2009/2010 Form 700 Statement of Economic Interests Reference Pamphlet

California Fair Political Practices Commission

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What's New

Gift Limits

Effective January 1, 2009, the gift limit increased to $420. This gift limit will remain in effect until December 31, 2010.

Agency Raffles and Gift Exchanges

FPPC Regulation 18944.4, which went into effect December 12, 2009, provides rules for reporting raffle prizes won at an agency sponsored event. A prize that was donated by an agency employee or lawfully purchased with agency funds is not reportable by the winner. Other prizes valued at $50 or more may be reportable by the employee or the agency. Contact the FPPC for guidance.

Positions Not Yet Covered Under a Conflict-of-Interest Code

Effective January 1, 2010, an individual hired for a position not yet covered under an agency's conflict-of-interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. Such individuals are referred to as "code filers." See Regulation 18734.

Tickets and Passes to Sporting, Entertainment, and Other Events (Form 802)

FPPC Regulation 18944.1, which went into effect February 7, 2009, sets out the circumstances under which the receipt of tickets and passes by a public official from or through the official's agency does not result in a gift to the official. In addition to imposing new restrictions on the distribution of tickets and passes by state and local government agencies, the regulation requires agencies to disclose the recipients on Form 802. Officials should consult the regulation to determine if tickets or passes received must be disclosed on Form 700.

Gift to Agency Report (Form 801)

FPPC Regulation 18944.2 was amended effective July 1, 2008. The regulation establishes criteria under which a payment that provides a personal benefit to a public official may be considered a gift to the official's agency instead of a gift to the official. The payment must be used for official agency business and the agency (not the official who uses the payment) must disclose the payment on Form 801. In addition to other restrictions, the regulation as amended prohibits agencies from accepting travel payments for elected officials and those officials specified in Government Code Section 87200. A public official identified on a Form 801 is not required to report the same gift on his or her Form 700.

Tickets to Nonprofit and Political Fundraising Events

FPPC Regulation 18946.4 was amended effective October 4, 2008. Prior to the effective date of the amendments, a public official could receive an unlimited number of tickets to a 501(c)(3) or political fundraiser without disclosing the tickets as a gift or counting the value of the tickets toward the gift limit. As amended, the regulation now allows a public official to receive a single ticket or other admission privilege, for his or her own use, to a 501(c)(3) or political fundraising event. The ticket may only be received from the organization or the committee holding the fundraiser. Other restrictions, including the gift limit, may apply.

Who Must File

1. Officials and Candidates Specified in Gov. Code Section 87200 and Members of Boards and Commissions of Newly Created Agencies

The Act requires the following individuals to fully disclose their personal assets and income described in Form 700, Statement of Economic Interests:

State Offices

- Governor
- Lieutenant Governor
- Attorney General
- Controller
- Insurance Commissioner
- Secretary of State
- Treasurer
- Members of the State Legislature
- Superintendent of Public Instruction
- State Board of Equalization Members
- Public Utilities Commissioners
- State Energy Resources Conservation and Development Commissioners
- State Coastal Commissioners
- Fair Political Practices Commissioners
- State public officials (including employees and consultants) who manage public investments
- Elected members of and candidates for the Board of Administration of the California Public Employees' Retirement System

Other officials and employees of state boards, commissions, agencies, and departments file Form 700 as described in Part 2 on this page.

Judicial Offices

- Supreme, Appellate, and Superior Court Judges
- Court Commissioners
  Retired Judges, Pro-Tem Judges, and part-time Court Commissioners who serve or expect to serve 30 days or more in a calendar year

County and City Offices

- Members of Boards of Supervisors
- Mayors and Members of City Councils
- Chief Administrative Officers
- District Attorneys
- County Counsels
- City Attorneys
- City Managers
- Planning Commissioners
- County and City Treasurers
- County and city public officials (including employees and consultants) who manage public investments

Members of Boards and Commissions of Newly Created Agencies

Members must fully disclose their investments, interests in real property, business positions, and income until the positions are covered under a conflict-of-interest code.

2. State and Local Officials and Employees Designated in a Conflict-of-Interest Code ("Code Filers")

The Act requires every state and local government agency to adopt a unique conflict-of-interest code. The code lists each position within the agency filled by individuals who make or participate in making governmental decisions that could affect their personal economic interests.

The code requires individuals holding those positions to periodically file Form 700 disclosing certain personal economic interests as determined by the code's "disclosure categories." These individuals are called "designated employees" or "code filers." Effective January 1, 2010, an individual hired for a position not yet covered under an agency's conflict-of-interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. See Regulation 18734.

Obtain your disclosure categories from your agency – they are not contained in the Form 700. Persons with broad decisionmaking authority must disclose more interests than those in positions with limited discretion. For example, you may be required to disclose only investments and business positions in or income from businesses of the type that contract with your agency, or you may not be required to disclose real property interests.

In addition, certain consultants to public agencies may qualify as public officials because they make, participate in making, or act in a staff capacity for governmental decisions.

