

1 Repeal 2 Cal. Code Regs. Section 18750:

2 ~~§ 18750. Procedures for the Promulgation and Adoption of Conflict of Interest Codes for~~
3 ~~State Agencies.~~

4 (a) ~~Unless otherwise modified, the term "agency" as used in this section shall refer to a~~
5 ~~state agency other than an agency in the judicial branch of government. The term "Commission"~~
6 ~~as used in this section shall refer to the Fair Political Practices Commission.~~

7 (b) ~~An agency proposing a conflict of interest code or an amendment to an existing code,~~
8 ~~other than a nonsubstantive amendment, shall follow the procedures described in this section. An~~
9 ~~agency proposing a nonsubstantive amendment shall follow the procedures described in 2 Cal.~~
10 ~~Code of Regs. section 18752.~~

11 (c) ~~Every agency which proposes to adopt a conflict of interest code or to amend its~~
12 ~~existing code shall:~~

13 (1) ~~Conduct a public hearing or establish a written comment period.~~

14 (2) ~~Prepare an initial proposed code or an initial proposed amendment.~~

15 (3) ~~Prepare a notice of intention to adopt a conflict of interest code, or to amend an~~
16 ~~existing code. This notice shall:~~

17 (A) ~~Describe the proposed code or amendment in general terms and if the proposed~~
18 ~~action includes amendments to an existing code, include a concise, clear summary of the~~
19 ~~provisions of the existing code, if any, which will be affected by the proposed amendments, and~~
20 ~~a summary of how those provisions will be affected by the proposed amendments;~~

21 (B) ~~State that copies of the proposed code or amendment are available to interested~~
22 ~~persons and indicate where the copies may be obtained;~~

1 ~~(C) Specify the location where written comments concerning the proposed code or~~
2 ~~amendments may be submitted;~~

3 ~~(D) Specify the date by which comments submitted in writing must be received to present~~
4 ~~statements, arguments, or contentions in writing relating to the proposed action in order for them~~
5 ~~to be considered by the agency before it adopts or amends the code;~~

6 ~~(E) State the time and place of any public hearing that is scheduled on the proposed code~~
7 ~~or amendment;~~

8 ~~(F) State the name and telephone number of an agency officer to whom inquiries~~
9 ~~concerning the proposed code or amendment may be directed;~~

10 ~~(G) State that the agency has prepared a written explanation of the reasons for the~~
11 ~~designations and the disclosure responsibilities, or, in the case of an amendment, that the agency~~
12 ~~has prepared a written explanation of the reasons for the changes and has available all of the~~
13 ~~information upon which its proposal is based;~~

14 ~~(H) If a code is being adopted, include a reference that the authority for the action is~~
15 ~~Government Code section 87300. If a code is being amended, include a reference that the~~
16 ~~authority for the action is Government Code section 87306. For both the adoption of and~~
17 ~~amendments to codes, provide a reference to Government Code sections 87300 87302 and~~
18 ~~87306;~~

19 ~~(I) If a public hearing on the proposed code or amendment is not scheduled, state that any~~
20 ~~interested person or his or her representative may request, no later than 15 days prior to the close~~
21 ~~of the written comment period, a public hearing;~~

22 ~~(J) Include a statement that the adoption of the proposed code or amendment will not~~

1 ~~impose a cost or savings on any state agency, local agency or school district that is required to be~~
2 ~~reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government~~
3 ~~Code; will not result in any nondiscretionary cost or savings to local agencies; will not result in~~
4 ~~any cost or savings in federal funding to the state; will not impose a mandate on local agencies or~~
5 ~~school districts; and will not have any potential cost impact on private persons or businesses~~
6 ~~including small businesses.~~

7 ~~(K) A statement that the adopting agency must determine that no alternative considered~~
8 ~~by the agency would be more effective in carrying out the purpose for which the action is~~
9 ~~proposed or would be as effective and less burdensome to affected private persons than the~~
10 ~~proposed action.~~

11 ~~(4) File a copy of the notice with the Office of Administrative Law for publication in the~~
12 ~~California Notice Register at least 60 days before the public hearing or close of the comment~~
13 ~~period.~~

