



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3050 • Sacramento, CA 95811

March 3, 2026

Sigrid Asmundson  
District Counsel  
Cosumnes Community Services District  
8820 Elk Grove Blvd.  
Elk Grove, CA 95624

Re: Your Request for Advice  
**Our File No. A-25-118**

Dear Ms. Asmundson:

This letter is in response to your request for advice regarding the Political Reform Act and Government Code Section 1090, et seq.<sup>1</sup> We are only providing advice under the Act and Section 1090, not under other general conflict of interest prohibitions such as common law conflict of interest. Also, we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

We are required to forward your request regarding Section 1090 and all pertinent facts relating to the request to the Attorney General's Office and the Sacramento County District Attorney's Office, which we have done. (Section 1097.1(c)(3).) We did not receive a written response from either entity. (Section 1097.1(c)(4).) We are also required to advise you that, for purposes of Section 1090, the following advice "is not admissible in a criminal proceeding against any individual other than the requestor." (See Section 1097.1(c)(5).)

### QUESTIONS

1. Does the Act prohibit Director Reina Tarango from participating in a decision to amend the Memorandum of Understanding (MOU) between the District and the Tribe?
2. Does Section 1090 prohibit the Director Tarango from taking part in, and the District from entering into, a decision to amend the MOU between the District and the Tribe?

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

## CONCLUSIONS

1. Yes, the Act prohibits Director Tarango from taking part in a decision to amend the MOU due to her financial interest in the Tribe and she must not take part in the MOU decision in any manner.

2. Under Section 1090, Director Tarango has a prohibitive financial interest in the decision to amend the MOU between the District and the Tribe. However, the remote interest exception under Section 1091(b)(13) applies to allow the District to amend the MOU agreement, but only if Director Tarango abstains from participating in the making of the contract.<sup>2</sup>

## FACTS AS PRESENTED BY REQUESTER

The District is a political subdivision of the State of California with a five-member elected Board of Directors. The District provides emergency medical, parks and recreation and fire protection services (collectively the District Services) to over 214,000 residents in a 157-square-mile area of South Sacramento County. The Tribe is a federally recognized sovereign entity, and its land is surrounded by the District.

The District and the Tribe entered into a Memorandum of Understanding (MOU), dated March 5, 2020, for the Tribe to pay the District to provide the District Services to the Tribe's property. The District is the only government entity legally capable of providing fire, emergency medical, parks, and recreation services to Tribal land. If the District did not provide services to the Tribe, the Tribe's only alternative would be to construct and maintain those services on its own.

The MOU includes clauses that provide for renegotiation of the MOU if there is evidence of a material increase in the impact on the District's ability to provide services, or if the Tribe commences construction or reconstruction on its property.

The District owns approximately 100 acres south of Kammerer Road, located near the Tribe's property. The District is developing its planned use for the property. The District seeks to use the property for services it currently provides the Tribe, including fire suppression facilities such as a fire station or training facility, or parks and recreational facilities such as sports fields,

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<sup>2</sup> You have also asked under what circumstances does the Act prohibit Director Tarango from taking part in other decisions involving her employer, the Wilton Rancheria, a federally recognized Native American Tribe. However, the application of the conflict-of-interest provisions is dependent on the factual circumstances of the specific decision and is necessarily a case-by-case determination. Generally, because Director Tarango has a source of income interest in the Tribe, Director Tarango is potentially prohibited under the Act from taking part in any District decision if it is reasonably foreseeable the decision will have a material financial effect on the employer. Decisions from which Director Tarango will potentially be disqualified include any decision in which the Tribe is a named party in or subject of the decision, any decision for which it is reasonably foreseeable the decision will have an effect on the Tribe that meets the materiality standards set forth in Regulation 18702.3, and any decision that will further or hinder a purpose or goal of the Tribe (See Regulation 18702.3(b)). If Director Tarango needs additional assistance regarding any other decision, she should seek additional advice identifying the specific decision prior to taking part in any manner in the decision.

parkland, administration or maintenance facilities. The Tribe has expressed interest in contracting for partial use of the property. The Tribe's use of the property is not currently known, but the District would negotiate for a use that aligns with the existing services that the District provides to the Tribe. An amended agreement would include the payment of amounts needed to cover the costs of any additional District Services.

Director Tarango was appointed to a vacant seat on the District's Board on April 16, 2025 and was sworn in immediately. Both Director Tarango and her spouse, Jesus Tarango, Jr., are employed by the Tribe. Director Tarango is employed as the PRC Manager with the Tribe's Department of Health. Mr. Tarango serves as the Tribe's Chairman, which is a paid elected position. He has served in this role since June 2020. Both Director Tarango and her husband receive a salary from the Tribe. Neither receive any stocks or shares; however, per the Tribe's Constitution, members may be eligible for "per capita payments." Director Tarango is not a member of the Tribe, but Chairman Tarango is a member and is eligible for per capita payments.

