Votes on a matter;

(2) Appoints a person;

(3) Obligates or commits his or her agency to any course of action;

(4) Enters into any contractual agreement on behalf of his or her agency;

(5) Determines not to act, within the meaning of subparagraphs (a)(1), (a)(2), (a)(3), or (a)(4) above, unless such determination is made because of his or her financial interest.

When the determination not to act occurs because of the official's financial interest, the official's determination may be accompanied by an oral or written disclosure of the financial interest.

(b) A public official "participates in the making of a governmental decision" when, acting within the authority of his or her position, the official:

(1) Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision;

(2) Advises or makes recommendations to the decision-maker, either directly or without significant intervening substantive review, by;

(A) Conducting research or making any investigation which requires the exercise of judgment on the part of the official and the purpose of which is to influence the decision; or

(B) Preparing or presenting any report, analysis or opinion, orally or in writing, which requires the exercise of judgment on the part of the official or designated employee and the purpose of which is to influence the decision.

(c) Making or participating in the making of a governmental decision shall not include:

(1) Actions of public officials which are solely ministerial, secretarial, manual or clerical;

(2) Appearances by a public official as a member of the general public before an agency in the course of its prescribed governmental function to represent himself or herself on matters related solely to his or her personal interests; or

(3) Actions by public officials relating to their compensation or the terms or conditions of their employment or contract.

Subsection (c) of title 2, California Code of Regulations section 18702.4 limits the definitions of "decision" and "governmental decision" as follows:

"Governmental decision" as used in Government Code section 87100 and "decision" as used in Government Code sections 87103 and 87302 does not include the following:

(a) Except as provided in subsection (b), neither disclosure of financial interests nor disqualification is required under Government Code sections 87100, 87302, or any Conflict of Interest Code, in connection with:

(1) Teaching decisions, including the selection by a teacher of books or other educational materials for use within his or her own school or institution, and other decisions incidental to teaching;

(2) Decisions made by a person who has teaching or research responsibilities at an institution of higher education to pursue personally a course of academic study or research, to apply for funds to finance such a project, to allocate financial and material resources for such academic study or research, and all decisions relating to the manner or methodology with which such study or research will be conducted. Provided, however, that the provisions of this subsection (2) shall not apply with respect to any decision made by the person in the exercise of institution- or campus-wide administrative responsibilities respecting the approval or review of any phase of academic research or study conducted at that institution or campus.

Material Financial Effect - To create a conflict of interest under the Act, the effect of an official's governmental decisions on the official's economic interests must be material. Initially the official must determine whether the economic interest is directly or indirectly involved in the decision. California Code of Regulations, title 2, section 18704 (Determining Whether an Economic Interest is Directly or Indirectly Involved in a Governmental Decision) outlines the regulations that must be applied to make the determination. Title 2, California Code of Regulations section 18705 (Standards for Determining Whether a Financial Effect on an Economic Interests is Material) sets out a series of regulations which outline specific circumstances and monetary thresholds for determining when the effects of a decision are material. These regulations are complex and difficult to apply. The text of the regulations and assistance with their application are available from the Office of the General Counsel.

Public Official - Any administrator, member, officer, employee or consultant of the District. (Gov. Code, § 82048.)

Other Public Officials Who Manage Public Investments - Subsection (b)(1), title 2, California Code of Regulations section 18701, in pertinent part, defines "other public officials who manage public investments," as the term is used in Government Code section 87200, as follows:

(a) Members of boards and commissions, including pension and retirement boards and commissions, or of committees thereof, who exercise responsibility for the management of public investments;

(b) High-level officers and employees of public agencies who exercise primary responsibility for the management of public investments, such as chief or principal investment officers or chief financial managers. This category does not include officers and employees who work under the supervision of the chief or principal investment officers or the chief financial managers.

Note: Other relevant terms are defined in California Code of Regulations, title 2, section 18720(b) as follows:

(a) "Public investments" means the investment of public moneys in real estate, securities, or other economic interests for the production of revenue or other financial return.

(b) "Public moneys" means all money belonging to, received by, or held by, the state, or any city, county, town, district or public agency therein, or by an officer thereof acting in his or her capacity, and includes the proceeds of all bonds and other evidences of indebtedness, trust funds held by public pension and retirement systems, deferred compensation funds held for investment by public agencies, and public moneys held by a financial institution under a trust indenture to which a public agency is a party.

(c) "Management of public investments" means the following non-ministerial functions: directing the investment of public moneys; formulating or approving investment policies; approving or establishing guidelines for asset allocations; or approving investment transactions.

Note: Public officials coming within the definition of "other public officials who manage public investments" as set forth above are subject to the conflict-of-interest disclosure requirements of Article 2, Chapter 7 of the Political Reform Act (Gov. Code, § 87200) and are required to file a Form 700 Statement of Economic Interests. Public officials not covered by the definition may be subject to the conflict-of-interest disclosure requirements of Article 3, Chapter 7 of the

Political Reform Act of 1974, as amended (Gov. Code, §§ 87300 and 87302) and are required to file a Form 700 Statement of Economic Interests, if their positions are designated in the Conflict of Interest Code of their agency.

Participation in the Making of a Decision – See definition of making a "decision."

Person - Government Code section 82047 defines "person" as follows: "'Person' means an individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, and any other organization or group of persons acting in concert."

Source of Income - The individual or entity from whom or which a designated official receives income aggregating five hundred dollars (\$500) or more in value received or promised. For the purposes of disqualification, the five hundred dollars (\$500) or more must be received or promised within twelve (12) months prior to the time when the decision is made. For the purposes of reporting on a financial disclosure statement, the five hundred dollars (\$500) or more must have been received or promised during the preceding calendar year.

Source of income shall not include a former employer if (a) all income from the employer was received by or accrued to the designated official prior to the time he or she became a designated official; (b) the income was received in the normal course of the previous employment; and (c) there was no expectation by the designated official at the time he or she assumed office of renewed employment with the former employer.

Statements of Economic Interests - The documents filed with the Filing Officer containing the information required to be reported by the Conflict of Interest Code referred to also as Financial Disclosure Statements.