Note:

- An official who holds a position specified in Gov. Code Section 87200 is not required to file statements under the conflict-of-interest code of any agency that has the same or a smaller jurisdiction (for example, a state legislator who also sits on a state or local board or commission).

Types of Statements

Assuming Office Statement:

If you are a newly appointed official or are newly employed in a position designated in a state or local agency's conflict-of-interest code, your assuming office date is the date you were sworn in or otherwise authorized to serve in the position. If you are a newly elected official, your assuming office date is the date you were sworn in.

- Investments, interests in real property, and business positions held on the date you assumed the office or position must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date you assumed the office or position is reportable.

For positions subject to confirmation by the State Senate or the Commission on Judicial Performance, your assuming office date is the date you were appointed or nominated to the position.

Example:

Maria Lopez was nominated by the Governor to serve on a state agency board that is subject to state Senate confirmation. The assuming office date is the date Maria's nomination is submitted to the Senate. Maria must report investments, interests in real property, and business positions she holds on that date, and income, including loans, gifts, and travel payments received during the 12 months prior to that date.

Initial Statement:

If your office or position has been added to a newly adopted or newly amended conflict-of-interest code, use the effective date of the code or amendment, whichever is applicable.

- Investments, interests in real property, and business positions held on the effective date of the code or amendment must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the effective date of the code or amendment is reportable.

Annual Statement:

Generally, the period covered is January 1, 2009, through December 31, 2009. If the period covered by the statement is different than January 1, 2009, through December 31, 2009, (for example, you assumed office between October 1, 2008, and December 31, 2008, or you are combining statements), you must specify the period covered.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2009.
- If your disclosure category changes during a reporting period, disclose under the old category until the effective date of the conflict-of-interest code amendment and disclose under the new disclosure category through the end of the reporting period.

Leaving Office Statement:

Generally, the period covered is January 1, 2009, through the date you stopped performing the duties of your position. If the period covered differs from January 1, 2009, through the date you stopped performing the duties of your position (for example, you assumed office between October 1, 2008, and December 31, 2008, or you are combining statements), the period covered must be specified.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2009.

Candidate Statement:

If you are filing a statement in connection with your candidacy for state or local office, investments, interests in real property, and business positions held on the date of filing your declaration of candidacy must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date of filing your declaration of candidacy is reportable. Do not change the preprinted dates on Schedules A-1, A-2, and B.

Candidates running for local elective offices (for example, county sheriffs, city clerks, school board trustees, and water district board members) must file candidate statements, as required by the conflict-of-interest code for the elected position.

Amendments:

If you discover errors or omissions on any statement, file an amendment as soon as possible. You are only required to amend the schedule that needs to be revised. It is not necessary to refile the entire form. To obtain amendment schedules, contact the FPPC, your filing official, or the FPPC website at *www.fppc.ca.gov.*

Where to File

1. Officials Specified in Gov. Code Section 87200 (See Reference Pamphlet, page 2):

In most cases, the filing officials listed below will retain a copy of your statement and forward the original to the FPPC.

Filers	Where to File
87200 Filers	
State offices	Your agency
Judicial offices	The clerk of your court
Retired Judges	Directly with FPPC
County offices	Your county filing official
City offices	Your city clerk
Multi-County offices	Your agency
87200 Candidates	
State offices Judicial offices Multi-County offices	County elections official with whom you file your declaration of candidacy
County offices	County elections official
City offices	City Clerk
Public Employees' Retirement System (CalPERS)	CalPERS

2. Members of Boards and Commissions of Newly Created Agencies:

File with your newly created agency or with your agency's code reviewing body as provided by your code reviewing body.

3. Code Filers — State and Local Officials and Employees Designated in a Conflict-of-Interest Code:

File with your agency, board, or commission unless otherwise specified in your agency's conflict-of-interest code. In most cases, the agency, board, or commission will retain the statements.

Candidates for local elective offices designated in a conflict-of-interest code file with the elections office where the declaration of candidacy or other nomination documents are filed.

State Senate and Assembly staff members file statements directly with the FPPC.

Exceptions:

- Elected state officers are not required to file statements under any agency's conflict-of-interest code.
- 87200 filers are not required to file statements under any agency's conflict-of-interest code in the same jurisdiction. For example, a county supervisor who is appointed to serve in an agency with jurisdiction in the same county has no additional filing obligations.

4. Positions Not Yet Covered Under a Conflict-of-Interest Code

Effective January 1, 2010, an individual hired for a position not yet covered under an agency's conflict-of-interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. Such individuals are referred to as "code filers." See Regulation 18734.

