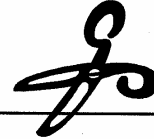


2002  
Quick Calendar!

*...For Statements of Economic  
Interests And  
Conflict-of-Interest Codes*



<b>January 2002</b>	<p><b>Form 700 Mailing</b> Contact us if you have not received your mailing. Continue to use the 2001 Gift, Honoraria, Travel and Loan Fact Sheet. Since there were no changes affecting this fact sheet, it was not updated this year.</p>
<b>March 1, 2002</b>	<p><b>Form 700 Filing Deadline</b> See the previous page (page 12) for the list of officials required to file on March 1.</p>
<b>March 6, 2002</b>	<p><b>Deadline for Forwarding March 1 Form 700s to FPPC</b> You can also clear your desk and forward these statements to us before the filing deadline.</p>
<b>April 2, 2002</b>	<p><b>Form 700 Filing Deadline</b> See page 12 for the list of officials required to file on April 2. The filing deadline was extended this year because April 1 falls on Cesar Chavez Day, an official state holiday.</p>
<b>April 8, 2002</b>	<p><b>Deadline for Forwarding Form 700s Filed by April 2 to FPPC</b> Only forward statements for the officials listed on page 12.</p>
<b>June 2002</b>	<p><b>Biennial Conflict of Interest Code Mailing</b> Each city, county and multi-county agency will receive a mailing explaining the biennial code review process.</p>
<b>July 1, 2002</b>	<p><b>Local Code Reviewing Body Notification Deadline</b> City and county code reviewing bodies are required to notify each local agency within their jurisdiction to review its conflict of interest code and determine if amendments are necessary.</p> <ul style="list-style-type: none"> <li>• The City Council is the code reviewing body for city agencies.</li> <li>• The Board of Supervisors is the code reviewing body for county agencies and for other local agencies (special districts) with single county jurisdiction.</li> </ul>
<b>August 2002</b>	<p><b>Forward November 5 Election Form 700 Candidate Statements to FPPC</b> Only forward candidate statements for filers listed on page 12.</p>
<b>Summer 2002</b>	<p><b>Conflict of Interest Code Workshops</b> Watch our website for upcoming workshops to assist local government agencies with the code amendment process.</p>
<b>October 1, 2002</b>	<p><b>Local Agency Biennial Notice Deadline</b> Agencies who notify the code reviewing body that a conflict of interest code amendment is necessary must amend their codes within 90 days.</p>
<b>Ongoing</b>	<p><b>Assuming and Leaving Office Statements</b></p> <ul style="list-style-type: none"> <li>• Continue to monitor and notify filers who assume or leave office of the Form 700 filing requirements.</li> <li>• Forward assuming and leaving office statements for filers listed on Page 12 within five days of a filing deadline.</li> <li>• Notify the FPPC if you are not successful in obtaining a statement for these filers.</li> </ul>

# 2002 Conflict of Interest Code Biennial Notice for Clerks of the Board of Supervisors, County Clerks, and County Counsels

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The Political Reform Act requires every local government agency to review its conflict of interest code biennially to determine if it is accurate or, alternatively, that the code must be amended. Once the determination has been made, a notice must be submitted to the code reviewing body no later than October 1 of even-numbered years.

The County Board of Supervisors is the code reviewing body for county agencies and any other local government agency whose jurisdiction is solely within the county. Therefore, the Board of Supervisors must, no later than July 1, 2002, notify each agency to review its code and submit a notice (sample enclosed) to the Board that either amendments are required or that no amendments are necessary. Notices must be submitted to the Board of Supervisors by October 1, 2002. **The notice is not sent to the FPPC.**

The Board is not required to send a notice to any agency whose jurisdiction is in more than one county. The FPPC is the code reviewing body for multi-county agencies and will contact these agencies directly.

**Please supply a copy of this memo and the enclosed materials to all agencies in the county's jurisdiction.**

If amendments to an agency's conflict of interest code are necessary, the amended code must be forwarded to the Board of Supervisors for approval within **90 days**. For example, if an agency files its notice on October 1, 2002, indicating an amendment is necessary, the amendment must be submitted to the Board of Supervisors by December 29, 2002. An agency's amended code is not effective until it has been approved by the Board of Supervisors.