Director Tarango's employment is limited to the Tribe's Department of Health. Her husband's role is classified by the Tribe as the Executive Branch of the Tribe's government, with the Chairman's duties including, but not limited, to: administering all departments and committees created by the Tribal Council; proposing legislation and an annual budget to the Tribal Council; calling the Annual and Special meetings of the General Council; and negotiating and entering into treaties, compacts, contracts, and agreements with other governments, organizations, and individuals.

## ANALYSIS

### A. The Act.

The Act's conflict of interest provisions ensure that public officials will perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001(b).) Specifically, Section 87100 prohibits any public official from making, participating in making, or otherwise using an official position to influence a governmental decision in which the official has a financial interest.

The Commission has defined "making," "participating in making," and "influencing" a governmental decision in Regulation 18704 as follows:

- *Making a Governmental Decision:* A public official "makes a governmental decision" when the official "authorizes or directs any action, votes, appoints a person, obligates or commits the official's agency to any course of action, or enters into any contractual agreement on behalf of the official's agency." (Section 87100; Regulation 18704(a).)
- *Participating in Making a Governmental Decision:* A public official "participates in a governmental decision if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review." (Section 87100; Regulation 18704(b).)

- *Influencing a Governmental Decision*: Two rules address whether a public official is using or attempting to use an official position to influence a governmental decision. (Section 87100; Regulation 18704(c).)

Section 87103 provides that an official has a “financial interest” in a decision, within the meaning of the Act, if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official’s interests, including the following interest relevant to the facts provided here: “An interest in any source of income to the official aggregating \$500 or more in value provided to, received by, or promised to, the public official within 12 months prior to the decision, including any community property interest in the income of a spouse.” (Section 82030(a).)<sup>3</sup>

Section 82030(b)(2) excludes salary or benefits from a “state, local or federal government agency” from the definition of “income.” Thus, we must initially determine whether Director Tarango’s income from the Tribe meets the definition of income, or whether the exception for salary from a governmental agency applies. Addressing this question, we have previously advised that an Indian or Native American Tribe is a “government” or a “governmental authority” (see *Battersby* Advice Letter, No. A-98-176, citing *United States v. Wheeler* (1978) 435 U.S. 313, 322-323). However, we have determined that it is akin to a sovereign national government and the exception in Section 82030(b)(2) does not apply. (See, e.g., *Santana* Advice Letter, No. A-01-002.) Thus, the “state, local or federal” government salary exception does not apply to salary received from a Tribe.

Director Tarango receives more than \$500.00 each year from the Tribe and therefore has a source of income interest in the Tribe.<sup>4</sup> She also has a community property interest in her husband’s per capita payments and any salary or benefits he receives in his elected position with the Tribe. Based on these interests, we must determine if Director Tarango is disqualified from taking part in decisions involving the MOU between the Tribe and the District.

### *Foreseeability and Materiality*

Under Regulation 18701(a), a financial effect is presumed reasonably foreseeable where the official’s financial interest is explicitly involved as a named party in, or subject of, the decision.

Regulation 18702.3 sets forth the materiality standards applicable to a decision’s reasonably foreseeable financial effect on an official’s source of income interest. Relevant to the MOU amendment decision, Regulation 18702.3(a)(1) provides that a decision’s reasonably

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<sup>3</sup> Director Tarango’s employer is a government entity, and not a “business entity” under Section 82005, which is defined as any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

<sup>4</sup> We have previously stated that income paid by a tribe of \$500 or more within the 12 months preceding a governmental decision constitutes a disqualifying interest. (*Galante* Advice Letter, No. A-97-469; see also *Santana* Advice Letter, No. A-01-002 [official who receives more than \$500 from a tribe has a source of income interest in the tribe – the government salary exception in Section 82030(b)(2) does not apply].)

foreseeable financial effect on an official's source of income interest is material if the source is a named party in, or subject of, the decision.

For decisions involving the MOU between the Tribe and the District, the Tribe is a named party or subject of the decision. Accordingly, Director Tarango is prohibited from taking part in the decisions because it is reasonably foreseeable that the decision will have a material financial effect on her interest in her and her spouse's employer as a source of income under the applicable provisions cited above. She must not take part in the MOU decision in any manner and must recuse herself from the decisions as required under Regulation 18707.

## **B. Section 1090.**

Section 1090 generally prohibits public officers, while acting in their official capacities, from making contracts in which they are financially interested. Section 1090 is concerned with financial interests, other than remote or minimal interests, that prevent public officials from exercising absolute loyalty and undivided allegiance in furthering the best interests of their agencies. (*Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569.) Section 1090 is intended not only to strike at actual impropriety, but also to strike at the appearance of impropriety. (*City of Imperial Beach v. Bailey* (1980) 103Cal.App.3d 191, 197.)