When to File

Assuming Office and Initial Statements:

Filer	Deadline
Elected officials	**30 days** after assuming office
Appointed positions specified in Gov. Code Section 87200 **or** Newly created board and commission members not covered by a conflict-of-interest code	**30 days** after assuming office **or** **10 days** after appointment or nomination if subject to Senate or judicial confirmation
Other appointed positions (including newly hired employees) designated in a conflict-of-interest code	**30 days** after assuming office (30 days after appointment or nomination if subject to Senate confirmation)
Positions newly added to a new or amended conflict-of-interest code	**30 days** after the effective date of the code or code amendment

Exceptions:

- Elected state officers who assume office in December or January are not required to file an assuming office statement, but will file the next annual statement due.
- If you complete a term of office and, within 30 days, begin a new term of the same office (for example, you are reelected or reappointed), you are not required to file an assuming office statement. Instead, you may file the next annual statement due.
- If you leave an office specified in Gov. Code Section 87200 and, within 45 days, you assume another office or position specified in Section 87200 that has the same jurisdiction (for example, a city planning commissioner elected mayor), you are not required to file an assuming office statement. Instead, you may file the next annual statement due.
- If you transfer from one designated position to another designated position within the same agency, contact your filing officer or the FPPC to determine your filing obligations.

Annual Statements:

1. Elected state officers (including members of the state legislature and members elected to the Board of Administration of the California Public Employees' Retirement System);

   Judges and court commissioners; and

   Members of state boards and commissions specified in Gov. Code Section 87200:

   File no later than **Monday, March 1, 2010.**

2. County and city officials specified in Gov. Code Section 87200:

   File no later than **Thursday, April 1, 2010.**

3. Multi-County officials:

   File no later than **Thursday, April 1, 2010.**

4. State and local officials and employees designated in a conflict-of-interest code:

   File on the date prescribed in the code (April 1 for most filers).

Exception:

- If you assumed office between October 1, 2009, and December 31, 2009, and filed an assuming office statement, you are not required to file an annual statement until March 1, 2011, or April 1, 2011, whichever is applicable. The annual statement will cover the day after you assumed office through December 31, 2010.

Incumbent officeholders who file candidate statements also must file annual statements by the specified deadlines.

Leaving Office Statements:

Leaving office statements must be filed no later than **30 days** after leaving the office or position.

Exceptions:

- If you complete a term of office and, within 30 days, begin a new term of the same office (for example, you are reelected or reappointed), you are not required to file a leaving office statement. Instead, you may file the next annual statement due.

- If you leave an office specified in Gov. Code Section 87200 and, within 45 days, you assume another office or position specified in Section 87200 that has the same jurisdiction (for example, a city planning commissioner elected mayor), you are not required to file a leaving office statement. Instead, you may file the next annual statement due.
- If you transfer from one designated position to another designated position within the same agency, contact your filing officer or the FPPC to determine your filing obligations.

Candidate Statements

All candidates (including incumbents) for offices specified in Gov. Code Section 87200 must file statements no later than the final filing date for their declaration of candidacy.

Candidates seeking a position designated in a conflict-of-interest code must file no later than the final filing date for the declaration of candidacy or other nomination documents.

Exception:

A candidate statement is not required if you filed any statement (other than a leaving office statement) for the same jurisdiction **within 60 days** before filing a declaration of candidacy or other nomination documents.

Terms & Definitions

The instructions located on the back of each schedule describe the types of interests that must be reported. The purpose of this section is to explain other terms used in Form 700 that are not defined in the instructions to the schedules or elsewhere.

Blind Trust: See Trusts, Reference Pamphlet, page 14.

Business Entity: Any organization or enterprise operated for profit, including a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, or association. This would include a business for which you take business deductions for tax purposes (for example, a small business operated in your home).

Code Filer: An individual who has been designated in a state or local agency's conflict-of-interest code to file statements of economic interests.

Effective January 1, 2010, an individual hired for a position not yet covered under an agency's conflict-of-interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. See Regulation 18734.

Commission Income: "Commission income" means gross payments of $500 or more received during the period covered by the statement as a broker, agent, or salesperson, including insurance brokers or agents, real estate brokers or agents, travel agents or salespersons, stockbrokers, and retail or wholesale salespersons, among others.

In addition, you may be required to disclose the names of sources of commission income if your pro rata share of the gross income was $10,000 or more from a single source during the reporting period. If your spouse or registered domestic partner received commission income, you would disclose your community property share (50%) of that income (that is, the names of sources of $20,000 or more in gross commission income received by your spouse or registered domestic partner).

Report commission income as follows:

- If the income was received through a business entity in which you or your spouse or registered domestic partner had a 10% or greater ownership interest (or if you receive commission income **on a regular basis** as an independent contractor or agent), use Schedule A-2.
- If the income was received through a business entity in which you or your spouse or registered domestic partner **did not receive commission income on a regular basis** or you had a less than 10% ownership interest, use Schedule C.