## Enclosures

- ✓ Biennial Notice
- ✓ Worksheet
- ✓ Designated Positions Fact Sheet
- ✓ Consultant Fact Sheet

## Amending a Conflict of Interest Code Seminar Locations and Dates

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- **Sacramento**  
Tuesday, June 11  
FPPC, 8th Floor Hearing Room  
428 J Street  
10:00 a.m. - 12:00 p.m.
- **Sacramento**  
Thursday, June 13  
FPPC, 8th Floor Hearing Room  
428 J Street  
1:30 p.m. - 3:30 p.m.
- **Los Angeles ROV**  
Tuesday, June 18  
12400 Imperial Highway  
7th Floor Conference Room  
Norwalk  
1:00 p.m. - 3:00 p.m.
- **San Diego ROV**  
Monday, June 24  
5201 Ruffin Road, Suite 1  
1:00 p.m. - 3:00 p.m.
- **Oakland**  
Thursday, June 27  
Alameda Co. Administration Building, Room 512  
Board of Supervisors Chambers  
1221 Oak Street  
1:00 p.m. - 3:00 p.m.

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To register for a seminar call the FPPC  
at (866) ASK-FPPC, press 3.  
Seminars are subject to change.

## 2002 Local Agency Biennial Notice

Name of Agency: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Office Phone No: \_\_\_\_\_

Fax Number: \_\_\_\_\_ E-mail (optional): \_\_\_\_\_

This agency has reviewed its conflict of interest code and has determined that:

The code needs to be amended and the following amendments are necessary:  
(Check all that apply)

- Include new positions (including consultants) that must be designated
- Revise the titles of existing positions
- Delete the titles of positions that have been abolished
- Delete the positions that manage public investments
- Revise disclosure categories
- Other \_\_\_\_\_

No amendments are necessary. The agency's code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of all investments, business positions, interests in real property and sources of income which may foreseeably be affected materially by the decisions made by those designated positions; and the code includes all other provisions required by Government Code Section 87302.

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Date

You must complete this report regardless of how recently your code was approved or amended.  
Please return this report no later than **October 1, 2002** to:

(return address of agency)

## Biennial Notice Worksheet

The following checklist may assist in the review of an agency's conflict of interest code. This is only a guide and is not intended to be an exclusive list of issues that may need review.

- Does the code contain the following three basic components:
  - o Language which incorporates FPPC Reg. 18730 or contains the basic provisions required in Government Code Section 87302
  - o A list of designated positions that make/participate in making governmental decisions (see fact sheet)
  - o Disclosure categories specifying financial interests (investments, interests in real property, income and business positions) that designated positions must disclose
  
- Review the agency's organization chart and duty statements
  - o Do positions need to be added or deleted?
  - o Is there a need for new positions to be covered in the code?
  - o Is there a need to reclassify disclosure for any positions?
  - o Are consultants designated (see fact sheet)?
  - o Do any officials/consultants manage public investments?
  - o Amendments needed? Use underline and strikeout, see sample below.

<b>III. LEGAL OFFICE</b>	<b>LEGAL AFFAIRS DIVISION</b>
A. Legal Office	2
1. Chief Counsel II, CEA	2
<u>2. Assistant Chief Counsel</u>	<u>2</u>
<del>3. Staff Counsel III (Supv)</del>	<del>2</del>
<u>3. Staff Counsel III (Spec)</u>	<u>2</u>
<del>4. Staff Counsel</del>	<del>2</del>
<ul style="list-style-type: none"> <li>• The Legal Office became the Legal Affairs Division.</li> <li>• The Staff Counsel III (Supv) was reclassified to Assistant Chief Counsel.</li> </ul>	

- A review of joint powers agreements, minutes and annual reports may assist in determining whether designated positions and their respective disclosure categories are accurately reflected.
- Notification: If amendments are needed, notify employees and the public.

## How to Determine Who Should be Designated In a Conflict of Interest Code<sup>1</sup>

### Determining Who Makes or Participates in the Making of Governmental Decisions:

*Making* a governmental decision, means the person:

- (1) Votes on a matter;
- (2) Appoints a person;
- (3) Obligates or commits his or her agency to any course of action; or
- (4) Enters into any contractual agreement on behalf of his or her agency.

*Participating in the making* of a decision, means the person:

- (1) Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or
- (2) Advises or makes recommendations to the decision-maker by conducting research or an investigation, preparing or presenting a report, analysis or opinion which requires the exercise of judgment on the part of the employee and the employee is attempting to influence the decision.