14 ~~(5) File a copy of the notice (endorsed by the Office of Administrative Law) with the~~
15 ~~Commission at least 45 days before the public hearing or close of the written comment period.~~

16 ~~(6) Provide notice pursuant to the requirements of Government Code section 87311,~~
17 ~~including providing a copy of the notice to each employee of the agency affected by the~~
18 ~~proposed code or amendment at least 45 days before the hearing or the close of the comment~~
19 ~~period by serving the employees individually with a copy of the written notice, by posting the~~
20 ~~notice on employee bulletin boards, or by publishing the notice in an employee newsletter.~~

21 ~~(7) Make the exact terms of the proposed code or amendment available for inspection and~~
22 ~~copying to interested persons for at least 45 days prior to the public hearing or the close of the~~

1 comment period.

2 ~~(8) Accept written comments from interested persons through the conclusion of the~~
3 ~~public hearing or the close of the comment period.~~

4 ~~(9) Conduct a public hearing on the proposed code or amendment, if, at least 15 days~~
5 ~~prior to the close of the written comment period, an interested party, or his or her duly authorized~~
6 ~~representative, requests a public hearing. The state agency shall to the extent practicable, provide~~
7 ~~notice of the time, date and place of the hearing by mailing the notice to every person who~~
8 ~~submitted written comments, or who requested a hearing, on the proposed code or amendment.~~

9 ~~(d) If the procedures set forth in subdivision (c) have been followed, a proposed code or~~
10 ~~amendment, which has been changed or modified from that which was made available to the~~
11 ~~public, may, without further notice or hearing, be adopted if:~~

12 ~~(1) The change or modification is nonsubstantial or solely grammatical in nature, or~~

13 ~~(2) The resulting code or amendment is sufficiently related to the text made available to~~
14 ~~the public that the public was adequately placed on notice that the code or amendment could~~
15 ~~result from the original proposal and the full text of the resulting code or amendment has been~~
16 ~~available to the public for at least 15 days prior to the date on which the agency adopts the code~~
17 ~~or amendment.~~

18 ~~(e) The agency shall submit three copies of the final proposed code or of the existing~~
19 ~~code with the final proposed amendment in strikeout/underline form to the Commission~~
20 ~~accompanied by one copy of the following:~~

21 ~~(1) A code or amendment shall be accompanied by:~~

22 ~~(A) A declaration of the chief executive officer of the agency declaring that the Code~~

1 specifically enumerates each of the positions within the agency which involve the making or
2 participation in the making of decisions which may foreseeably have a material financial effect
3 on any financial interest and the agency has satisfied the requirements of subdivision (c)
4 preliminary to formulation of the Code;

5 (B) A summary of any hearing held by the agency with appropriate identification of any
6 areas of controversy and the manner of their resolution.

7 (C) Copies of all written submissions made to the agency regarding the proposed Code or
8 amendment, unless the person making the written submission requests its omission;

9 (D) A written explanation of the reasons for the designations and the disclosure
10 responsibilities of officers, employees, members or consultants of the agency. In the case of an
11 amendment, written justification for any changes including all changes in or additions to the
12 designations or disclosure responsibilities;

13 (E) The names and addresses of all persons who participated in any public hearing of the
14 agency on the proposed code or amendment and all persons who requested notice from the
15 agency of the date of the Commission hearing on the adoption of the code or amendment;

16 (F) The most current organizational chart of the agency;

17 (G) Job descriptions for all designated employees or employees newly designated by the
18 amendment.

19 (2) A new conflict of interest code shall also be accompanied by:

20 (A) A copy of the statutory authority under which the agency was created with specific
21 citations to the provisions setting forth the duties and responsibilities of the agency.

22 (B) The identity of the person or body to whom the agency reports;

1 (C) A copy of the last annual or regular report prepared by the agency or submitted by
2 the agency to the person or body to whom the agency reports or, if there is no report, copies of
3 recent minutes of agency meetings;

4 (D) A brief description of the duties and the terms of all consultants working for the
5 agency who are not designated employees.