The "source" of commission income generally includes all parties to a transaction, and each is attributed the full value of the commission.
Examples:

- You are a partner in Smith and Jones Insurance Company and have a 50% ownership interest in the company. You sold two Businessmen's Insurance Company policies to XYZ Company during the reporting period. You received commission income of $5,000 from the first transaction and $6,000 from the second. On Schedule A-2, report your partnership interest in and income received from Smith and Jones Insurance Company in Parts 1 and 2. In Part 3, list both Businessmen's Insurance Company and XYZ Company as sources of $10,000 or more in commission income.
- You are a stockbroker for Prince Investments, but you have no ownership interest in the firm. You receive commission income on a regular basis through the sale of stock to clients. Your total gross income from your employment with Prince Investments was over $100,000 during the reporting period. On Schedule A-2, report your name as the name of the business entity in Part 1 and the gross income you have received in Part 2. (Because you are an employee of Prince Investments, you do not need to complete the information in the box in Part 1 indicating the general description of business activity, fair market value, or nature of investment.) In Part 3, list Prince Investments and the names of any clients who were sources of $10,000 or more in commission income to you.
- You are a real estate agent and an independent contractor under Super Realty. On Schedule A-2, Part 1, in addition to your name or business name, complete the business entity description box. In Part 2, identify your gross income. In Part 3, for each transaction that resulted in commission income to you of $10,000 or more, you must identify the brokerage entity, each person you represented, and any person who received a finder's or other referral fee for referring a party to the transaction to the broker.

Note: If your pro rata share of commission income from a single source is $500 or more, you may be required to disqualify yourself from decisions affecting that source of income, even though you are not required to report the income. *For information regarding disclosure of "incentive compensation," see Reference Pamphlet, page 11.*

Conflict of Interest: A public official or employee has a conflict of interest under the Act when all of the following occur:

- The official makes, participates in making, or uses his or her official position to influence a governmental decision;
- It is reasonably foreseeable that the decision will affect the official's economic interest;
- The effect of the decision on the official's economic interest will be material; and
- The effect of the decision on the official's economic interest will be different than its effect on the public generally. Check the FPPC website (*www.fppc.ca.gov*) for a fact sheet entitled, "Can I Vote? Conflict of Interest Overview."

Conflict-of-Interest Code: The Act requires every state and local government agency to adopt a conflict-of-interest code. The code may be contained in a Regulation, policy statement, or a city or county ordinance, resolution, or other document.

An agency's conflict-of-interest code must designate all officials and employees of, and consultants to, the agency who make or participate in making governmental decisions that could cause conflicts of interest. These individuals are required by the code to file statements of economic interests and to disqualify themselves when conflicts of interest occur.

The disclosure required under a conflict-of-interest code for a particular designated official or employee should include only the kinds of personal economic interests he or she could significantly affect through the exercise of his or her official duties. For example, an employee whose duties are limited to reviewing contracts for supplies, equipment, materials, or services provided to the agency should be required to report only those interests he or she holds that are likely to be affected by the agency's contracts for supplies, equipment, materials, or services.

Consultant: An individual who contracts with or whose employer contracts with state or local government agencies and who makes, participates in making, or acts in a staff capacity for making governmental decisions. Consultants may be required to file Form 700. The obligation to file Form 700 is always imposed on the individual who is providing services to the agency, not on the business or firm that employs the individual.

FPPC Regulation 18701 defines "consultant" as an individual who makes a governmental decision whether to:

- Approve a rate, rule, or Regulation
- Adopt or enforce a law
- Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement
- Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval
- Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract
- Grant agency approval to a plan, design, report, study, or similar item
- Adopt, or grant agency approval of, policies, standards, or guidelines for the agency or for any of its subdivisions

A consultant also is an individual who serves in a staff capacity with the agency and:

- participates in making a governmental decision; or
- performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's conflict-of-interest code.

Designated Employee: An official or employee of a state or local government agency whose position has been designated in the agency's conflict-of-interest code to file statements of economic interests or whose position has not yet been listed in the code but makes or participates in making government decisions. Individuals who contract with government agencies (consultants) may also be designated in a conflict-of-interest code.

A federal officer or employee serving in an official federal capacity on a state or local government agency is not a designated employee.

Disclosure Categories: The section of an agency's conflict-of-interest code that specifies the types of personal economic interests officials and employees of the agency must disclose on their statements of economic interests. Disclosure categories are usually contained in an appendix or attachment to the conflict-of-interest code. Contact your agency to obtain a copy of your disclosure categories.

Diversified Mutual Fund: Diversified portfolios of stocks, bonds, or money market instruments that are managed by investment companies whose business is pooling the money of many individuals and investing it to seek a common investment goal. Mutual funds are managed by trained professionals who buy and sell securities. A typical mutual fund will own between 75 to 100 separate securities at any given time so they also provide instant diversification. *Only diversified mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 are exempt from disclosure.*

Elected State Officer: Elected state officers include the Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, State Controller, Secretary of State, State Treasurer, Superintendent of Public Instruction, members of the State Legislature, members of the State Board of Equalization, and elected members of the Board of Administration of the California Public Employees' Retirement System.

Enforcement: The FPPC investigates suspected violations of the Act. Other law enforcement agencies (the Attorney General or district attorney) also may initiate investigations under certain circumstances. If violations are found, the Commission may initiate administrative enforcement proceedings that could result in fines of up to $5,000 per violation.

