



California Fair Political Practices Commission

July 18, 1989

Claudia Foutz
Chief Deputy Director
Department of Consumer Affairs
Legal Office
1020 N Street, Room 510
Sacramento, CA 95814

Re: Your Request for Informal Assistance
Our File No. I-89-233

Dear Ms. Foutz:

This is in response to your request for advice on behalf of the Department of Consumer Affairs regarding reporting obligations of board members, board staff, and proctors under the Political Reform Act (the "Act").¹ Because your request is general in nature and does not apply to one specific set of facts, we are providing you with informal assistance applicable to future conduct and make no reference to past conduct.²

QUESTIONS

1. Are board members, board staff, or proctors required to report on the annual Statement of Economic Interests, Form 730, that they have received a discounted room from a hotel?
2. How is the amount which must be reported determined?

CONCLUSION

1. Designated employees are required to report discounted hotel accommodations as gifts unless similar discounts are available to the general public without regard to official status.

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity granted by formal advice. (Regulation 18329(c)(4)(c), copy enclosed.)

2. The value of the gift is the difference between the fair market value of the accommodations and the sums paid by agency officials.

FACTS

Boards within the Department of Consumer Affairs administer licensing examinations. As the need arises, these boards contract with hotels by renting a large room or rooms where the examination will be administered. A board staffer negotiates these written contracts. Appropriate contract forms are completed for the rental of the examination rooms and submitted to the business services office of the Department of Consumer Affairs for processing and approval.

Concurrently, boards negotiate a rate for sleeping accommodations at the same hotel for board members, staff and proctors involved in the administration of the examination. The hotel either offers a discount for the sleeping accommodations or provides complimentary accommodations for board members, staff and proctors because of the number of rooms being committed for the examination. This agreement is oral. The sleeping accommodations are not addressed in the written contract forms completed for the rental of examination rooms. Your agency reimburses board members, staff and proctors at a fixed rate on a per diem basis.

Examination candidates also typically arrange for sleeping accommodations at the same hotel. Examination candidates are not provided discounted rooms.

Board members and executive officers of licensing boards in the Department of Consumer Affairs are designated employees pursuant to subdivisions (a) and (c) of Section 82019. At larger boards, certain staffers under the executive officer may also be designated employees for purposes of the Conflict of Interest Code of the Department of Consumer Affairs pursuant to subdivisions (c) and (d) of Section 82019. Proctors are not designated employees.

ANALYSIS

The Political Reform Act requires a public official to make certain financial disclosures as required by his or her agency's conflict of interest code. (Section 87302.) With extremely limited exceptions, under the Department of Consumer Affairs Conflict of Interest Code, designated employees of each board must report income if the source of the income is a person (individual, partnership, firm, corporation, or association) "(E)ngaged in rendering services or selling products to the particular division, board, bureau, committee, or commission, or a manufacturer, wholesaler, or distributor of such products." (Department of Consumer Affairs, Conflict of Interest Code, Disclosure Category No. 9.)

Section 82028 defines the term "gift" to include a discount or rebate if given to a public official unless given without regard to the "official status" of the public official and on terms available to members of the public. You have indicated in your letter that examinees pay full price for their accommodations. You have not indicated whether other members of the public who contract for meeting rooms are offered discounts or complimentary sleeping accommodations at these hotels. If discounts and complimentary sleeping accommodations are offered consistently to other members of the public who contract for meeting rooms, then the discounts are made available without regard to official status and are not considered gifts for purposes of the Act. Conversely, if no similar discounts are available to members of the public, then the discounts are gifts to the public officials. (In re Russell (1975) 1 FPPC Ops. 191, copy enclosed.)

If the discounts offered to designated employees of your agency constitute gifts, they should be reported in the employees' statements of economic interests. The value of each gift is the difference between the fair market value of the accommodations as determined by rates quoted by the establishment to other clients and the amounts paid by the public employees. (Regulation 18726(a), In re Hopkins, 3 FPPC Ops. 107, 112, copies enclosed.)

Additionally, the Political Reform Act prohibits a public official from making, participating in or using his or her official position to influence a governmental decision in which he or she has a financial interest. (Section 87100.) A public official has a financial interest in a decision if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, on an official's economic interest including:

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103(e).

As used in the Act, the term public official includes every officer or employee of a governmental entity. (Section 82048.) Consequently, this prohibition applies to all board members and all employees of the Department of Consumer Affairs. Thus, if the discounted rooms are considered gifts to the officials who use them, and the value received from a single source equals \$250 or more during the 12 months preceding a governmental decision, the recipient of the discounted rooms must disqualify himself or herself from participating in the decision if it materially affects the donor. This includes decisions to contract for sleeping accommodations or meeting rooms from the donor.

