



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

July 10, 2026

Kevin Briggs
Acting County Counsel/Risk Manager
Mariposa County Counsel
PO Box 35
Mariposa, CA 95338

Re: Your Request for Advice
Our File No. A-26-003

Dear Mr. Briggs:

This letter responds to your request for advice regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

Also note that 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. Further, the Commission is not authorized and does not provide advice concerning past conduct. (Regulation 18329(b)(6)(A).) Therefore, nothing in this letter should be construed to evaluate any conduct that may have already taken place, and any conclusions contained in this letter apply only to future actions.

QUESTION

May Mariposa County Supervisor Jennifer Kiser take part in decisions about past due small business loans under the County’s Community Development Block Grant (“CDBG”) program, including criteria for forbearance or forgiveness, given that she is a local business owner and CDBG loan recipient herself?

¹ 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 18104 through 18998 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.

CONCLUSION

No. Because decisions about loan repayment criteria concern general loan parameters, and because Supervisor Kiser's loan is one of only six outstanding CDBG loans, her financial interests are explicitly involved and the reasonably foreseeable financial effect of these decisions on her interests is presumed to be material.

FACTS AS PRESENTED BY REQUESTER

Jennifer Kiser currently serves as the elected Fourth District Supervisor for the Mariposa County Board of Supervisors (the "Board"), having been elected to a four-year term of office on January 7, 2025. Supervisor Kiser is also the owner of Mountain Fitness (the "Gym"), a community gym offering workout classes, personal training, and access to exercise equipment to paying members. The Gym is organized as a single-member limited liability company (LLC) with Supervisor Kiser as its only member. The Gym is located in the unincorporated community of Mariposa in Mariposa County (the "County"), within Supervisor Kiser's district. Supervisor Kiser and her husband own the building in which the Gym is located, which the Gym leases from them. On December 20, 2022, prior to her election to the Board, the County granted Supervisor Kiser a Business Assistance Loan in the amount of \$250,000 in connection with the Gym. Since that time, she has made timely payments on the loan balance and does not plan to request forgiveness of her outstanding loan.

The County's Business Assistance Loan program is funded in partnership with the State of California's Community Development Block Grant (CDBG) program. Its purpose is to provide low-cost financing to existing and prospective entrepreneurs living or operating businesses within County limits, with the goal of providing more services and creating jobs for local residents. Separately, the County also offers smaller CDBG loans (up to \$50,000 each) through its Microenterprise and Technical Assistance Loan Program, which provides free business counseling and low-cost financing to existing and prospective entrepreneurs living or operating businesses within County limits. At this time, funds for both of the County's CDBG loan programs have been exhausted, and no future loans are planned.

Six local businesses received CDBG loans with 15-year terms, to be paid back with two percent interest:

- Mountain Meadow Farms, a seller of fruit and vegetables (\$50,000);
- Dixon's Fixin's, a food truck (\$50,000);
- The Lemon Drop, a souvenir shop (\$50,000);
- Local Grape a wine bar (\$50,000);
- Where the Wild Things Play Preschool, a childcare center (\$100,000); and
- Mountain Fitness (\$250,000), Supervisor Kiser's gym business.

When the programs were established, County staff indicated that loanees may be eligible to apply for loan forgiveness at some point in the future. However, in April of 2025, the Board

adopted guidance clarifying that CDBG loans must generally be repaid, but loan forgiveness might be permitted in limited exceptional circumstances involving extraordinary hardship, such as emergencies or natural disasters. At its May 2026 meeting, the Board denied a request for loan forgiveness on these grounds from the owner of Mountain Meadows Farms. Supervisor Kiser recused herself and did not participate in any of these discussions.

At present, several CDBG loans remain behind on payments. Accordingly, at a future meeting, the Board will consider several options for how to proceed with loan collection efforts from loans that are in arrears, which may include: offering a three-month grace period; forgiving the last \$10,000 in payments if all payments are made on time and in full; or offering forbearance for businesses who are experiencing hardship, but who otherwise would not meet the criteria for forgiveness due to an emergency or natural disaster.

You now ask whether, as the owner of the Gym and a CDBG loanee herself, Supervisor Kiser may take part in these decisions.

ANALYSIS

The Act's conflict of interest provisions prohibit any public official from making, participating in making, or otherwise using the public official's position to influence a governmental decision in which the official has a financial interest. (Section 87100.) A public official has a financial interest in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on one or more of the public official's financial interests. (Section 87103.)

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: A public official uses an official position to influence a governmental decision if the official:

(1) Contacts or appears before any official in the official's agency or in an agency subject to the authority or budgetary control of the official's agency for the purpose of affecting a decision; or

(2) Contacts or appears before any official in any other government agency for the purpose of affecting a decision, and the public official acts or purports to act within the official's authority or on behalf of the official's agency in making the contact. (Regulation 18704(c).)

