

How to Amend a Multi-County Agency's Conflict of Interest Code

The law requires that every multi-county agency have a conflict of interest code which identifies all agency officials and employees who make or participate in making governmental decisions. Conflict of interest codes are a fundamental tool in ensuring the public's trust in government officials.

It is essential and legally-required that an agency's conflict of interest code reflect the current structure of its organization and properly identify officials who should be filing Statements of Economic Interests (Form 700).

One of the FPPC's primary goals is to streamline the process for amending conflict of interest codes so the process is more efficient.

Elements of a Conflict of Interest Code:

A conflict of interest code must:

- Provide reasonable assurance that all financial interests that pose a foreseeable conflict of interest will be disclosed;
- Provide to each affected person a clear and specific statement of his or her disclosure requirements; and
- Adequately differentiate between designated employees with different powers and responsibilities.

A Conflict of Interest Code Consists of Three Components:

1) Incorporation Page (Terms of the Code)

This section designates where the Form 700s are filed. Generally, statements are maintained at each agency. However, the FPPC receives certain statements from over 150 agencies including those that contract all administrative functions to a private third party.

Each agency's conflict of interest code references [Regulation 18730](#). This regulation, among other things, provides rules for disqualification procedures, reporting financial interests, and lists the current gift limit.

2) List of Designated Positions

The conflict of interest code must list all agency positions that involve making or participation in making decisions that "may foreseeably have a material effect on any financial interest." This covers agency members, officers and employees who are in positions where it is reasonably foreseeable that the decisions they make or participate in making will have financial impacts.

A committee of volunteers may need to be included in the conflict of interest code if the committee members make or participate in making governmental decisions. The FPPC may ask for a general description of the committee's duties and responsibilities, recent committee minutes and the agency's opinion on whether the committee is solely advisory or should be listed in the conflict of interest code.

Do not include in the list of designated positions those positions that do not have decision-making authority or are solely ministerial, manual or clerical. Each agency is unique and it is important to review job duty statements and organizational charts.

3) Detailed Disclosure Categories

A disclosure category is a description of the types of financial interests officials must disclose on their Form 700. These categories must be tailored to the duties performed that may affect the individual's financial interests.

A conflict of interest code must strike the appropriate balance between protecting an individual's right to privacy, while still ensuring the appropriate disclosure to help avoid conflicts of interest. Normally, only the higher-level agency positions with broad duties, as well as those positions that advise them, require full disclosure. Otherwise, the agency must tailor disclosure so filers are not required to disclose private financial information that does not relate to the duties of his or her public position. If an agency's conflict of interest code requires officials to report all financial interests, the FPPC will request justification for such disclosure.

Depending on the scope of the agency's decision-making authority and financial interests affected, an agency's conflict of interest code can have several disclosure categories. The FPPC has developed standardized categories for procurement, grant funding, information technology, regulatory and licensing programs, and others. You can view the standardized categories [here](#).

Determining When a Conflict of Interest Code Must Be Amended:

Over time, the structure of an agency will change because employees' duties shift, positions are renamed or eliminated, and the organizational structure is modified. When an agency makes these types of changes, the conflict of interest code must be amended accordingly.

Factors to Consider to Determine Whether an Amendment is Required:

- Is the current conflict of interest code more than five years old?
- Have there been any substantial changes to the agency's organizational structure since the current conflict of interest code was approved by FPPC?
- Have any positions been eliminated or renamed since the current conflict of interest code was approved by FPPC?
- Have any new positions been added since the current conflict of interest code was approved by FPPC?

- Have there been any substantial changes in duties or responsibilities for any positions since the current conflict of interest code was approved by FPPC?

If you answered yes to any of the above questions, your agency's conflict of interest code will likely need to be amended.

Process for Amending a Multi-County Agency's Conflict of Interest Code:

There are generally six main steps in amending an agency's conflict of interest code.

1. Gather the Tools You Will Need and Attend [FPPC Training](#)

- Last approved conflict of interest code from FPPC
- Current organizational chart
- Job descriptions
- Agency information (e.g., website link, annual report, budget, press releases)
- FPPC's [Multi-County Agency Code Internal Checklist](#)

2. Complete Your Tasks

- Review the agency's programs and organizational chart and compare to the current conflict of interest code.
- Identify necessary changes and create a draft conflict of interest code. Changes include:
 - Deleting positions that have been eliminated since the last conflict of interest code was adopted or amended
 - Adding new positions to the conflict of interest code as needed
 - Reviewing and revising disclosure categories; and
 - Assigning appropriate disclosure categories to designated positions.

3. Submit the Required Documents to FPPC via email to advice@fppc.ca.gov

- Proposed conflict of interest code in Word in a strikeout/underline format (using last approved conflict of interest code as basis)
- Current organizational chart
- Written description of changes
- Job descriptions/duty statements will be requested on an as-needed basis
- Brief justification when an official is designated to report all financial interests.

4. Complete Agency and FPPC Review and Discussion

Once a draft conflict of interest code and the required documents are received, the FPPC will conduct an initial review. FPPC staff will follow up with you on any questions or concerns regarding the draft conflict of interest code, and may meet with you to clarify any questions.

- This consultation process may result in changes to the draft conflict of interest code. Once the FPPC and the agency agree on the draft conflict of interest code, it is ready for public notice.
- Note: An agency that requires its board to approve the conflict of interest code should obtain that approval at this stage.

5. Conduct the Public Comment Period

- Agencies must provide a public comment period of at least 45 days. Many multi-county agencies will place the draft code on its public meeting agenda, but there is no requirement to do so.
- All employees must be notified and provided 45 days to comment. Notification may be completed via e-mail or internet.
- Agencies must provide FPPC with copy of public notice.
- Agencies must provide FPPC with public comments, if any.
- The FPPC also conducts a 45-day public notice period with the Office of Administrative Law.
- If suggestions during the public comment period result in changes or modifications to the draft code, no further public notice is required as long as the code is substantially similar to the originally noticed code.

6. Complete the Final Approval Process - a Conflict of Interest Code is not effective until it is approved by the FPPC

- Agencies must provide Chief Executive Officer Declaration to FPPC.
- FPPC's Executive Director or designee approves conflict of interest code.
- FPPC sends approval letter to agency.
- The conflict of interest code is effective 30 days from the Executive Director's approval date.

Statutory Authority

[Government Code Sections](#) 87302, 87302.6, 87303, 87306, 87307, 87309, 87310, and 87311

[Regulations](#) 18750