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I trust this letter is responsive to your inquiry. Should you have any further questions regarding the above, do not hesitate to contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Blanca M. Breeze
Counsel, Legal Division

KED:BMB:plh

Enclosures

Memorandum

To : FAIR POLITICAL PRACTICES COMMISSION
Attn: Legal Division
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95804

Date : April 14, 1989

Subject: Request for
Letter Advice

From : Department of Consumer Affairs
Legal Office

This is to request advice of the Fair Political Practices Commission in the form of a letter opinion addressing the following situation. The specific situation is factual and not hypothetical. We have chosen to set forth the facts in a somewhat generic sense because there may be similar factual situations with more than one licensing board in the Department of Consumer Affairs (DCA).

Facts

A board within DCA must administer a licensing examination. It contracts with a large hotel by renting a large room or rooms where the exam will be administered. A board staffer negotiates the contract for the examination room(s). At the same time, a rate is negotiated for sleeping rooms at the same hotel for board members, staff and proctors involved in the exam's administration. The hotel either discounts the sleeping room rate or provides complimentary rooms for members, staff and proctors because of the number of rooms being committed for the examination. In the particular situation giving rise to this request, examination candidates also typically rent sleeping rooms at the same hotel. Candidates are not provided discount rooms.

Issues

Our questions are as follows:

1. Are board members, board staff, or proctors required to report on the annual Statement of Economic Interests Form 730 that they have received a discounted room from the hotel?

2. If the answer with regard to any of the parties in question No. 1 is "yes", how is the amount which must be reported determined?

Additional Background Information

We are providing additional background information to aid in your analysis and response.

FAIR POLITICAL PRACTICES COMMISSION
April 14, 1989
Page 2

Board members and Executive Officers of licensing boards in DCA are designated employees pursuant to subdivisions (a) and (c) of Government Code Section 82019. At larger boards, certain staffers under the Executive Officer may also be designated employees in DCA's Conflict of Interest Code pursuant to subdivisions (c) and (d) of Government Code Section 82019. Proctors are not designated employees.

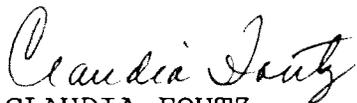
With extremely limited exception, under the Department of Consumer Affairs Conflict of Interest Code, designated employees of each board must report income if the source of the income is a person (individual, partnership, firm, corporation, or association):

"Engaged in rendering services or selling products to the particular * * * board * * *." (Disclosure Category No. 11.)

For your ready reference, we have enclosed a copy of the DCA Conflict of Interest Code.

Finally, we note that the Department of Consumer Affairs contracting process is somewhat unique. The process for the rental of an examination site is as follows: Typically an Executive Officer will contact various hotels to determine if their facilities can accommodate the board's needs. Once a hotel is chosen, rates are negotiated. Appropriate contract forms are then completed for the rental of the examination room(s), and submitted to DCA's Business Services Office for processing and approval. The rooms for board members, board staff and proctors are not addressed in the contract. These are merely oral agreements. Under Business and Professions Code Section 156, the Director of the Department of Consumer Affairs must sign off on contracts. He has delegated actual sign off authority to the DCA Fiscal Officer. So it is actually the department which is entering into the exam site rental contract on behalf of the board. The exam is held, the bill is submitted and is paid, the funds coming from the board's special fund.

We trust the foregoing information is adequate to respond to our inquiry. If you have any questions or wish to further discuss any of the foregoing, please contact me at your convenience.



CLAUDIA FOUTZ
Chief Deputy Director

CHAPTER 38. DEPARTMENT OF CONSUMER AFFAIRS

(Originally printed 4-2-77)

- SUBCHAPTER 1. (RESERVED)
- SUBCHAPTER 2. DEPARTMENT OF CONSUMER AFFAIRS—
CONFLICT OF INTEREST CODE
- SUBCHAPTER 3. IMMIGRATION CONSULTANTS

SUBCHAPTER 2. DEPARTMENT OF CONSUMER AFFAIRS—
CONFLICT OF INTEREST CODE

DETAILED ANALYSIS

Section	
3830.	General Provisions
	Appendix

3830. General Provisions.

The Political Reform Act, Government Code Sections 81000, *et seq.*, require state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Department of Consumer Affairs.

Pursuant to Section 4(A) of the standard Code, designated employees shall file statements of economic interests with the agency. ~~Upon receipt of the statement of the Director, the agency shall make and retain a copy and forward the original of this statement to the Fair Political Practices Commission.~~

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Section 87300 *et seq.*, Government Code.