At issue here is whether Supervisor Kiser may take part in Board decisions about past due small business loans under the County's CDBG program, including criteria for forbearance or forgiveness. Voting as a Board member on loan forgiveness for individual loanees would clearly constitute making a governmental decision for purposes of the Act. Likewise, even if policy discussions regarding the CDBG loans themselves do not rise to the level of making a formal Board decision, providing input, opinions, and recommendations for the purposes of affecting future Board decisions constitutes participating in or influencing a governmental decision.

Relevant to these facts, Section 87103 defines "financial interests" to include:

- A business entity in which the official has a direct or indirect investment worth \$2,000 or more (Section 87103(a)); or in which the public official is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)
- A source of income to the official or promised income, which aggregates to \$500 or more within 12 months prior to the decision. (Section 87103(c).)
- Real property in which the official has an interest worth \$2,000 or more. (Section 87103(b).)

In addition, "income" to an official includes a pro rata share of the income of any business entity in which the individual has an ownership interest of 10 percent or greater. (Section 82030.) The definition of "income" under the Act also includes "an outstanding loan." (Section 82030(a).) However, Section 82030(b)(8) excludes from that definition "[a]ny loan or loans from a commercial lending institution which are made in the lender's regular course of business on terms available to members of the public without regard to official status." Therefore, despite her outstanding Business Assistance loan from the County, the County and its CDBG loan program are not a source of income to Supervisor Kiser.

Here, Supervisor Kiser is the sole owner of the Gym and receives income from the Gym from both the Gym's customers and as rent from the Gym to her and her husband, the property owners. Thus, Supervisor Kiser has a business entity interest and a source of income interest in the Gym. She also has a source of income interest in any of the Gym's customers, to the extent that the Gym has received or has promised income of \$500 or more from that customer in the 12

months prior to a Board decision. Finally, Supervisor Kiser has a real property interest in the Gym, since she and her husband own the building in which the Gym is located.²

Foreseeability & Materiality

An official has a prohibited conflict of interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's interests as identified and distinguishable from the decision's effect on the public generally. A decision's effect on an official's interest is presumed to be reasonably foreseeable if the interest is explicitly involved in the decision as a named party in, or the subject of, the decision. (Regulation 18701(a).)

The reasonably foreseeable financial effect of a government's decision on an official's interests in a business entity and source of income interest is material if the business will be financially affected under the business materiality standards in Regulation 18702.1. (See Regulation 18702.3(a)(4).) Under Regulation 18702.1(a)(1)(C), the reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business entity is material if the entity is explicitly involved as a named party in, or the subject of, the decision, including one in which the entity bids on, or enters into, a contract with the agency.

Here, the facts indicate that the Board will specifically consider several options for how to proceed with loan collection efforts from loans that are in arrears. While these decisions will focus on the delinquent loan recipients, the facts also indicate that there are only six outstanding loans and more than one delinquent loan recipient. While Supervisor Kiser is not currently delinquent and does not currently intend to seek forgiveness of the loan, it appears in these circumstances that any decisions regarding the delinquent loan recipients will, in effect, establish general parameters for the collection of the six outstanding CDBG loans, namely, criteria for forbearance and forgiveness of past due loans or loans that subsequently become delinquent. Based on these facts, we find that the subjects of the proposed decisions include all six of the County's outstanding CDBG loanees, of which Supervisor Kiser is one. Therefore, as a CDBG loanee, Supervisor Kiser's business entity interest and source of income interest in the Gym are explicitly involved in these decisions, and the financial effect of the decisions on Supervisor Kiser's interests is presumed to be material.

For these reasons, Supervisor Kiser may not make, participate in making, or use her official position to influence governmental decisions regarding past due CDBG loans, including criteria for forbearance or forgiveness.

The Act requires public officials specified in Section 87200—including members of the board of supervisors—to recuse themselves from a decision from which the official has been disqualified. (Section 87105.) Specifically, Section 871105(a)(1)-(3) requires a disqualified official to: identify the potential conflict of interest to publicly identify the official's financial

² However, as explained below, because Supervisor Kiser is disqualified from taking part in decisions about the CDBG programs due to her interests in the Gym, we need not analyze her other interests including any interest in a customer of the gym and her interest in real property.

interest or interests at issue; recuse from voting, discussing or attempting to influence the matter; and leave the room until after the matter is concluded.³

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

Sincerely,

Dave Bainbridge
General Counsel

By: **Toren Lewis**

Toren Lewis
Counsel, Legal Division

TL:aja

³ Please note that Government Code Section 1090 may also preclude any modifications to Supervisor Kiser's outstanding Business Assistance Loan, as well as any subsequent loans or other contracts between the County and Supervisor Kiser or the Gym. We encourage Supervisor Kiser to request additional advice under Section 1090 should such circumstances arise.