Under Section 1090, the prohibited act is the making of a contract in which the official has a financial interest. (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.) A contract that violates Section 1090 is void. (*Thomson v. Call* (1985) 38 Cal.3d 633, 646.) The prohibition applies regardless of whether the terms of the contract are fair and equitable to all parties. (*Id.* at pp. 646-649.) Finally, when Section 1090 applies to one member of a governing body of a public entity, the prohibition cannot be avoided by having the interested board member abstain. Instead, the entire governing body is precluded from entering into the contract. (*Id.* at pp. 647- 649; *Stigall, supra*, at p. 569; 86 Ops.Cal.Atty.Gen. 138, 139 (2003); 70 Ops.Cal.Atty.Gen. 45, 48 (1987).)

Director Tarango is a public officer subject to Section 1090's conflict of interest provisions. If she has a financial interest in the decision Section 1090 would also potentially prohibit the District from amending the MOU, even to the extent Director Tarango does not take part in the contractual decisions, unless an exception applies.<sup>5</sup>

Regarding what constitutes a financial interest for purposes of Section 1090, the California Supreme Court held:

The term "financially interested" in section 1090 cannot be interpreted in a restricted and technical manner. [Citation.] The defining characteristic of a prohibited financial interest is whether it has the potential to divide an official's loyalties and compromise the undivided representation of the

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<sup>5</sup> A decision to modify, extend, or renegotiate a contract constitutes involvement in the making of a contract under section 1090. (See, e.g., *City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191.)

public interests the official is charged with protecting. [Citation.] Thus, that the interest “might be small or indirect is immaterial so long as it is such as deprives the [people] of his overriding fidelity to [them] and places him in the compromising situation where, in the exercise of his official judgment or discretion, he may be influenced by personal considerations rather than the public good. [Citation.]

*(Lexin v. Superior Court (2010) 47 Cal. 4th 1050, 1075.)*

The facts here state that the District and the Tribe entered into an MOU in 2020 for the District to provide fire protection and emergency medical services to the Tribe’s property. The MOU has renegotiation provisions that will apply when the Tribe’s property is developed to the extent that additional District Services are needed. Thus, the question is whether she would have a financial interest in an amendment to the MOU.

An amendment to the MOU may ultimately impact the finances and the “per capita payments” each Tribe member receives. As a Tribe employee and the spouse of a Tribe employee and member, Director Tarango is financially interested in any amendment to the current MOU between the District and Tribe. These circumstances would place Director Tarango in a compromising situation where she may be influenced by personal considerations instead of the District’s public interests she is charged with protecting. This is the type of situation Section 1090 intends to prevent.

Accordingly, in addition to being disqualified from the decision under the Act, Director Tarango has a financial interest in the MOU amendment decision under Section 1090 that likewise prohibits her from taking part in the contractual decisions. Nonetheless, we must further determine whether any exception applies to allow the District to enter into any amendment of the current MOU.

#### *Salary from a Governmental Entity*

Section 1091 and 1091.5 provide exceptions to Section 1090 where the financial interest involved is a “remote interest” or a “noninterest.”

Under Section 1091(b)(13) a public officer has a “remote interest” where the interest is “[t]hat of a person receiving salary, per diem, or reimbursement for expenses from a government entity.” Additionally, under Section 1091.5(a)(9) a public officer has a “noninterest” where the interest is:

That of a person receiving salary, per diem, or reimbursement for expenses from a government entity, unless the contract directly involves the department of the government entity that employs the officer or employee, provided that the interest is disclosed to the body or board at the time of consideration of the contract, and provided further that the interest is noted in its official record.

Notably, the term “government entity” appears in both the above sections addressing a government salary interest, in contrast to the Act’s more specific language limiting the

government salary exception to salary “received from a state, local or federal government agency.” There is no case law or Attorney General opinion interpreting the term “government entity” in Sections 1091(b)(13) or 1091.5(a)(9). In *Latt* Advice Letter, No. A-23-107, we applied the noninterest in Section 1091.5(a)(9) to a federally recognized Indian Tribe, reasoning that, where the Legislature has intended a limitation to a particular type of government entity in the context of defining a remote or noninterest, it has done so. Thus, we will apply the statutory exceptions to Section 1090 to the Tribe in this case.

Here, based on the facts provided, Director Tarango is employed by the Tribe’s Department of Health, and the MOU involves the provision of emergency medical services. Therefore, the noninterest exception in Section 1091.5(a)(9) does not apply because the contract directly affects the official’s department. However, the remote interest under Section 1091(b)(13) applies to allow an amended MOU agreement, but only if Director Tarango abstains from participating in the making of the contract.

Accordingly, the District Board may enter an agreement to amend the District’s current MOU with the Tribe. However, Director Tarango must abstain from any participation in her official capacity.<sup>6</sup>

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge  
General Counsel

/ s/ John M . F eser Jr .

By: John M. Feser Jr.  
Senior Counsel, Legal Division

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<sup>6</sup> Note that, for purposes of Section 1090, participation in the making of a contract is defined broadly as any act involving preliminary discussions, negotiations, compromises, reasoning, planning, drawing of plans and specifications, and solicitation for bids. (*Millbrae Assn. for Residential Survival v. City of Millbrae* (1968) 262 Cal.App.2d 222, 237.)