

1 **§ 18704.5.[Renumbered from Regulation 18702.5] Public Identification of a Conflict of**  
2 **Interest for Section 87200 Filers.**

3 (a) ~~Government Code section~~ Section 87105 and this regulation apply when a public  
4 official who holds an office specified in ~~Government Code section~~ Section 87200 has a financial  
5 interest in a decision within the meaning of ~~Government Code section~~ Section 87100, and the  
6 governmental decision relates to an agenda item which is noticed for a meeting subject to the  
7 provisions of the Bagley-Keene Act (~~Government Code section~~ Section 11120 et seq.) or the  
8 Brown Act (~~Government Code section~~ Section 54950 et seq.).

9 (b) Content & Timing of Identification: The public official shall, following the  
10 announcement of the agenda item to be discussed or voted upon but before either the discussion  
11 or vote commences, do all of the following:

12 (1) The public official shall publicly identify:

13 (A) Each type of economic interest held by the public official which is involved in the  
14 decision and gives rise to the conflict of interest (i.e. investment, business position, interest in  
15 real property, personal financial effect, or the receipt or promise of income or gifts), and

16 (B) The following details identifying the economic interest(s):

17 (i) if an investment, the name of the business entity in which each investment is held;

18 (ii) if a business position, a general description of the business activity in which the  
19 business entity is engaged as well as the name of the business entity;

20 (iii) if real property, the address or another indication of the location of the property,  
21 unless the property is the public official's principal or personal residence, in which case,  
22 identification that the property is a residence;

23 (iv) if income or gifts, then identification of the source; and

24 (v) if personal financial effect, then identification of the expense, liability, asset or  
25 income affected.

26 (2) Form of Identification: If the governmental decision is to be made during an open  
27 session of a public meeting, the public identification shall be made orally and shall be made part  
28 of the official public record.

1 (3) Recusal/Leaving the Room: The public official must recuse himself or herself and  
2 leave the room after the identification required by subdivisions (b)(1) and (b)(2) of this  
3 regulation is made. He or she shall not be counted toward achieving a quorum while the item is  
4 discussed.

5 (c) Special Rules for Closed Session: If the governmental decision is made during a  
6 closed session of a public meeting, the public identification may be made orally during the open  
7 session before the body goes into closed session and shall be limited to a declaration that his or  
8 her recusal is because of a conflict of interest under ~~Government Code section~~ Section 87100.  
9 The declaration shall be made part of the official public record. The public official shall not be  
10 present when the decision is considered in closed session or knowingly obtain or review a  
11 recording or any other non-public information regarding the governmental decision.

12 (d) Exceptions:

13 (1) Uncontested Matters: The exception from leaving the room granted in ~~Government~~  
14 ~~Code section~~ Section 87105(a)(3) for a "matter [that] has been placed on the portion of the  
15 agenda reserved for uncontested matters" shall mean agenda items on the consent calendar.  
16 When the matter in which the public official has a financial interest is on the consent calendar,  
17 the public official must comply with subdivisions (b)(1) and (b)(2) of this regulation, and recuse  
18 himself or herself from discussing or voting on that matter, but the public official is not required  
19 to leave the room during the consent calendar.

20 (2) Absence: If the public official is absent when the agenda item subject to subdivision  
21 (a) of this regulation is considered, then ~~Government Code section~~ Section 87105 and this  
22 regulation impose no public identification duties on the public official for that item at that  
23 meeting.

24 (3) Speaking as a Member of the Public Regarding an Applicable Personal Interest:  
25 When a personal interest found in ~~2-Cal. Code Regs. section~~ Regulation 18702.4(b) is present, a  
26 public official may speak as a member of the general public if he or she complies with  
27 subdivisions (b)(1) and (b)(2) of this regulation, recuses himself or herself from voting on the

1 matter and leaves the dais to speak from the same area as the members of the public. He or she  
2 may listen to the public discussion of the matter with the members of the public.

3 Comment: Nothing in the provisions of this regulation is intended to cause an agency or public  
4 official to make any disclosure that would reveal the confidences of a closed session or any other  
5 privileged information as contemplated by law including but not limited to the recognized  
6 privileges found in ~~2-Cal. Code Regs. section~~ Regulation 18740.

7 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87105 and  
8 87200, Government Code.

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