HISTORY:

1. New Chapter 38 (Sections 3830–3880 and Appendix A) filed 4-1-77; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 3-17-77 (Register 77, No. 14).

2. Repealer of Chapter 38 (Sections 3830–3880 and Appendix A) and new Chapter 38 (Section 3830 and Appendix) filed 2-26-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12-1-80 (Register 81, No. 9).

APPENDIX

<i>Designated Employees</i>	<i>Disclosure Categories</i>
<i>Administration Executive Offices</i>	
Director	16
Chief Deputy Director.....	16
Deputy Director	16
Assistant to the Director	1, 2, 3, 4, 5, 6, 7, 15
<i>Legal Office</i>	
Chief Counsel.....	1, 2, 3, 4, 5, 6, 7, 15
Senior Counsel	1, 2, 3, 4, 5, 6, 7, 15
<i>Division of Administration</i>	
Chief, Division of Administration	2, 4, 5, 7
<i>Fiscal Office</i>	
Fiscal Officer II	2, 4, 5, 7
Accounting Officer III	2, 4, 5, 7
Business Services Officer III.....	2, 4, 5, 7
<i>Division of Consumer Services</i>	
Chief	1, 3, 9, 14
Deputy Chief	1, 3, 9, 14
Executive Secretary, Consumer Advisory Council	1, 3, 9, 14
<i>Board of Accountancy</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Assistant Secretary.....	8, 9, 12, 13, 14
<i>Members of the following committees:</i>	
Continuing Education Committee	8, 12
Certified Public Accountants Qualifications Committee	8, 12, 13
Certified Public Accountants Administrative Committee	8
Public Accountants Administrative Committee	8
<i>Board of Architectural Examiners</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Administrative Assistant.....	8, 9, 12, 13, 14
<i>State Athletic Commission</i>	
Commission Members	8, 9, 10, 14
Executive Officer.....	8, 9, 10, 14
Assistant Executive Officer.....	8, 9, 10, 14
Chief Inspector	8, 9, 10, 14
Assistant Chief Inspectors	8, 9, 10, 14
<i>Board of Barber Examiners</i>	
Board Members	8, 9, 10, 12, 13, 14
Executive Secretary	8, 9, 10, 12, 13, 14
<i>Board of Behavioral Science Examiners</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14

<i>Cemetery Board</i>	
Board Members	8, 9, 14
Executive Secretary	8, 9, 14
<i>Contractors State License Board</i>	
Board Members	8, 9, 13, 14
The Registrar	8, 9, 13, 14
Deputy Registrar IV	8, 9, 13, 14
Deputy Registrar III	8, 9, 13, 14
Deputy Registrar II	8, 9, 13, 14
<i>Board of Cosmetology</i>	
Board Members	8, 9, 10, 12, 13, 14
Executive Secretary	8, 9, 10, 12, 13, 14
Assistant Executive Secretary	8, 9, 10, 12, 13, 14
<i>Board of Dental Examiners</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Assistant Executive Secretary	8, 9, 12, 13, 14
Members of the Committee on Dental Auxiliaries	8, 12, 13, 14
Members of the Examining Committee	8, 12, 13, 14
<i>Board of Fabric Care</i>	
Board Members	8, 9, 11, 12, 13, 14
Executive Secretary	8, 9, 11, 12, 13, 14
<i>Board of Funeral Directors and Embalmers</i>	
Board Members	8, 9, 10, 12, 13, 14
Executive Secretary	8, 9, 10, 12, 13, 14
Field Representative	8, 10, 14
General Auditor II	8, 10, 14
<i>Board of Registration for Geologists and Geophysicists</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
<i>Board of Landscape Architects</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
<i>Board of Medical Quality Assurance</i>	
Division of Licensing Members	8, 9, 12, 13, 14
Division of Medical Quality and Medical Quality Review Committee Members	8, 9, 11, 14
Division of Allied Health	8, 9, 11, 12, 13, 14
Professions Members	
Executive Director	8, 9, 11, 12, 13, 14
Assistant Executive Director	8, 9, 11, 12, 13, 14
<i>Members and Assistant Executive Secretaries of the following Committees:</i>	
Acupuncture Advisory Committee	8, 9, 12, 13, 14
Podiatry Examining Committee	8, 9, 12, 13, 14
Hearing Aid Dispensers Examining Committee	8, 9, 13, 14
Physicians' Assistants Examining Committee	8, 9, 13, 14
Speech Pathology and Audiology Examining Committee	8, 9, 12, 13, 14
Psychology Examining Committee	8, 9, 12, 13, 14
Physical Therapy Examining Committee	8, 9, 12, 13, 14
Consumer Education Officer	8, 9, 11, 12, 13, 14
Chief Medical Consultant	8, 9, 11, 12, 13, 14
Legal Counsel	8, 9, 11, 12, 13, 14