Instead of administrative prosecution, a civil action may be brought for negligent or intentional violations by the appropriate civil prosecutor (the Commission, Attorney General, or district attorney), or a private party residing within the jurisdiction. In civil actions, the measure of damages is up to the amount or value not properly reported.

Persons who violate the conflict-of-interest disclosure provisions of the Act also may be subject to agency discipline, including dismissal.

Finally, a knowing or willful violation of any provision of the Act is a misdemeanor. Persons convicted of a misdemeanor may be disqualified for four years from the date of the conviction from serving as a lobbyist or running for elective office, in addition to other penalties that may be imposed. The Act also provides for numerous civil penalties, including monetary penalties and damages, and injunctive relief from the courts.

Expanded Statement: Some officials or employees may have multiple filing obligations (for example, a city council member who also holds a designated position with a county agency, board, or commission). Such officials or employees may complete one expanded statement covering the disclosure requirements for all positions and file a complete, originally signed copy with each agency.

Fair Market Value: When reporting the value of an investment, interest in real property, or gift, you must disclose the fair market value – the price at which the item would sell for on the open market. This is particularly important when valuing gifts, because the fair market value of a gift may be different from the amount it cost the donor to provide the gift. For example, the wholesale cost of a bouquet of flowers may be $10, but the fair market value may be $25 or more. In addition, there are special rules for valuing free tickets and passes. Call the FPPC for assistance.

Gift and Honoraria Prohibitions:

Gifts:

State and local officials who are listed in Gov. Code Section 87200 (except judges – see below), candidates for these elective offices (including judicial candidates), and officials and employees of state and local government agencies who are designated in a conflict-of-interest code are prohibited from accepting a gift or gifts totaling more than $420 in a calendar year from a single source during 2009-2010.

In addition, elected state officers, candidates for elective state offices, and officials and employees of state agencies are subject to a $10 per calendar month limit on gifts from lobbyists and lobbying firms registered with the Secretary of State.

Honoraria:

State and local officials who are listed in Gov. Code Section 87200 (except judges – see below), candidates for these elective offices (including judicial candidates), and employees of state and local government agencies who are designated in a conflict-of-interest code are prohibited from accepting honoraria for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

Exceptions:

- Some gifts are not reportable or subject to the gift and honoraria prohibitions, and other gifts may not be subject to the prohibitions, but are reportable. For detailed information, see the FPPC fact sheet entitled "Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans," which can be obtained from your filing officer or the FPPC website (*www.fppc.ca.gov).*
- The $420 gift limit and the honorarium prohibition do not apply to a part-time member of the governing board of a public institution of higher education, unless the member is also an elected official.
- If you are designated in a state or local government agency's conflict-of-interest code, the $420 gift limit and honorarium prohibition are applicable only to sources you would otherwise be required to report on your statement of economic interests. However, this exception is not applicable if you also hold a position listed in Gov. Code Section 87200 (See Reference Pamphlet, page 2.)
- For state agency officials and employees, the $10 lobbyist/lobbying firm gift limit is applicable only to lobbyists and lobbying firms registered to lobby your agency. This exception is not applicable if you are an elected state officer or a member or employee of the State Legislature.
- Payments for articles published as part of the practice of a bona fide business, trade, or profession, such as teaching, are not considered honoraria. A payment for an "article published" that is customarily provided in connection with teaching includes text book royalties and payments for academic tenure review letters. An official is presumed to be engaged in the bona fide profession of teaching if he or she is employed to teach at an accredited university.

Judges:

Section 170.9 of the Code of Civil Procedure imposes gift limits on judges and prohibits judges from accepting any honorarium. Section 170.9 is enforced by the Commission on Judicial Performance. The FPPC has no authority to interpret or enforce the Code of Civil Procedure. Court commissioners are subject to the gift limit under the Political Reform Act.

Income Reporting: Reporting income under the Act is different than reporting income for tax purposes. The Act requires **gross** income (the amount received before deducting losses, expenses, or taxes, as well as income reinvested in a business entity) to be reported.

Pro Rata Share: The instructions for reporting income refer to your pro rata share of the income received. Your pro rata share is normally based on your ownership interest in the entity or property. For example, if you are a sole proprietor, you must disclose 100% of the gross income to the business entity on Schedule A-2. If you own 25% of a piece of rental property, you must report 25% of the gross rental income received. When reporting your community property interest in your spouse's or registered domestic partner's income, your pro rata share is 50% of his or her income.

When you are required to report sources of income to a business entity, sources of rental income, or sources of commission income, you are only required to disclose individual sources of income of $10,000 or more. However, you may be required to **disqualify** yourself from decisions affecting sources of $500 or more in income, even though you are not required to report them.

Examples:

- Alice Ruiz is a partner in a business entity. She has a 25% interest. On Schedule A-2, she must disclose 25% of the fair market value of the business entity; 25% of the gross income to the business entity (even though all of the income received was reinvested in the business and she did not personally receive any income from the business); and the name of each source of $40,000 or more to the business.
- Cynthia and Mark Johnson, a married couple, own Classic Autos. In determining the amount to report for income on Schedule A-2, Part 2, Mark must include his 50% share and 25% of his spouse's share. Thus, if income to the business entity was $200,000, his reportable income would be $150,000 and he will check the box indicating $100,001-$1,000,000. (Also see Reference Pamphlet, page 12, for an example of how to calculate the value of this investment.)