6 (f) ~~When an agency proposes a new conflict of interest code or an amendment to an
7 existing code, the Executive Director shall either:~~

8 (1) ~~Prepare a notice which specifies the establishment of a written comment period;
9 specifies the date by which comments submitted in writing must be received in order for them to
10 be considered; includes a statement that any interested person or his or her duly authorized
11 representative may request, no later than 15 days prior to the close of the written comment
12 period, a public hearing; includes a clear and concise summary of the proposed action; provides
13 the name and telephone number of the agency officer to whom inquiries concerning the proposed
14 administrative action may be directed, and specifies that the text of the proposed code or
15 amendment is available for inspection and copying at the agency and at the Commission offices.
16 This notice shall be sent to the agency and to all persons who have requested notice at least 45
17 days before the hearing close of the written comment period; or~~

18 (2) ~~Return the proposed code or amendments to the agency with written
19 recommendations for revision. Any agency which objects to the recommendations for revision
20 may request a full hearing by the Commission pursuant to subdivision (h) of this section.~~

21 (g) ~~If no hearing is requested as set forth above, the Executive Director at the end of the
22 45-day written comment period shall either:~~

1 ~~(1) approve the code as submitted; or~~

2 ~~(2) return the proposed code or amendment to the agency for revision.~~

3 ~~Any agency which objects to the recommendations for revision may request a full~~
4 ~~hearing by the Commission pursuant to subdivision (h) of this, regulation.~~

5 ~~(h) If a proposed hearing on this matter has been requested, the Commission shall afford~~
6 ~~any agency or interested person or his or her duly authorized representative, or both, the~~
7 ~~opportunity to present statements, arguments or contentions in writing on, or prior to, the date of~~
8 ~~the hearing. Oral testimony shall be encouraged; however, oral statements may be limited at the~~
9 ~~discretion of the Chairman. The Commission shall consider all relevant matter presented to it~~
10 ~~prior to and during the public hearing, or appearing on the record of such hearing prior to taking~~
11 ~~action on the proposed Code or amendments.~~

12 ~~(i) After a full hearing as provided hereinabove, the Commission shall:~~

13 ~~(1) Approve the proposed code or amendments as submitted;~~

14 ~~(2) Revise the proposed code or amendments and approve it as revised; or~~

15 ~~(3) Direct the Executive Director to return the proposed code or amendments to the~~
16 ~~agency for revision and resubmission within 60 days.~~

17 ~~(j) If a code or amendment is approved, the Executive Director shall return a copy of the~~
18 ~~code or amendment to the agency with notification of Commission approval.~~

19 ~~(k) Code or amendments, as approved by the Fair Political Practices Commission, shall~~
20 ~~be transmitted within 30 days by the agency to the Office of Administrative Law, which shall file~~
21 ~~the code or amendment promptly with the Secretary of State without further review pursuant to~~
22 ~~Article 6 (commencing with section 11349) of Chapter 3.5 of Division 1 of Title 2 of the~~

1 ~~Government Code. When the agency files the code or amendments with the Office of~~
2 ~~Administrative Law it shall:~~

3 ~~(1) Indicate that it is transmitting a conflict of interest code approved by the Commission~~
4 ~~for filing; and~~

5 ~~(2) Request that the Office of Administrative Law publish the code in its entirety, or~~
6 ~~request that the Office of Administrative Law print an appropriate reference to the agency's code~~
7 ~~in its title of the California Code of Regulations.~~

8 ~~(l) A conflict of interest code or amendment to a code shall become effective on the~~
9 ~~thirtieth day after the date of filing with the Secretary of State.~~

10 ~~(m) Each agency's code shall be maintained in the office of the chief executive officer of~~
11 ~~the agency, who shall make the code available for public inspection and reproduction during~~
12 ~~regular business hours commencing the effective date of the code. No conditions whatsoever~~
13 ~~shall be imposed upon persons desiring to inspect the conflict of interest code of the agency, nor~~
14 ~~shall any information or identification be required from such person. Copies shall be provided at~~
15 ~~a charge not to exceed ten cents (\$.10) per page.~~

16 ~~(n) The Commission shall maintain copies of each agency's code for public inspection~~
17 ~~and copying at its offices at 428 J Street, Suite 800, Sacramento, California.~~

18 ~~Note: Authority cited: Section 83112, Government Code. Reference: Sections 87300, 87303 and~~
19 ~~87306, Government Code.~~