



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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Fourth Quarter Update

Conflict of Interest, Revolving Door, and Statement of Economic Interests

Regulations adopted by the Commission

The following are regulatory changes approved by the Commission during the past quarter concerning conflict of interest, revolving door, or statement of economic interests. To receive updates for all regulations before the Commission, please sign up for our [mailing list here](#).

Repeal:

[Regulation 18115](#) Duties of Filing Officers and Filing Officials- Statements of Economic Interests.

Adoption:

[Regulation 18115](#) Duties of Filing Officers and Filing Officials- Statements of Economic Interests.

[Regulation 18115.1](#) Duties of the Filing Officers and Filing Officials- Paper Format Statements of Economic Interests.

[Regulation 18115.2](#) Duties of Filing Officers and Filing Officials- Electronically Filed Statements of Economic Interests.

[Regulation 18723.1](#) Statements of Economic Interests: Public Officials with Multiple Positions.

Amended:

[Regulation 18351](#) Conflict of Interest Code of the Fair Political Practices Commission

[Regulation 18700](#) Basic Rule and Guide to Conflict of Interest Regulation

[Regulation 18730](#) Provisions of Conflict of Interest Code

[Regulation 18732.5](#) Statements of Economic Interests from Filers of Abolished Agencies.

[Regulation 18735](#) Change of Position or Disclosure Category Within Same Agency

[Regulation 18754](#) Statements of Economic Interest (Members of Boards or Commissions); When and Where to File.

Advice Letters

The following are advice letters issued by the Commission's Legal Division during the past quarter concerning questions about conflicts of interest, revolving door, or statement of economic interests. To receive the monthly report with all advice letters issued, please sign up for our [mailing list here](#).

Conflict of Interest

Prasanna W. Rashiah

[A-20-103\(a\)](#)

A City Mayor may not take part in amending a General Plan to permit additional office-space where there is clear and convincing evidence the underlying projects would substantially affect property owned by individuals who are sources of income to the Mayor, including a foreseeable effect on the property's market value and income-producing potential.

Jonathan P. Hobbs

[A-20-105](#)

Two councilmembers, who both have sources of income due to their spouses' employment with medical care providers, have conflicts of interest in decisions to approve a new medical facility, which would include a hospital, within the City.

Donna Mooney

[A-20-106](#)

For a planning commission design review decision on a project that is part of a large multi-year development subject to a development agreement, and the official has a leasehold interest in an apartment in an adjacent apartment complex, the official may participate where the decision will not change the lease termination date or allowable use, and there are no facts indicating the design review decision will impact the rental value of the property or its use and enjoyment.

Roxanne Diaz

[A-20-113](#)

The Act prohibits a city councilmember from taking part in decisions relating to a high-end and low-density residential development project consisting of 43.17 currently vacant acres and located between 500 to 1,000 feet from the councilmember's residential real property because it is reasonably foreseeable that those decisions would have a material financial effect on the councilmember's residence.

David M. Snow

[A-20-116](#)

City Councilmember and City Attorney may take part in decisions related to the adoption of a Mixed-Use Overlay Zone that would permit mixed-used development at locations near their residences, where any potential effect on the residences would be indistinguishable from the effect on the public generally. Likewise, a Mayor may take part in the same decisions where the establishment of the Overlay Zone would not foreseeably and materially affect his business entity and would not change the termination date of his leased property, increase or decrease its potential rental value, change its actual or legally allowable use, or impact the Mayor's use and enjoyment of the property.

Gleam Davis

[A-20-117](#)

City Councilmember has a conflict of interest in a decision involving a business entity, which is a named party and subject of the proceeding, and "otherwise related" to a business that is a reportable source of income to the official.

Jesse W. Barton

[A-20-121](#)

Utilities District Director has a disqualifying conflict of interest in the client of his title company, such that he is precluded under the Act from participating in decisions coming before the district in which the client is a named party. Further, the district may not invoke the legally required participation exception to permit him to participate in the decision, as the board may convene the necessary quorum to conduct business with members free of 87100 financial conflicts.