You are not required to report:

- Salary, reimbursement for expenses or per diem, social security, disability, or other similar benefit payments received by you or your spouse or registered domestic partner from a federal, state, or local government agency
- Campaign contributions
- A cash bequest or cash inheritance
- Returns on a security registered with the Securities and Exchange Commission, including dividends, interest, or proceeds from a sale of stocks or bonds
- Redemption of a mutual fund
- Payments received under an insurance policy
- Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union, an insurance policy, or a bond or other debt instrument issued by a government agency
- Your spouse's or registered domestic partner's income which is legally "separate" income
- Income of dependent children
- Automobile trade-in allowances from dealers
- Loans and loan repayments received from your spouse or registered domestic partner, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin unless he or she was acting as an intermediary or agent for any person not covered by this provision
- Alimony or child support payments
- Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a)
- Any loan from a commercial lending institution made in the lender's regular course of business on terms available to the public without regard to your official status
- Any retail installment or credit card debts incurred in the creditor's regular course of business on terms available to the public without regard to your official status
- Loans made to others. However, repayments may be reportable on Schedule C
- A loan you co-signed for another person unless you made payments on the loan during the reporting period

Incentive Compensation: "Incentive compensation" means income over and above salary that is either ongoing or cumulative, or both, as sales or purchases of goods or services accumulate. Incentive compensation is calculated by a predetermined formula set by the official's employer which correlates to the conduct of the purchaser in direct response to the effort of the official.

Incentive compensation does not include:

- Salary
- Commission income *(For information regarding disclosure of "commission income," see Reference Pamphlet, page 7.)*
- Bonuses for activity not related to sales or marketing, the amount of which is based solely on merit or hours worked over and above a predetermined minimum
- Executive incentive plans based on company performance, provided that the formula for determining the amount of the executive's incentive income does not include a correlation between that amount and increased profits derived from increased business with specific and identifiable clients or customers of the company
- Payments for personal services which are not marketing or sales

The purchaser is a source of income to the official if all three of the following apply:

- the official's employment responsibilities include directing sales or marketing activity toward the purchaser; and
- there is direct personal contact between the official and the purchaser intended by the official to generate sales or business; and
- there is a direct relationship between the purchasing activity of the purchaser and the amount of the incentive compensation received by the official.

Report incentive compensation as follows:

- In addition to salary, reimbursement of expenses, and other income received from your employer, separately report on Schedule C the name of each person who purchased products or services sold, marketed or represented by you if you received incentive compensation of $500 or more attributable to the purchaser during the period covered by the statement.
- If incentive compensation is paid by your employer in a lump sum, without allocation of amounts to specific customers, you must determine the amount of incentive compensation attributable to each of your customers. This may be based on the volume of sales to those customers.

(See Regulations 18703.3 and 18728.5 for more information.)

Investment Funds: Report investment funds in which the value of your interest is $2,000 or more. If your investment share is less than 10%, report only the fund on Schedule A-1. If your investment in the fund is 10% or greater, report the fund and any investments contained in the fund in which your interest is $2,000 or more on Schedule A-2. Common examples of investment funds are index funds, exchange-traded funds, and venture capital funds. Diversified mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 are exempt from disclosure.

Investments and Interests in Real Property: When disclosing investments on Schedules A-1 or A-2 and interests in real property on Schedules A-2 or B, you must include investments and interests in real property held by your spouse or registered domestic partner, and those held by your dependent children, as if you held them directly.

Examples:

- Terry Pearson, her husband, and two children each own $600 in stock in General Motors. Because the total value of their holdings is $2,400, Terry must disclose the stock as an investment on Schedule A-1.

- Cynthia and Mark Johnson, a married couple, jointly own Classic Autos. Mark must disclose Classic Autos as an investment on Schedule A-2. To determine the reportable value of the investment, Mark will aggregate the value of his 50% interest and Cynthia's 50% interest. Thus, if the total value of the business entity is $150,000, he will check the box $100,001 - $1,000,000 in Part 1 of Schedule A-2. (Also see Reference Pamphlet, page 10, for an example of how to calculate reportable income.)

  The Johnsons also own the property where Classic Autos is located. To determine the reportable value of the real property, Mark will again aggregate the value of his 50% interest and Cynthia's 50% interest to determine the amount to report in Part 4 of Schedule A-2.

- Katie Smith rents out a room in her home. She receives $6,000 a year in rental income. Katie will report the fair market value of the rental portion of her residence and the income received on Schedule B.

Jurisdiction: You must disclose investments and sources of income that are located in or doing business in your jurisdiction, are planning to do business in your jurisdiction, or that have done business during the previous two years in your jurisdiction, and interests in real property located in your jurisdiction.

