Amend 2 Cal. Code Regs., Section 18705 to read:

§ 18705. Legally Required Participation.

(a) A public official who has a financial interest in a decision or has received a disqualifying contribution under Section 84308 may establish that the official is legally required to make or to participate in the making of a governmental decision within the meaning of Section 87101 only if there exists no alternative source of decision consistent with the purposes and terms of the statute authorizing the decision.

(b) Whenever a public official who has a financial interest in a decision or has received a disqualifying contribution under Section 84308 is legally required to make or to participate in making such a decision, the official, or an employee of the agency on behalf of the official, shall state the existence of the potential conflict as follows:

(1) The official or employee shall disclose the existence of the conflict and describe with particularity the nature of the economic interest. "Particularity" as used in this regulation shall be satisfied if the official or employee discloses:

(A) whether the conflict involves an investment, business position, interest in real property, or the receipt of income, loan, gift, or contribution;

(B) if the interest is an investment~~,~~ in a business entity, the name of the business entity~~; in which each investment is held;~~ if the interest is an investment in a digital financial asset, the name of the digital financial asset as commonly known to the public; if the interest is a business position, a general description of the business activity in which the business entity is engaged; if the interest is real property, the address or another indication of the location of the property, unless the property is the official's principal or personal residence, in which case the official or employee shall disclose this fact. For income, loans or gifts, the official or employee shall

disclose the person or entity that is the source. For contributions, the official or employee shall disclose that the official has received contributions from a party or participant greater than $500 within the preceding 12 months and the name of the party or participant who made the contributions.

(2) The official or employee shall give a summary description of the circumstances under which the official believes the conflict may arise.

(3) Either the official or employee shall disclose the legal basis for concluding that there is no alternative source of decision.

(4) The disclosures required by this regulation shall be made in the following manner:

(A) If the governmental decision is made during an open session of a public meeting, the disclosures shall be made either orally or in writing before the decision is made, by either the official or employee. The information contained in the disclosures shall be made part of the official public record either as a part of the minutes of the meeting or as a writing filed with the agency. The writing shall be prepared by the official or employee and shall be placed in a public file of the agency within 30 days after the meeting; or

(B) If the governmental decision is made during a closed session of a public meeting, the disclosures shall be made either orally or in writing during the open session either before the body goes into closed session or immediately after the closed session. The information contained in the disclosures shall be made part of the official public record either as a part of the minutes of the meeting or as a writing filed with the agency. The writing shall be prepared by the official or employee and shall be placed in a public file of the agency within 30 days after the meeting; or

(C) If the governmental decision is made or participated in other than during the open or closed session of a public meeting, the disclosures shall be made in writing and made part of the

official public record, either by the official or employee. The writing shall be filed with the official's appointing authority or supervisor and shall be placed in a public file within 30 days after the official makes or participates in the decision. Where the official has no appointing authority or supervisor, the disclosure(s) shall be made in writing and filed with the agency official who maintains the records of the agency's statements of economic interests, or other designated office for the maintenance of such disclosures, within 30 days of the making of or participating in the decision.

(c) This regulation shall be construed narrowly, and shall:

(1) Not be construed to permit an official, who is otherwise disqualified under Section 87100 or Section 84308, to vote to break a tie.

(2) Not be construed to allow a member of any public agency, who is otherwise disqualified under Section 87100 or Section 84308, to vote if a quorum can be convened of other members of the agency who are not disqualified under Section 87100 or Section 84308, whether or not such other members are actually present at the time of the disqualification.

(3) Require participation by the smallest number of officials with a conflict that are "legally required" in order for the decision to be made. A random means of selection shall be used to select only the number of officials needed. When an official is selected, the official is selected for the duration of the proceedings in all related matters until the official's participation is no longer legally required, or the need for invoking the exception no longer exists.

(d) For purposes of this section, a "quorum" shall constitute the minimum number of members required to conduct business and when the vote of a supermajority is required to adopt an item, the "quorum" shall be that minimum number of members needed for that adoption.

Comment: Nothing in the provisions of subsection (b)(4)(B) is intended to cause an agency or official to reveal the confidences of a closed session contemplated by law. For example, under the Brown Act (Sections 54950 et seq.) a city council may enter a closed session to discuss personnel matters and need not publicly disclose the name of the employee who is the subject of the meeting. (Section 54957.) This regulation does not require a city council person who is legally required to participate in that closed session to disclose that employee's name when the council member makes the record required by this regulation.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 81002, 81003, 84308 and 87101, Government Code.