Gary W. Schons

[A-20-127](#)

City Councilmember may take part in a decision whether to hire a real estate broker to list two City-owned properties located within 500 feet and 1000 feet, respectively, of his residence because the decision to hire the broker is intended to gauge the public interest in the properties

and is not a decision to sell the property at this time. Accordingly, the decision will not have any measurable impact on the councilmember's property.

Sudhanshu Jain

[A-20-126](#)

Councilmember has a potential conflict of interest in governmental decisions concerning a proposed plan for a focus area due to the proximity of his primary residence. However, the official may take part in the decision under the public generally exception because 16.34% of the residential parcels in the official's district are within 1,000 feet of the focus area and there is no indication that the official's residence will be uniquely affected.

Richard D. Pio Roda

[A-20-130](#)

Members of a temporary budget advisory task force have no decision-making authority and do not qualify as public officials subject to conflict-of-interest provisions under the Act. However, city employees who serve on the task force are subject to the conflict-of-interest provisions and may be prohibited from taking part in task force decisions if there is a reasonably foreseeable and material effect on a financial interest as enumerated in Section 87103 of the Act.

Santiago M. Escruceria

[A-20-135](#)

A special district commissioner may submit comments to a county board of supervisors on behalf of the district regarding a specific plan amendment, even though his employer submitted comments opposing elements of the specific plan amendment, where the specific plan amendment would have no financial effect on the employer. The commissioner may also take part in decisions on providing services to the specific plan amendment applicant because such decisions would have no financial effect on the commissioner's employer.

Andrew Morris

[A-20-145](#)

Under the Act, a councilmember is prohibited from taking part in decisions regarding the development of a parcel of land, which would introduce up to 580 additional residential units and desirable new amenities, because it is reasonably foreseeable that such significant development would affect the potential rental value of the councilmember's leased property located approximately 700 feet away.

Arnold M. Alvaraz-Glasman

[A-20-148](#)

Under the Act, a public official may not take part in decisions affecting the development of a vacant 51-acre parcel of land into new park land where that parcel is located directly behind and visible from that public official's residence, given the proximity of the development and the foreseeable effect it would have on the value, use and enjoyment, and view of the public official's property.

Conflict of Interest Code

Seth Steiner

[A-20-108](#)

A member of a purely advisory body is not a "public official" as defined by the Act, and thus, not subject to the disclosure and disqualification requirements of the Act.

Revolving Door

Emily B. Erlingsson

[I-20-139](#)

The permanent ban applies to former department director in his private employment with a trade association, and prohibits his participation to the extent a matter is a “judicial, quasi-judicial or other proceeding” in which he previously “participated” as those terms are defined under the Act. However, the permanent ban does not apply to matters that involve the making of rules or policies of general applicability.

Section 1090

Christopher J. Diaz

[A-20-080](#)

Section 1090 does not prohibit a former councilmember from becoming a tenant in the Town-owned housing complex because (1) the former councilmember’s interest in a residential lease arises in the context of his or her role as a constituent of the public agency and recipient of its services; (2) the service at issue is broadly available to all those whom are similarly situated and is not narrowly tailored to specially favor an official or group of officials; and (3) the service at issue is provided on substantially the same terms as for any other constituent. Accordingly, any former councilmember has a noninterest in such residential lease pursuant to Section 1091.5(a)(3).

Suzanne Jones

[A-20-096](#)

The Act does not prohibit County Supervisor from taking part in decisions relating to the potential hiring of the Supervisor’s district aide, and Section 1090 does not prohibit the Supervisor from making or participating in making a potential contract between the county and the Supervisor’s adult brother governing the brother’s service as the Supervisor’s district aide, because the Supervisor is not financially interested in those decisions or that potential contract.

Abel Salinas

[A-20-110](#)

Section 1090 does not prohibit a water district from contracting with a firm where a director on its board has a consulting arrangement with the firm if the district’s general manager has the independent authority, not subject to review by the board, to enter such contracts. In addition, because the director has only a remote interest in those contracts, the district may enter contracts with the firm so long as the director abstains from any participation and follows the requirements specified in Section 1091.