A business entity is located in or doing business in your jurisdiction if the entity has business contacts on a regular or substantial basis with a person who maintains a physical presence in your jurisdiction.

Business contacts include, but are not limited to, manufacturing, distributing, selling, purchasing, or providing services or goods. Business contacts do not include marketing via the Internet, telephone, television, radio, or printed media.

The same criteria are used to determine whether an individual, organization, or other entity is located in or doing business in your jurisdiction.

Exception:

- Gifts are reportable regardless of the location of the donor. For example, a state agency official with full disclosure must report gifts from sources located outside of California. (Designated employees/code filers should consult their disclosure categories to determine if the donor of a gift is of the type that must be disclosed.)

For reporting interests in real property, if your jurisdiction is the state, you must disclose real property located within the state of California unless your agency's conflict-of-interest code specifies otherwise.

For local agencies, an interest in real property is located in your jurisdiction if any part of the property is located in, or within two miles of, the region, city, county, district, or other geographical area in which the agency has jurisdiction, or if the property is located within two miles of any land owned or used by the agency.

See the following explanations to determine what your jurisdiction is:

State Offices and All Courts: Your jurisdiction is the state if you are an elected state officer, a state legislator, or a candidate for one of these offices. Judges, judicial candidates, and court commissioners have statewide jurisdiction. (*In re Baty* (1979) 5 FPPC Ops. 10.) If you are an official or employee of, or a consultant to, a state board, commission, or agency, or of any court or the State Legislature, your jurisdiction is the state.

County Offices: Your jurisdiction is the county if you are an elected county officer, a candidate for county office, or if you are an official or employee of, or a consultant to, a county agency or any agency with jurisdiction solely within a single county.

City Offices: Your jurisdiction is the city if you are an elected city officer, a candidate for city office, or you are an official or employee of, or a consultant to, a city agency or any agency with jurisdiction solely within a single city.

Multi-County Offices: If you are an elected officer, candidate, official or employee of, or a consultant to a multi-county agency, your jurisdiction is the region, district, or other geographical area in which the agency has jurisdiction. (Example: A water district has jurisdiction in a portion of two counties. Members of the board are only required to report interests located or doing business in that portion of each county in which the agency has jurisdiction.)

Other (for example, school districts and special districts): If you are an elected officer, candidate, official or employee of, or a consultant to an agency not covered above, your jurisdiction is the region, district, or other geographical area in which the agency has jurisdiction. See the multi-county example above.

Leasehold Interest: The term "interest in real property" includes leasehold interests. An interest in a lease on real property is reportable if the value of the leasehold interest is $2,000 or more. The value of the interest is the total amount of rent owed by you during the reporting period or, for a candidate, assuming office, or initial statement, during the prior 12 months.

You are not required to disclose a leasehold interest with a value of less than $2,000 or a month-to-month tenancy.

Loan Reporting: Filers are not required to report loans from commercial lending institutions or any indebtedness created as part of retail installment or credit card transactions that are made in the lender's regular course of business, without regard to official status, on terms available to members of the public.

Loan Restrictions: State and local elected and appointed public officials are prohibited from receiving any personal loan totaling more than $250 from an official, employee, or consultant of their governmental agencies or any governmental agency over which the official or the official's agency has direction or control. In addition, loans of more than $250 from any person who has a contract with the official's agency or an agency under the official's control are prohibited unless the loan is from a commercial lending institution or part of a retail installment or credit card transaction made in the regular course of business on terms available to members of the public.

State and local elected officials are also prohibited from receiving any personal loan of $500 or more unless the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, the date, amount, and term of the loan, the date or dates when payments are due, the amount of the payments, and the interest rate on the loan.

Campaign loans and loans from family members are not subject to the $250 and $500 loan prohibitions.

A personal loan made to a public official that is not being repaid or is being repaid below certain amounts will become a gift to the official under certain circumstances. Contact the FPPC for further information, or see the FPPC fact sheet entitled "Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans," which can be obtained from your filing officer or the FPPC website *(www.fppc.ca.gov)*.

Privileged Information: You are not required to disclose on Schedule A-2, Part 3, the name of a person who paid fees or made payments to a business entity if disclosure of the name would violate a legally recognized privilege under California law. For example, a name is protected by attorney-client privilege when facts concerning an attorney's representation of an anonymous client are publicly known and those facts, when coupled with disclosure of the client's identity, might expose the client to an official investigation or to civil or criminal liability.

A patient's name is protected by physician-patient privilege when disclosure of the patient's name would also reveal the nature of the treatment received by the patient because, for example, the physician is recognized as a specialist.

FPPC Regulation 18740 sets out specific procedures that must be followed in order to withhold the name of a source of income. Requests for disclosure exemptions are filed with the FPPC Executive Director.