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(p. 604)

CONSUMER AFFAIRS

TITLE 16
(Register 81, No. 9—2-28-81)

<i>Enforcement</i>	
Program Manager	8, 9, 11, 12, 13, 14
Deputy Program Manager	8, 9, 11, 12, 13, 14
<i>Sacramento, San Francisco, Los Angeles and Santa Ana Regions</i>	
Supervising Investigator	8, 9, 11, 12, 13, 14
Medical Consultant	8, 9, 11, 12, 13, 14
Investigators	8, 9, 11, 12, 13, 14
<i>Licensing</i>	
Program Manager	8, 9, 12, 13, 14
<i>Medical Statistics and Research</i>	
Program Manager	8, 9, 14
Chief, Bureau of Medical Statistics	8, 9, 14
<i>Board of Nursing Home Administrators</i>	
Board Members	8, 9, 12, 13, 14, 17
Executive Officer	8, 9, 12, 13, 14, 17
<i>Board of Optometry</i>	
Board Members	8, 9, 10, 11, 12, 13, 14
Executive Secretary	8, 9, 10, 11, 12, 13, 14
<i>Board of Pharmacy</i>	
Board Members	8, 9, 10, 12, 13, 14
Executive Secretary	8, 9, 10, 12, 13, 14
Assistant Executive Secretary	8, 9, 10, 12, 13, 14
Supervising Inspector	8, 9, 10, 12, 13, 14
Inspector	8, 9, 10, 12, 13, 14
<i>Board of Registration for Professional Engineers</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
<i>Board of Registered Nursing</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Assistant Executive Secretary	8, 9, 12, 13, 14
Nursing Education Consultants	8, 9, 12, 13, 14
<i>Certified Shorthand Reporters Board</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
<i>Structural Pest Control Board</i>	
Board Members	8, 9, 10, 13, 14
Registrar	8, 9, 10, 13, 14
Assistant Registrar	8, 9, 10, 13, 14
Deputy Registrar	8, 9, 10, 13, 14
<i>Tax Preparer Program</i>	
Administrator	8, 9, 14
<i>Board of Examiners in Veterinary Medicine</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Animal Health Technician Examining Committee	8, 12, 13, 14

TITLE 16
(Register 81, No. 9—2-28-81)

CONSUMER AFFAIRS

§ 3830
(p. 605)

<i>Board of Vocational Nurse and Psychiatric Technician Examiners</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Assistant Executive Secretary.....	8, 9, 12, 13, 14
Nursing Education Consultant	8, 9, 12, 13, 14
<i>State Board of Guide Dogs for the Blind</i>	
Board Members	8, 9, 14
Executive Secretary	8, 9, 14
<i>Bureau of Automotive Repair</i>	
Bureau Chief.....	8, 9, 10, 14
Deputy Chief	8, 9, 10, 14
Assistant Chief for Vehicle Inspection Programs	8, 9, 10, 14
Program Managers	8, 9, 10, 14
<i>Bureau of Collection and Investigative Services</i>	
Bureau Chief.....	8, 9, 12, 13, 14
Deputy Chief	8, 9, 12, 13, 14
Assistant Secretary.....	8, 9, 12, 13, 14
Auditor III	8, 9, 12, 13, 14
Auditor II	8, 9, 12, 13, 14
Auditor I	8, 9, 12, 13, 14
Staff Analyst	8, 9, 12, 13, 14
<i>Bureau of Employment Agencies</i>	
Bureau Chief.....	8, 9, 14
Deputy Chief	8, 9, 14
<i>Bureau of Home Furnishings</i>	
Bureau Chief.....	8, 9, 10, 11, 14
Deputy Chief	8, 9, 10, 11, 14
<i>Bureau of Electronic and Appliance Repair</i>	
Bureau Chief.....	8, 9, 14
Assistant Chief	8, 9, 14
Program Manager	8, 9, 14
<i>Division of Investigation</i>	
Chief	1, 3, 9, 14
Deputy Chief	1, 3, 9, 14
Supervising Special Investigator II	1, 3, 9, 14
Supervising Special Investigator I.....	1, 3, 9, 14

Consultants shall disclose financial interests pursuant to the disclosure categories applicable to the unit that contracts for their services.