Roberto M. Contreras

[A-20-119](#)

Section 1090 does not prohibit a city from entering a contract with an independent contractor for roof replacement services on a project where the independent contractor provided roof assessment services under a previous contract for the same project because the independent contractor is not subject to Section 1090 based on the scope of services provided under the initial contract.

Renee Stadel

[A-20-120](#)

Section 1090 would prohibit a councilmember from making or participating in making, and the city from entering into or extending, a contract between the city and a potential city contractor

if the councilmember's spouse becomes an employee, agent, or subcontractor of that contractor

Glen R. Googins

[A-20-123](#)

A councilmember may take part in a decision on a proposed lease renewal with a civic organization for the use of a city-owned building located in a park which is within 500 feet of the boundaries of rental properties owned by the councilmember because clear and convincing evidence indicates that the lease renewal would have no measurable impact on his properties. Likewise, there is no indication of a financial effect on the tenants of the properties or the councilmember's rental business. Under Section 1090, the Councilmember has a noninterest in the lease renewal, as a member of the nonprofit civic organization.

Matthew Flood

[A-20-133](#)

Section 1090 does not prohibit a city from issuing grant funds to qualifying tenants of councilmembers because (1) the councilmembers' interests in the grant funds arises in the context of the affected official's or employee's role as a constituent of the public agency and recipient of its services; (2) the service at issue is broadly available to all those whom are similarly situated and is not narrowly tailored to specially favor an official or group of officials; and (3) the service at issue is provided on substantially the same terms as for any other constituent. Accordingly, the councilmembers have a noninterest in such funds pursuant to Section 1091.5(a)(3).

Joshua K. Clendenin

[A-20-143](#)

Section 1090 prohibits a city from entering into an energy services contract with a company to develop energy related improvement options and then perform the work, but only after the contract is amended to reflect the actual work the city authorizes the company to perform. Because the amended contract would be a separate contract for purposes of Section 1090, the city would be prohibited from entering two separate contracts with the same energy services company where the scope of work in the amended contract would be established through services performed under the initial contract.

Commission Opinions

None

Enforcement Matters

The following are summaries of significant enforcement actions approved by the Commission in the past quarter involving violations of the Act's conflicts of interest, revolving door, or statement of economic interests. To receive a monthly report of all enforcement actions, please sign up for our [mailing list here](#).

Default Proceedings

[In the Matter of Jennifer Allsup; FPPC No. 16/20047](#). Staff: Angela Brereton, Assistant Chief Counsel and Jeffrey Kamigaki, Supervising Special Investigator. Jennifer Allsup formerly served as Commissioner of Modesto Entertainment Commission from March 2009 to May 5, 2016. Allsup failed to timely file a 2014 Annual, 2015 Annual, and a Leaving Office Statement of Economic Interests, in violation of Government Code Section 87300 (3 counts). **Fine: \$12,000.**

[In the Matter of Antonio Flores; FPPC No. 16/20070](#). Staff: Jenna C. Rinehart, Commission Counsel. Antonio Flores was appointed to Governing Board Member of Siskiyou County Dunsmuir Elementary School District on March 15, 2016 and left office on December 2, 2016. Flores failed to timely file an Assuming Office and Leaving Office Statement of Economic Interests, in violation of Government Code Section 87300 (2 counts). **Fine: \$8,000.**

[In the Matter of Tommie Nellon; FPPC No. 18/512](#). Staff: Jenna C. Rinehart, Commission Counsel and Lance M. Hachigian, Special Investigator. Tommie Nellon was appointed as a Board Member to the Fresno Regional Workforce Development Board on November 19, 2009 and is currently still in office. Nellon failed to timely file a 2015, 2016, 2017, and 2018 Annual Statement of Economic Interests, in violation of Government Code Section 87203 (4 counts). **Fine: \$12,000.**

[In the Matter of Kiniko Willingham; FPPC No. 18/501](#). Staff: Jenna C. Rinehart, Commission Counsel. Kiniko Willingham was appointed as a Commissioner to the City of Long Beach Veteran Affairs Commission on September 26, 2016 and left office on February 1, 2019. Willingham failed to timely file a 2017 Annual and Leaving Office Statement of Economic Interests, in violation of Government Code Section 87300 (2 counts). **Fine: \$7,000.**

Legislation

None