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TO: K-12 School Districts and County Offices of Education
FROM: Grant Herndon/Business Practice Group *GH*
RE: Conflict of Interest Code – Notice from County

As you know, the Political Reform Act of 1974 requires local public agencies to enact a "Conflict of Interest Code" requiring agency officials to disclose their financial interests in relation to the kinds of decisions they make. This helps the agency and the affected public official determine when the official should not participate in a governmental decision in which the official's economic interests may be affected. If the duties of a position involve making, or participating in the making, of governmental decisions which may impact the financial interests of the position holder, the position should be designated in the Code as one required to file a "Statement of Economic Interests" (referred to as "Form 700"). This can include not only board members but employees (and in some instances consultants) who, for example, negotiate the terms of a contract or write bid specifications. Each agency must also determine the appropriate scope of disclosure of financial interests for each designated position, based on the kinds of governmental decisions that position impacts.

Each agency has a "Code Reviewing Body," typically the County Board of Supervisors. In even-numbered years, local agencies are required to review their conflict of interest codes and inform the code reviewing body by October 1 whether an amendment to the code is required. You should have received a notice from the code reviewing body this summer enclosing a "2006 Local Agency Biennial Notice." **THE FORM MUST BE FILED WITH THE CODE REVIEWING BODY BY OCTOBER 1, 2006 EVEN IF THERE ARE NO CHANGES.** (Note that the amendment itself is not required to be finished and approved by that date; the deadline is simply for notifying the code reviewing body of any required amendments.) An amendment will be required if there are new designated positions, changes in disclosure categories, changes in disclosure category designations for particular positions, title changes or staff reorganization involving designated positions.

There are special requirements for multi-county agencies, such as "joint" districts. Their code reviewing body is the Fair Political Practices Commission rather than the county board of supervisors.

A conflict of interest code has three basic components: (1) it describes when statements of economic interests are filed, how economic interests must be reported and when public officials must disqualify themselves from participating in a governmental decision, (2) it lists the positions required to file the statement of economic interests, and (3) it contains categories of disclosure required for each designated position. Agencies can formally adopt "Regulation 18730" which is considered by the Fair Political Practices Commission to be an acceptable conflict of interest code (Title 2, California Code of Regulations, section 18730). For school districts which are members of the California School Boards Association, model Board Bylaw 9270 includes a conflict of interest code and sample designation of employees and disclosure categories.

If an amendment is required, it should be prepared in ~~strikeout~~/underscore format and circulated to affected employees and consultants before adoption by the governing board. Members of the public must also be given a fair opportunity to present their views. Once the changes are adopted, you should send the amendments to the code reviewing body in ~~strikeout~~/underscore format with a transmittal letter explaining the changes, and including duty statements of newly-designated positions, and organization chart for agency. **THE AMENDED CODE MUST BE FORWARDED TO THE CODE REVIEWING BODY WITHIN 90 DAYS AFTER FILING THE BIENNIAL STATEMENT.** The process is slightly different for multi-county agencies, so please contact our office if you have any questions in this regard.

This may be a good opportunity to review your agency's existing conflict of interest code. CSBA members should compare their existing policy with the current version of Board Bylaw 9270, which was last amended in November 2003. Your district's policy probably states that it adopts the terms of Regulation 18730 "including any amendments," so that it automatically includes changes to the regulation. However, there have been many changes over the years, so that if your policy contains the language of Regulation 18730 as of the date the policy was adopted, it may be inadequate as a reference tool for board members and designated employees, another reason to consider updating the policy.

Please remember that if you create new designated positions, the people filling these positions should be provided with Form 700 immediately, as they will be required to file an initial "assuming office" statement within 30 days after the effective date. In addition, people in deleted positions will have to file a "leaving office" statement within 30 days after the effective date. The Fair Political Practices Commission maintains a hotline for technical assistance, at (866) ASK-FPPC.

If you have any questions concerning this process, please do not hesitate to contact our office.

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