Disclosure Categories

As used in the following disclosure categories, "person" includes, but is not limited to, individuals, partnerships, firms, corporations, and association. A designated employee required to report under one or more of the following disclosure categories must disclose investments, interests in real property and income if the business entity in which the investment is held, the real property, or the source of the income is:

1. Regulated by one or more of the agencies within the department.
2. Engaged in rendering services or selling products to the department, or a manufacturer, wholesaler or distributor of such products.
3. A person against whom the department is contemplating legal or administrative action, has legal or administrative action pending, or has intervened in such action.
4. A manufacturer, wholesaler or retailer of products or equipment approved or designated for use by any agency within the department.
5. A manufacturer, wholesaler or retailer of products or equipment required to meet standards set by any agency within the department.
6. A person, school, college or university offering individual courses and/or a curriculum which must be approved by any agency within the department.
7. A person, school, college or university which prepares, administers, or grades examinations given by any agency within the department.
8. Engaged in the business or profession regulated by the particular board, bureau, committee, commission, or division.
9. Engaged in rendering services or selling products to the particular division, board, bureau, committee, or commission, or a manufacturer, wholesaler, or distributor of such products.
10. A manufacturer, wholesaler, or retailer of products or equipment approved or designated for use by the particular board, bureau, committee, or commission.
11. A manufacturer, wholesaler, or retailer of products or equipment required to meet standards set by the particular board, bureau, committee, or commission.
12. A person, school, college or university offering individual courses and/or a curriculum which is approved by the particular board, committee, or bureau.
13. A person, school, college, or university which prepares, administers, or grades examinations given by the particular board, committee, or bureau.
14. Engaged in a business or profession affected by pending legislation when recommendations may be made by the particular division, board, bureau, committee, or commission regarding such legislation.
15. Engaged in a business or profession affected by pending or proposed legislation when recommendations may be made by the department regarding such legislation.
16. Any investments, interests in real property and sources of income.
17. A facility licensed by the Department of Health which must be managed by a nursing home administrator.

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§ 156. Contracts

The director may, at the request and with the consent of the particular board within the department on whose behalf the contract is to be made, enter into contracts pursuant to Article 4 of Chapter 3 of Part 1 of Division 3 of Title 2 of the Government Code¹ for and on behalf of any board within the department.

(Added by Stats.1953, c. 864, p. 2211, § 1.)

¹ Government Code § 11310 et seq. [repealed. See, now §§ 11255 to 11259.]

Historical Note

A former section 156, which was part of the original codification derived from Political Code § 376j, added by Stats.1929, c. 290, p. 595, § 1, and Political Code § 377j, as added by Stats.1931, c. 596, p. 1285, was repealed by Stats.1945, c. 1276, p.

2399, § 6. The former section related to employees for division 1.

Derivation: Pol.C. § 376j, added by Stats.1929, c. 290, p. 595, § 1; Pol.C. § 377j, added Stats.1931, c. 596, p. 1287, § 1.

Cross References

Interagency services and transactions, see Government Code § 11250 et seq.

Library References

Licenses ⇔ 21.

C.J.S. Licenses § 37.

§ 156.5 Lease of space for examination purposes

The director may negotiate and execute for the department and for its component agencies, leases or agreements for short-term hiring of space for examination purposes. Any such lease or agreement is subject to the approval of the Department of General Services.

(Added by Stats.1967, c. 1235, p. 3005, § 1.)

§ 157. Expenses of prosecutions or unprofessional conduct proceedings

Expenses incurred by any board or on behalf of any board in any criminal prosecution or unprofessional conduct proceeding constitute proper charges against the funds of the board.

(Added by Stats.1937, c. 474, p. 1423.)

Cross References

Funds of department, see § 260 et seq.

Witness fees, see § 198.5.

§ 158. Refunds; claims and warrants

With the approval of the Director of Consumer Affairs, the boards and commissions comprising the department or subject to its jurisdiction may make refunds to applicants who are found ineligible to take the examinations or whose credentials are insufficient to entitle them to certificates or licenses.

Memorandum

To : FAIR POLITICAL PRACTICES COMMISSION
Attn: Legal Division
428 J Street, Suite 800
P.O. Box 807
Sacramento, CA 95804

Date : April 14, 1989

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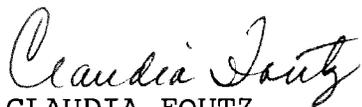
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CLAUDIA FOUTZ
Chief Deputy Director

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- SUBCHAPTER 1. (RESERVED)
- SUBCHAPTER 2. DEPARTMENT OF CONSUMER AFFAIRS—
CONFLICT OF INTEREST CODE
- SUBCHAPTER 3. IMMIGRATION CONSULTANTS

SUBCHAPTER 2. DEPARTMENT OF CONSUMER AFFAIRS—
CONFLICT OF INTEREST CODE

DETAILED ANALYSIS

- Section
- 3830. General Provisions
Appendix

3830. General Provisions.

The Political Reform Act, Government Code Sections 81000, *et seq.*, require state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Department of Consumer Affairs.

