



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION

1102 Q Street • Suite 3050 • Sacramento, CA 95811

March 2, 2026

Linda A. Nemeroff  
Board Administrator Officer/District Secretary  
Alameda-Contra Costa Transit District  
1600 Franklin St.  
Oakland, California 94612

Re: Your Request for Advice  
**Our File No. A-26-012**

Dear Ms. Nemeroff,

This letter responds to your request for advice on behalf of the Alameda-Contra Costa Transit District (the “District”) regarding conflict-of-interest code provisions of the Political Reform Act (the “Act”).<sup>1</sup>

Please note that we are only providing advice under the conflict-of-interest code 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.

### QUESTION

Are members of the Deferred Compensation Plan Committee (the “Committee”) for the District, which the District’s Board of Directors (the “Board”) has delegated administrative and investment responsibilities, required to be included in the agency’s conflict of interest code under the Act?

### CONCLUSION

Members of the Committee are public officials to whom the Board has delegated the authority to administer the District’s Deferred Compensation Plan (the “Plan”). Under this

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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 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.

authority, the Committee is authorized to determine investment options available to the Plan's members, disburse funds from and make transfers of the Plan's assets, and develop rules and regulations for administration of the Plan. Therefore, Committee members are public officials who manage public investments and must fully disclose their economic interests pursuant to Section 87200 of the Act, not under the District's conflict-of-interest code.<sup>2</sup>

### **FACTS AS PRESENTED BY REQUESTER**

The District formed the Committee to serve as the Plan's Administrator. The Plan was established under Internal Revenue Service code section 457(b) as a benefit to employees in addition to the District's pension benefit plan. The Committee's purpose is to fulfill legal obligations, promote the best practices, and protect the interests of the District and participants of the Plan. The Board has delegated to the Committee its administrative and investment obligations under the Plan.

The Committee's Charter provides that the Committee "shall act with authority and discretion to facilitate the operations and administration of the Plan." The authority delegated to the Committee includes, but is not limited to:

- Modify, amend, or alter the provisions of the Plan to remain compliant with applicable mandatory requirements.
- Make recommendations to the Board regarding the acceptance or rejection of optional provisions.
- Determine investment options offered to the Plan's participants.
- Authorize disbursements from, and transfer of, the Plan's assets.
- Engage all service providers necessary or desirable for the administration of the Plan, subject to the District's policies and procedures.
- Interpret provisions of the Plan and publish rules and regulations that are deemed necessary.

### **ANALYSIS**

Under the Act, public officials at any level of government "shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a

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<sup>2</sup> You asked for advice as to what disclosure category (or categories) under the District's conflict-of-interest code members of the Committee should file under. However, as this letter concludes, members of the Committee are subject to full disclosure of their economic interests under Section 87200 of the Act, and pursuant to Section 87500(a)(2)(O), as public officials who manage public investments, they must file their Statements of Economic Interest with the Commission. Accordingly, we provide no further analysis of the District's conflict-of-interest code.

financial interest.” (Section 87100.) The term “public official” includes “every member, officer, employee or consultant of a state or local government agency.” (Section 82048(a)(1); Regulation 18700(c).) A member of a committee or advisory board that does not have decision-making authority is not a “public official.” (Regulations 18700(c)(2).) Under regulation 18700(c)(2)(A), a committee has decision-making authority if it may do any of the following:

- Make a final governmental decision; (Regulation 18700(c)(2)(A)(i).)
- Compel or prevent a governmental decision by exclusive power to initiate the decision or by a veto power that may not be overridden; or (Regulation 18700(c)(2)(A)(ii).)
- Make substantive recommendations, and over an extended time, those regulations are regularly approved without significant amendment or modification by another public official or governmental agency. (Regulation 18700(c)(2)(A)(iii).)

The Committee has the authority to determine investment options offered to participants of the Plan; disburse from, and make transfers of, the Plan’s assets; interpret provisions of the Plan; and publish rules and regulations related to the Plan. Members of the Committee have the authority to make final governmental decisions related to the Plan and have exclusive authority to initiate certain decisions. Accordingly, members of the Committee are public officials under the Act.

Next, we examine the disclosure requirements for the Committee’s members. Under the Act, certain public officials are required to disclose their economic interests as provided in Sections 87200-87210. Among these public officials are “other public officials who manage public investments.” (Section 87200.) Regulation 18700.3 defines “other public officials who manage public investments” to include “[m]embers of boards and commissions, including pension and retirement boards or commissions, or of committees thereof, who exercise responsibility for the management of public investments.” (Regulation 18700.3(b)(1)(A).) “Management of public investments” includes nonministerial functions, such as “directing the investment of public moneys, formulating or approving investments, approving or establishing guidelines for asset allocation, or approving investment transactions.” (Regulation 18700.3(3).)

Here, the Board created the Committee to serve as the Plan’s Administrator and to carry out the Plan’s administrative responsibilities. The Committee is responsible for making decisions regarding disbursements and transfers from the Plan’s assets, investment options, and regulations. Therefore, the Committee’s members are part of a decision-making body responsible for managing public investments.

Accordingly, the Committee members must file Statements of Economic Interests and fully disclose their economic interests in accordance with Section 87200 of the Act, and must file Statements of Economic Interests directly with the Commission pursuant to Section 87500(a)(2)(O).

If you have other questions on this matter, please contact me at mroeckl-navazio@fppc.ca.gov.

Sincerely,

Dave Bainbridge  
General Counsel

*Margaret L. Roeckl-Navazio*

By: Margaret L. Roeckl-Navazio  
Counsel, Legal Division

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