Public Officials Who Manage Public Investments: Individuals who invest public funds in revenue-producing programs must file Form 700. This includes individuals who direct or approve investment transactions, formulate or approve investment policies, and establish guidelines for asset allocations. FPPC Regulation 18701 defines "public officials who manage public investments" to include the following:

- Members of boards and commissions, including pension and retirement boards or commissions, and committees thereof, who exercise responsibility for the management of public investments;
- High-level officers and employees of public agencies who exercise primary responsibility for the management of public investments (for example, chief or principal investment officers or chief financial managers); and
- Individuals who, pursuant to a contract with a state or local government agency, perform the same or substantially all the same functions described above.

Registered Domestic Partners: Filers must report investments and interests in real property held by, and sources of income to, registered domestic partners. (See Regulation 18229.)

Retirement Accounts (for example, deferred compensation and individual retirement accounts (IRAs)): Assets held in retirement accounts must be disclosed if the assets are reportable items, such as common stock (investments) or real estate (interests in real property). For help in determining whether your investments and real property are reportable, see the instructions to Schedules A-1, A-2, and B.

If your retirement account holds reportable assets, disclose only the assets held in the account, not the account itself. You may have to contact your account manager to determine the assets contained in your account.

Schedule A-1: Report any business entity in which the value of your investment interest was $2,000 or more during the reporting period. (Use Schedule A-2 if you have a 10% or greater ownership interest in the business entity.)

Schedule B: Report any piece of real property in which the value of your interest was $2,000 or more during the reporting period.

Examples:

- Alice McSherry deposits $500 per month into her employer's deferred compensation program. She has chosen to purchase shares in two diversified mutual funds registered with the Securities and Exchange Commission. Because her funds are invested solely in non-reportable mutual funds (see Schedule A-1 instructions), Alice has no disclosure requirements with regard to the deferred compensation program.
- Bob Allison has $6,000 in an individual retirement account with an investment firm. The account contains stock in several companies doing business in his jurisdiction. One of his stock holdings, Gala Computers, reached a value of $2,500 during the reporting period. The value of his investment in each of the other companies was less than $2,000. Bob must report Gala Computers as an investment on Schedule A-1 because the value of his stock in that company was $2,000 or more.
- Adriane Fisher has $5,000 in a retirement fund that invests in real property located in her jurisdiction. The value of her interest in each piece of real property held in the fund was less than $2,000 during the reporting period. Although her retirement fund holds reportable assets, she has no disclosure requirement because she did not have a $2,000 or greater interest in any single piece of real property. If, in the future, the value of her interest in a single piece of real property reaches or exceeds $2,000, she will be required to disclose the real property on Schedule B for that reporting period.

Trusts: Investments and interests in real property held and income received by a trust (including a living trust) are reported on Schedule A-2 if you, your spouse or registered domestic partner, or your dependent children had a 10% or greater interest in the trust and your pro rata share of a single investment or interest in real property was $2,000 or more.

You have an interest in a trust if you are a trustor and:

- Can revoke or terminate the trust;
- Have retained or reserved any rights to the income or principal of the trust or retained any reversionary or remainder interest; or
- Have retained any power of appointment, including the power to change the trustee or the beneficiaries.

Or you are a beneficiary and:

- Presently receive income; or
- Have an irrevocable future right to receive income or principal. (See FPPC Regulation 18234 for more information.)

Examples:

- Sarah Murphy has set up a living trust which holds her principal residence, stock in several companies that do business in her jurisdiction, and a rental home in her agency's jurisdiction. Since Sarah is the trustor and she can revoke or terminate the trust, she must disclose any stock worth $2,000 or more and the rental home on Schedule A-2. Sarah's residence is not reportable.
- Ben Yee is listed as a beneficiary in his grandparents' trust. However, Ben does not presently receive income from the trust, nor does he have an irrevocable future right to receive income or principal. Therefore, Ben is not required to disclose any assets contained in his grandparents' trust.

Blind Trusts:

A blind trust is a trust managed by a disinterested trustee who has complete discretion to purchase and sell assets held by the trust. If you have a direct, indirect, or beneficial interest in a blind trust, you may not be required to disclose your pro rata share of the trust's assets or income. However, the trust must meet the standards set out in FPPC Regulation 18235, and you must disclose reportable assets originally transferred into the blind trust and income from those original assets on Schedule A-2 until they have been disposed of by the trustee.

Trustees:

If you are only a trustee, you do not have a reportable interest in the trust. However, you may be required to report the income you received from the trust for performing trustee services.

Wedding Gifts: Wedding gifts must be disclosed if they were received from a reportable source during the period covered by the statement. Gifts valued at $50 or more are reportable; however, a wedding gift is considered a gift to both spouses equally. Therefore, you would count one-half of the value of a wedding gift to determine if it is reportable and need only report individual gifts with a total value of $100 or more, unless a particular gift can only be used by you or is intended only for your use.

For example, you receive a place setting of china valued at $150 from a reportable source as a wedding gift. Because the value to you is $50 or more, you must report the gift on Schedule D, but may state its value as $75.

Wedding gifts are not subject to the $420 gift limit, but they are subject to the $10 lobbyist/lobbying firm gift limit for state officials.

Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Gov. Code Sections 81000-91014 and California Code of Regulations Sections 18109-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

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