Pursuant to Section 4(A) of the standard Code, designated employees shall file statements of economic interests with the agency. Upon receipt of the statement of the Director, the agency shall make and retain a copy and forward the original of this statement to the Fair Political Practices Commission.

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Section 87300 *et seq.*, Government Code.

HISTORY:

1. New Chapter 38 (Sections 3830–3880 and Appendix A) filed 4-1-77; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 3-17-77 (Register 77, No. 14).

2. Repealer of Chapter 38 (Sections 3830–3880 and Appendix A) and new Chapter 38 (Section 3830 and Appendix) filed 2-26-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12-1-80 (Register 81, No. 9).

APPENDIX

<i>Designated Employees</i>	<i>Disclosure Categories</i>
<i>Administration Executive Offices</i>	
Director	16
Chief Deputy Director.....	16
Deputy Director	16
Assistant to the Director	1, 2, 3, 4, 5, 6, 7, 15
<i>Legal Office</i>	
Chief Counsel	1, 2, 3, 4, 5, 6, 7, 15
Senior Counsel	1, 2, 3, 4, 5, 6, 7, 15
<i>Division of Administration</i>	
Chief, Division of Administration	2, 4, 5, 7
<i>Fiscal Office</i>	
Fiscal Officer II	2, 4, 5, 7
Accounting Officer III	2, 4, 5, 7
Business Services Officer III.....	2, 4, 5, 7
<i>Division of Consumer Services</i>	
Chief	1, 3, 9, 14
Deputy Chief	1, 3, 9, 14
Executive Secretary, Consumer Advisory Council.....	1, 3, 9, 14
<i>Board of Accountancy</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Assistant Secretary.....	8, 9, 12, 13, 14
<i>Members of the following committees:</i>	
Continuing Education Committee	8, 12
Certified Public Accountants Qualifications Committee	8, 12, 13
Certified Public Accountants Administrative Committee	8
Public Accountants Administrative Committee	8
<i>Board of Architectural Examiners</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Administrative Assistant.....	8, 9, 12, 13, 14
<i>State Athletic Commission</i>	
Commission Members	8, 9, 10, 14
Executive Officer.....	8, 9, 10, 14
Assistant Executive Officer.....	8, 9, 10, 14
Chief Inspector	8, 9, 10, 14
Assistant Chief Inspectors	8, 9, 10, 14
<i>Board of Barber Examiners</i>	
Board Members	8, 9, 10, 12, 13, 14
Executive Secretary	8, 9, 10, 12, 13, 14
<i>Board of Behavioral Science Examiners</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14

TITLE 16
 (Register 81, No. 8—2-28-81)

CONSUMER AFFAIRS

§ 3830
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<i>Cemetery Board</i>	
Board Members	8, 9, 14
Executive Secretary	8, 9, 14
<i>Contractors State License Board</i>	
Board Members	8, 9, 13, 14
The Registrar	8, 9, 13, 14
Deputy Registrar IV	8, 9, 13, 14
Deputy Registrar III	8, 9, 13, 14
Deputy Registrar II	8, 9, 13, 14
<i>Board of Cosmetology</i>	
Board Members	8, 9, 10, 12, 13, 14
Executive Secretary	8, 9, 10, 12, 13, 14
Assistant Executive Secretary	8, 9, 10, 12, 13, 14
<i>Board of Dental Examiners</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Assistant Executive Secretary	8, 9, 12, 13, 14
Members of the Committee on Dental Auxilliaries	8, 12, 13, 14
Members of the Examining Committee	3, 12, 13, 14
<i>Board of Fabric Care</i>	
Board Members	8, 9, 11, 12, 13, 14
Executive Secretary	8, 9, 11, 12, 13, 14
<i>Board of Funeral Directors and Embalmers</i>	
Board Members	8, 9, 10, 12, 13, 14
Executive Secretary	8, 9, 10, 12, 13, 14
Field Representative	8, 10, 14
General Auditor II	8, 10, 14
<i>Board of Registration for Geologists and Geophysicists</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
<i>Board of Landscape Architects</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
<i>Board of Medical Quality Assurance</i>	
Division of Licensing Members	8, 9, 12, 13, 14
Division of Medical Quality and Medical Quality Review Committee Members	8, 9, 11, 14
Division of Allied Health	8, 9, 11, 12, 13, 14
Professions Members	
Executive Director	8, 9, 11, 12, 13, 14
Assistant Executive Director	8, 9, 11, 12, 13, 14
<i>Members and Assistant Executive Secretaries of the following Committees:</i>	
Acupuncture Advisory Committee	8, 9, 12, 13, 14
Podiatry Examining Committee	8, 9, 12, 13, 14
Hearing Aid Dispensers Examining Committee	8, 9, 13, 14
Physicians' Assistants Examining Committee	8, 9, 13, 14
Speech Pathology and Audiology Examining Committee	8, 9, 12, 13, 14
Psychology Examining Committee	8, 9, 12, 13, 14
Physical Therapy Examining Committee	8, 9, 12, 13, 14
Consumer Education Officer	8, 9, 11, 12, 13, 14
Chief Medical Consultant	8, 9, 11, 12, 13, 14
Legal Counsel	8, 9, 11, 12, 13, 14