### Who is a Designated Employee?

A designated employee is an officer, employee, member or consultant of an agency whose position is designated in the code because the position entails the making or participation in the making of governmental decisions which may foreseeably have a material effect on any financial interest. (*Government Code Section 82019.*)

To determine who should be designated in the code, you need to know who within the agency makes or participates in the making of governmental decisions. (*FPPC Regulation 2 Cal. Code of Regs. Section 18701-18702.4.*)

### Who Should Not be Designated?

The term "designated employee" does not include:

- Public officials specified in Government Code Section 87200
  - board of supervisors
  - chief administrative officers
  - district attorneys
  - county counsels
  - county treasurers
  - planning commissioners
  - city councilmembers
  - mayors
  - city managers
  - city attorneys
  - city treasurers
  - other city, county and local agency public officials who manage public investments
- Solely clerical, ministerial or manual positions
- Members of boards or commissions which are solely advisory and do not make substantive recommendations

### Checking Duty Statement and Job Description:

You can determine who should be designated in the code by first eliminating those positions outlined above that are not designated employees.

Next, evaluate the remaining employees, members, officers or consultants of your agency. Top level management personnel are normally broad policy makers and should be designated. Look at each position to determine if it makes or participates in the making of governmental decisions. One way to accomplish this is by reviewing duty statements or job descriptions.

<sup>1</sup>This fact sheet should not be used to determine whether your agency is required to adopt a conflict of interest code. Contact the FPPC for assistance in making that determination.

## Consultants

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contract provided that it would provide all plan checking services for a city for five years, it is much more likely that individuals performing these services would be in a quasi-staff capacity.

**An individual who makes a governmental decision listed above or serves in staff capacity with the agency is considered a public official who must file a statement of economic interests. This applies even if an agency fails to properly designate a consultant in a conflict of interest code because the disqualification provisions of the Political Reform Act operate as soon as an individual becomes a public official. The individual is subject to the Act's gift limits and conflict of interest provisions.**

### Examples

An attorney hired to perform ongoing legal services for an agency would usually be considered a consultant. Attorneys generally have broad powers to affect decisions which could foreseeably and materially affect their financial interests. These powers include the authority to represent and bind the agency to a course of action in litigation and contract matters. Attorneys often make governmental decisions listed in Regulation 18701(a)(2)(A) and/or serve in a staff capacity with the agency. However, an attorney hired to work on one discrete litigation matter, who was not making any governmental decisions listed above, would not be considered to be working in a "staff capacity" and, therefore, would not be a consultant. (Memorandum to the Commission, March 28, 1994.)

An investment firm provides consulting services to a county employee's retirement association. Pursuant to a contract, employees of the investment firm attend all board meetings and subcommittee meetings where investment issues are discussed. Employees of the investment firm are required to perform other services and provide reports on investment issues as requested by the retirement board or staff. Because the employees of the investment advisor serve on an ongoing basis as staff for the retirement board, and in that capacity participate in the making of all investment decisions, they are considered consultants under the Act. (Randolph Advice Letter, No. I-95-045.)

Individual members of a consulting firm who prepare an EIS/EIR report for the Sacramento Regional Transit District's ("RT") Folsom light rail extension are consultants and should be designated in a conflict of interest code. RT hires environmental consultants on an as-needed basis to prepare extensive or technical environmental studies which cannot be completed by its staff. RT hires environmental consultants for each project. The consulting firm will be under contract with RT to provide environmental services for three projects extending over at least three years. The consultant conducts research and makes investigations that require exercise of its expertise and judgment, and prepares the report. The consultant's role also encompasses recommending to RT's board of directors approval of agreements and permits it negotiates and approval of the environmental report. Although the RT board reviews the report and related documents, because of the technical nature of the study, the consultant's conclusions and recommendations are accepted without significant intervening substantive review. In addition, members of the consulting firm have authority to negotiate contracts and recommend RT's approval without significant independent review by RT. (Patterson Advice Letter, No. A-97-570.)

The Commission realizes that not all consultants participate in making decisions on behalf of public agencies. Rather than amend your code each time you retain a consultant who is in a decision-making capacity, you may use a specialized disclosure category which provides that the disclosure required of consultants shall be determined on a case-by-case basis by the chief executive officer. The chief executive officer may make a determination as to what disclosure, if any, is required by any particular consultant.

## Consultants

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This consultant disclosure category should be part of the code. You should add the position "consultant" as a designated position in the appendix of the code with a footnote as shown in the following example:

### Consultant\*

*\*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:*

*The (executive director or executive officer) may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The (executive director's or executive officer's) determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.*



This fact sheet highlights provisions of the Act concerning consultants. You should not rely on the fact sheet alone to ensure compliance with the Act. If you have any questions, consult the Act and regulations or contact the Fair Political Practices Commission at (916) 322-5660, or toll-free at (866) 275-3772. The Political Reform Act, regulations, fact sheets, and other important information are available on the Commission's website, [www.fppc.ca.gov](http://www.fppc.ca.gov).