

INITIAL STATEMENT OF REASONS

Under the Political Reform Act (the "Act"), all public agencies are required to adopt a conflict of interest code (code). The code designates agency positions required to file Statements of Economic Interests, Form 700, and assigns disclosure categories specifying the types of interests to be reported. The Form 700 is a public document intended to alert public officials and members of the public to the types of financial interests that may create conflicts of interests.

The terms of the code comprise the main body of a code and include such provisions as the manner to report financial interests, the disqualification procedures, etc. The Fair Political Practices Commission (FPPC) recommends that agencies incorporate Section 18730 of Title 2, California Code of Regulations by reference because the type of information required to be in the main body of the code is quite complex and Section 18730 contains all of these provisions. The FPPC will amend the regulation to include legislative and regulatory changes that affect the main body of the code; therefore, this component of an agency's code is automatically in compliance with the Act.

The code must specifically list positions that make or participate in making governmental decisions. Typically, positions that involve voting on matters, negotiating contracts, or making recommendations on purchases without substantive review must be included in codes. Positions listed in Government Code Section 87200 are not required to be included, because these positions automatically file Form 700. The Department reviewed duty statements and enlisted the assistance of division managers to determine which positions should be included.

A primary purpose of the code is to require disclosure of those types of investments, interests in real property, sources of income and business positions that designated positions may affect in their decision-making. For example, the manager of an agency should be assigned full disclosure (all investments, interests in real property, sources of income and business positions) because the manager makes decisions that affect a wide range of interests. Alternatively, a purchasing agent whose decision-making is limited to the purchase of office supplies should only be assigned disclosure of investments, sources of income and business positions in entities that provide office supplies, equipment or merchandise of the type used by the agency.

Codes are not effective until approved by an agency's code-reviewing body. The code reviewing body for state agencies is the FPPC.

Employees whose positions have been added to the code will receive a Form 700, during the annual filing period (approximately January or February 2005), to be completed and returned to the Department's Filing Officer.

CONFLICT OF INTEREST POLICY

Policy

Public officials may not make, participate in making, or in any way use or attempt to use their official positions to influence a governmental decision in which they know or have reason to know they have a disqualifying conflict of interest. Employees in designated positions are covered in the Conflict of Interest (COI) Code.

Designated Positions

Any officer, employee, member, or consultant in a position in which the duties involve making or participating in the making of governmental decisions. These decisions may have a material effect on his/her financial interests and are covered under the COI Code.

Definition of Governmental Decision

A person makes or participates in making a governmental decision if he or she:

- Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or
- 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 judgement on the part of the employee and the employee is attempting to influence the decision; or
- Enters into any contractual agreement on behalf of the agency; or
- Obligates or commits the agency to any course of action; or
- Appoints a person; or
- Votes on a matter.

(Note: Making or participating in making a governmental decision does not include positions which are solely clerical, secretarial, manual, or ministerial.)

Examples of Governmental Decisions

The following types of decisions are considered “governmental decisions”:

1. Approve a rate, rule or regulation;
2. Adopt or enforce a law;
3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
4. Authorize the agency to enter into, modify or renew a contract provided it is the type of contract which requires agency approval;
5. Grant agency approval to a contract which requires agency approval and in which the agency is a party to the specifications for such a contract;
6. Grant agency approval to a plan, design, report, study or similar item;
7. Adopt, or grant agency approval of policies, standards or guidelines for the agency, or for any subdivision of the agency.

Consultants

Persons who are working on contract, and who are not employees or appointed officials, are also subject to COI Criteria. An individual on contract should be identified as a designated employee when he/she makes decisions or when he/she both ‘serves in a staff capacity’ and ‘participates in making decisions’.

DEPARTMENTAL DOCUMENTATION

The Department relies upon specific documents in determining that the regulation changes were necessary, as follows:

1. Adopting a Conflict-of-Interest Code
2. Biennial Notice Worksheet
3. Appendix of Duty Statements
4. Department of Mental Health Organizational Chart (excerpt)

JUSTIFICATION FOR NEW POSITIONS DESIGNATED TO FILE COI FORM

The Department has determined that specific positions shall file conflict of interest forms. The justification for each new position is detailed below. Positions deleted were due to the termination of positions. Duty statements for newly adopted positions are contained in supporting documentation, indicated by attachment number, to the rulemaking file. Some duties may vary slightly for positions used at multiple locations (i.e., state hospitals); however, the duty statements provided represent the primary functions for all positions.

DIRECTOR'S OFFICE

Assistant Director of External Affairs

Attachment 1 – This position was originally titled “Chief, Community and Consumer Relations.” The original duties and responsibilities still apply. Additional new duties: Coordinates public affairs activities with the Health and Human Services (HHS); assists in the development and conceptualization of information, education, and media materials for collaborative and agency-wide issues; participates in implementing communication strategies for the California Performance Review recommendations on HHS issues.

SYSTEMS OF CARE

Program Support/County Operations—North and South

Mental Health Program Supervisor

Attachments 2a and 2b – These two positions are responsible for managing grants and monitoring contracts

ADMINISTRATIVE SERVICES

Employee Safety and Support Services

Training Officer

Attachment 3 - This position is responsible for the planning, organization and evaluation of the Department's annual training plan.

Information Technology

Data Processing Managers

Attachments 4A and 4B – These positions are responsible for directing the Department's Information Technology unit, which provides services to Departmental staff, state hospital and counties. The difference in levels is in quantity of staff supervised and complexity of the program or area or responsibility.

LONG TERM CARE SERVICES

Forensic Services

Mental Health Program Supervisors

Attachments 5a & 5b – These positions are responsible for directing activities in support of the Forensic Conditional Release and Mentally Disordered Offender programs, including contract monitoring, clinical and fiscal assistance and program evaluation. The difference in levels is in quantity of staff supervised and complexity of the program or area or responsibility.

State Hospitals

Accounting Administrators

Attachments 6a through 6e - These positions are responsible for management of the hospital's Accounting and Trust Sections including the planning and directing of organization and procedures concerned with financial records. The level depends on the size and complexity of the facility.

Data Processing Managers –

Attachments 7a through 7e - These positions manage the hospital's information management needs at a level appropriate to the size of the facility. The difference in levels is in quantity of staff supervised and complexity of the program or area or responsibility.

PROGRAM COMPLIANCE

Supervising Governmental Auditors

Attachments 8a through 8e - Incumbents in these positions are responsible for the review of federal and state funds at the local county mental health level. The difference in levels is in quantity of staff supervised and complexity of the program or area or responsibility.