Amend 2 Cal. Code Regs., Section 18700 to read:

**§ 18700. Basic Rule and Guide to Conflict of Interest Regulations.**

(a) Basic Rule: A public official at any level of state or local government has a prohibited conflict of interest and may not make, participate in making, or in any way use or attempt to use the official's position to influence a governmental decision when the official knows or has reason to know the official has a disqualifying financial interest. A public official has a disqualifying financial interest if the decision will have a reasonably foreseeable material financial effect, distinguishable from the effect on the public generally, directly on the official, or the official's immediate family, or on any financial interest described in subdivision (c)(6)(A-F) herein. (Sections 87100, 87101, & 87103.)

(b) Application: The Act's conflict of interest prohibitions apply only to public officials and only to governmental decisions that have a financial effect.

(c) For purposes of the Act's conflict of interest prohibitions (Sections 87100-87105; Regulations 18700-18707), the following definitions apply:

(1) “Public Official” (see Section 82048) means every member, officer, employee, or consultant of a state or local government agency other than:

(A) A judge or court commissioner;

(B) A member of the Board of Governors and designated employees of the State Bar of California;

(C) A member of the Judicial Council;

(D) A member of the Commission on Judicial Performance, provided that the member is subject to the provisions of Article 2.5 (commencing with Section 6035) of Chapter 4 of Division 3 of the Business and Professions Code as provided in Section 6038 of that article.

(E) A federal officer or employee serving in an official federal capacity on a state or local government agency.

(2) "Member" does not include an individual who performs duties as part of a committee, board, commission, group, or other body that does not have decisionmaking authority.

(A) A committee, board, commission, group, or other body possesses decisionmaking authority whenever:

(i) It may make a final governmental decision;

(ii) It may compel or prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto that may not be overridden; or

(iii) It makes substantive recommendations and, over an extended period of time, those recommendations have been regularly approved without significant amendment or modification by another public official or governmental agency.

(B) A committee, board, commission, group, or other body does not possess decisionmaking authority if it is formed or engaged for the sole purpose of researching a topic and preparing a report or recommendation for submission to another public official or governmental agency that has final decisionmaking authority, and does not meet any of the criteria set forth in subsection (2)(A)(i-iii).

(3) "Governmental agency" means any state or local agency or any entity or organization acting as a governmental agency.

(4) "Governmental decision" means any action taken by a government agency that has a financial effect on any person other than the governmental agency making the decision.

(5) "Financial effect" means an effect that provides a benefit of monetary value or provides, prevents, or avoids a detriment of monetary value.

(6) “Financial interest” means anything or anyone listed in subparagraphs (A-E) and includes an interest in the public official's own personal finances and those of a member of the official's immediate family.

(A) Any business entity, as defined in Section 82005, in which the public official has a direct or indirect investment worth at least $2,000 (Section 87103(a)). For a “parent, subsidiary or otherwise related business entity,” see Regulation 18700.2.

(B) Any real property in which the public official has a direct or indirect interest of at least $2,000 (Section 87103(b)).

(C) Any source of income, including commission income and incentive income as defined in Regulation 18700.1, amounting to a total of at least $500, provided or promised to, and received by the public official within 12 months before the decision is made (Section 87103(c)). Income is “promised to” the public official if the official has a legally enforceable right to the promised income. For a source of income that is a business entity that is a “parent, subsidiary, or otherwise related business entity,” see Regulation 18700.2.

(D) Any business entity, as defined in Section 82005, in which the public official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d)). For a “parent, subsidiary, or otherwise related business entity,” see Regulation 18700.2.

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts amounting to a total of at least ~~$630~~ $680 provided to, received by, or promised to the public official within 12 months before the decision is made (Section 87103(e); Regulation 18503.5).

(F) For purposes of paragraph (c)(6), indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on

behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially at least a 10-percent interest (Section 87103(e) see also Sections 82033 and 82034).

(d) To determine whether a public official has a prohibited conflict of interest under the Act, apply the following:

(1) Step One: Is it reasonably foreseeable that the governmental decision will have a financial effect on any of the public official's financial interests? To determine if the financial effect is reasonably foreseeable, apply Regulation 18701. If the answer is no, there is no conflict of interest under the Act. If the answer is yes, proceed to Step Two.

(2) Step Two: Will the reasonably foreseeable financial effect be material? To determine if the reasonably foreseeable financial effect is material, apply Regulation 18702. If the answer is no, there is no conflict of interest under the Act. If the answer is yes, proceed to Step Three.

(3) Step Three: Can the public official demonstrate that the material financial effect on the public official's financial interest is indistinguishable from its effect on the public generally? To determine if the material financial effect on any of the public official's financial interest is indistinguishable from its effect on the public generally, apply Regulation 18703. If the answer is yes, there is no conflict of interest under the Act. If the answer is no, proceed to Step Four.

(4) Step Four: If after applying the three step analysis and determining the public official has a conflict of interest, absent an exception, the official may not make, participate in making, or in any way attempt to use the official's position to influence the governmental decision. To determine if the public official is “making, participating in making, or in any way attempting to use the official's position to influence a governmental decision,” apply Regulation 18704. If the public official will be called upon to make, participate in the making, or use the official's position

to influence a governmental decision in which the official has a financial interest as determined under Step One through Step Three, the official will have a prohibited conflict of interest.

(e) Exception: Notwithstanding the provisions of Sections 87100 and 87103 and this regulation, a public official may make or participate in a governmental decision in which the official has a prohibited conflict of interest if the provisions of Section 87101 and Regulation 18705 apply.

(f) Segmentation: To determine if an agency may segment a decision in order to allow a public official to participate in a governmental decision by removing from consideration the elements of the governmental decision in which the official would otherwise have a prohibited conflict of interest, apply Regulation 18706.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100 and 87103, Government Code.