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CONSUMER AFFAIRS

TITLE 16

(Register 81, No. 9—2-28-81)

<i>Enforcement</i>	
Program Manager	8, 9, 11, 12, 13, 14
Deputy Program Manager	8, 9, 11, 12, 13, 14
<i>Sacramento, San Francisco, Los Angeles and Santa Ana Regions</i>	
Supervising Investigator	8, 9, 11, 12, 13, 14
Medical Consultant	8, 9, 11, 12, 13, 14
Investigators	8, 9, 11, 12, 13, 14
<i>Licensing</i>	
Program Manager	8, 9, 12, 13, 14
<i>Medical Statistics and Research</i>	
Program Manager	8, 9, 14
Chief, Bureau of Medical Statistics	8, 9, 14
<i>Board of Nursing Home Administrators</i>	
Board Members	8, 9, 12, 13, 14, 17
Executive Officer	8, 9, 12, 13, 14, 17
<i>Board of Optometry</i>	
Board Members	8, 9, 10, 11, 12, 13, 14
Executive Secretary	8, 9, 10, 11, 12, 13, 14
<i>Board of Pharmacy</i>	
Board Members	8, 9, 10, 12, 13, 14
Executive Secretary	8, 9, 10, 12, 13, 14
Assistant Executive Secretary	8, 9, 10, 12, 13, 14
Supervising Inspector	8, 9, 10, 12, 13, 14
Inspector	8, 9, 10, 12, 13, 14
<i>Board of Registration for Professional Engineers</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
<i>Board of Registered Nursing</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Assistant Executive Secretary	8, 9, 12, 13, 14
Nursing Education Consultants	8, 9, 12, 13, 14
<i>Certified Shorthand Reporters Board</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
<i>Structural Pest Control Board</i>	
Board Members	8, 9, 10, 13, 14
Registrar	8, 9, 10, 13, 14
Assistant Registrar	8, 9, 10, 13, 14
Deputy Registrar	8, 9, 10, 13, 14
<i>Tax Preparer Program</i>	
Administrator	8, 9, 14
<i>Board of Examiners in Veterinary Medicine</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Animal Health Technician Examining Committee	8, 12, 13, 14

TITLE 16
 (Register 81, No. 9—2-28-81)

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<i>Board of Vocational Nurse and Psychiatric Technician Examiners</i>	
Board Members	8, 9, 12, 13, 14
Executive Secretary	8, 9, 12, 13, 14
Assistant Executive Secretary	8, 9, 12, 13, 14
Nursing Education Consultant	8, 9, 12, 13, 14
<i>State Board of Guide Dogs for the Blind</i>	
Board Members	8, 9, 14
Executive Secretary	8, 9, 14
<i>Bureau of Automotive Repair</i>	
Bureau Chief	8, 9, 10, 14
Deputy Chief	8, 9, 10, 14
Assistant Chief for Vehicle Inspection Programs	8, 9, 10, 14
Program Managers	8, 9, 10, 14
<i>Bureau of Collection and Investigative Services</i>	
Bureau Chief	8, 9, 12, 13, 14
Deputy Chief	8, 9, 12, 13, 14
Assistant Secretary	8, 9, 12, 13, 14
Auditor III	8, 9, 12, 13, 14
Auditor II	8, 9, 12, 13, 14
Auditor I	8, 9, 12, 13, 14
Staff Analyst	8, 9, 12, 13, 14
<i>Bureau of Employment Agencies</i>	
Bureau Chief	8, 9, 14
Deputy Chief	8, 9, 14
<i>Bureau of Home Furnishings</i>	
Bureau Chief	8, 9, 10, 11, 14
Deputy Chief	8, 9, 10, 11, 14
<i>Bureau of Electronic and Appliance Repair</i>	
Bureau Chief	8, 9, 14
Assistant Chief	8, 9, 14
Program Manager	8, 9, 14
<i>Division of Investigation</i>	
Chief	1, 3, 9, 14
Deputy Chief	1, 3, 9, 14
Supervising Special Investigator II	1, 3, 9, 14
Supervising Special Investigator I	1, 3, 9, 14

Consultants shall disclose financial interests pursuant to the disclosure categories applicable to the unit that contracts for their services.

Disclosure Categories

As used in the following disclosure categories, "person" includes, but is not limited to, individuals, partnerships, firms, corporations, and association. A designated employee required to report under one or more of the following disclosure categories must disclose investments, interests in real property and income if the business entity in which the investment is held, the real property, or the source of the income is:

1. Regulated by one or more of the agencies within the department.
2. Engaged in rendering services or selling products to the department, or a manufacturer, wholesaler or distributor of such products.
3. A person against whom the department is contemplating legal or administrative action, has legal or administrative action pending, or has intervened in such action.
4. A manufacturer, wholesaler or retailer of products or equipment approved or designated for use by any agency within the department.
5. A manufacturer, wholesaler or retailer of products or equipment required to meet standards set by any agency within the department.
6. A person, school, college or university offering individual courses and/or a curriculum which must be approved by any agency within the department.
7. A person, school, college or university which prepares, administers, or grades examinations given by any agency within the department.
8. Engaged in the business or profession regulated by the particular board, bureau, committee, commission, or division.
9. Engaged in rendering services or selling products to the particular division, board, bureau, committee, or commission, or a manufacturer, wholesaler, or distributor of such products.
10. A manufacturer, wholesaler, or retailer of products or equipment approved or designated for use by the particular board, bureau, committee, or commission.
11. A manufacturer, wholesaler, or retailer of products or equipment required to meet standards set by the particular board, bureau, committee, or commission.
12. A person, school, college or university offering individual courses and/or a curriculum which is approved by the particular board, committee, or bureau.
13. A person, school, college, or university which prepares, administers, or grades examinations given by the particular board, committee, or bureau.
14. Engaged in a business or profession affected by pending legislation when recommendations may be made by the particular division, board, bureau, committee, or commission regarding such legislation.
15. Engaged in a business or profession affected by pending or proposed legislation when recommendations may be made by the department regarding such legislation.
16. Any investments, interests in real property and sources of income.
17. A facility licensed by the Department of Health which must be managed by a nursing home administrator.

Div. 1

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Ch. 2

DIRECTOR

§ 158

§ 156. Contracts

The director may, at the request and with the consent of the particular board within the department on whose behalf the contract is to be made, enter into contracts pursuant to Article 4 of Chapter 3 of Part 1 of Division 3 of Title 2 of the Government Code¹ for and on behalf of any board within the department.

(Added by Stats.1953, c. 864, p. 2211, § 1.)

¹ Government Code § 11310 et seq. [repealed. See, now §§ 11255 to 11259.]

Historical Note

A former section 156, which was part of the original codification derived from Political Code § 376j, added by Stats.1929, c. 290, p. 595, § 1, and Political Code § 377j, as added by Stats.1931, c. 596, p. 1285, was repealed by Stats.1945, c. 1276, p.

2399, § 6. The former section related to employees for division 1.

Derivation: Pol.C. § 376j, added by Stats.1929, c. 290, p. 595, § 1; Pol.C. § 377j, added Stats.1931, c. 596, p. 1287, § 1.

Cross References

Interagency services and transactions, see Government Code § 11250 et seq.

Library References

Licenses ⇄21.

C.J.S. Licenses § 37.

§ 156.5 Lease of space for examination purposes

The director may negotiate and execute for the department and for its component agencies, leases or agreements for short-term hiring of space for examination purposes. Any such lease or agreement is subject to the approval of the Department of General Services.

(Added by Stats.1967, c. 1235, p. 3005, § 1.)

§ 157. Expenses of prosecutions or unprofessional conduct proceedings

Expenses incurred by any board or on behalf of any board in any criminal prosecution or unprofessional conduct proceeding constitute proper charges against the funds of the board.

(Added by Stats.1937, c. 474, p. 1423.)

Cross References

Funds of department, see § 200 et seq.

Witness fees, see § 108.5.

§ 158. Refunds; claims and warrants

With the approval of the Director of Consumer Affairs, the boards and commissions comprising the department or subject to its jurisdiction may make refunds to applicants who are found ineligible to take the examinations or whose credentials are insufficient to entitle them to certificates or licenses.



California Fair Political Practices Commission

April 19, 1989

Claudia Foutz
Chief Deputy Director
Department of Consumer Affairs
Division of Administration
1020 N Street
Sacramento, CA 95814

Re: Letter No. 89-233

Dear Ms. Foutz:

Your letter requesting advice under the Political Reform Act was received on April 18, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Blanca Breeze an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
Acting General Counsel

KED:plh