



SECTION 4

CONFLICT OF INTEREST CODE POLICY

A. POLICY STATEMENT - CONFLICT OF INTEREST CODE

Background. The California Children and Families Act of 1998¹ authorizes each county to establish a commission dedicated to promoting, supporting, and improving the early development of children from the pre-natal stage to five years of age. This is accomplished through appropriate standards, resources, and integrated and comprehensive programs emphasizing community awareness, parent and caregiver education, child care and development, social services, health care and research.

The Political Reform Act is set forth in Government Code Sections 81000-91014, and Fair Political Practices COMMISSION Regulations contained in Title 2, Division 6 of the California Code of Regulations, requires State and local government agencies to adopt and publicize their conflict of interest codes. Of particular note are Government Code Sections 87100 - 87505, which seek to prevent conflicts of interests in two ways - disclosure and disqualification.

The code can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearing to conform to amendments in the Political Reform Act. Therefore, the terms of the California Code of Regulations, Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference.

All designated positions required to submit a statement of financial interests shall file the disclosure statement. The Commission will make the statements available for inspection and reproduction (Government Code Section 81008). Upon receipt of the statements, FIRST 5 Mendocino shall make and retain a copy thereof and shall forward the original of these statements to the Mendocino County Clerk/Recorder to the attention of the Statement of Economic Interests filing officer.

The composition of First 5 commissions, especially in less populated counties means that, from time to time, commission members may be from agencies that seek or receive First 5 funding. As a result, a key goal of this policy is to promote public confidence and trust in the decision-making processes of FIRST 5 Mendocino. Such public confidence and trust is a function of a number of factors:

1. Decision-makers' experience, knowledge and competence;
2. Their commitment to putting the interests of young children before any personal or organizational interests;
3. Transparent and inclusive decision-making processes; and

¹ See Health and Safety Code Section 130100 and following.



4. Accountability mechanisms that assure the public that worthy public purposes are being achieved as the result of the expenditure of public resources on First 5 programs.

There are a number of state and federal laws² that are designed to promote public trust and confidence in both local agency decisions and specifically First 5 commission decisions. These laws create minimum standards for public agency decision-makers that are important to satisfy. A key goal of this policy is to set FIRST 5 Mendocino's sights higher than the minimum standards of the law.

FIRST 5 Mendocino intends that all commissioners and staff shall act with honesty and uphold the highest ethical standards so that public confidence and trust in the integrity, objectivity and impartiality of the Commission is preserved. Additional obligations of staff are included in their position descriptions.

No Commissioner or staff person may participate in or use their position to influence a decision which affects their economic interest.

A Commissioner or staff person can determine whether an unlawful economic interest exists by asking themselves the following questions:

- *Will the decision affect your personal expenses, income, assets or liabilities, or those of your spouse or dependent children?*
- *Will the decision affect any business in which you, your spouse or dependent children have an investment of at least \$2,000?*
- *Will the decision affect any real property (including mortgages, options or leases) in which you, your spouse or dependent children have an interest of \$2,000 or more, or any property within 2,500 feet of your property (month-to-month leases are not considered real property interests)?*
- *Will the decision affect any person or business that has paid you, your spouse or registered domestic partner more than \$500, (including payments of salary, rent, interest, some loans, payments for sale of a house, car or investment, or other types of income) in the past 12 months?*

² See, for example, Cal. Const. art.XVI, § 6 (prohibition against gifts of public funds); Cal. Penal Code § 424 and Cal. Gov't Code § 8314. (prohibitions against misuse of public resources); See Cal Penal Code §§ 7 (definition number 6), 68(a), 74 (prohibitions against bribery and graft); Cal. Gov't Code § 87100 and following (the California Political Reform Act); Cal. Gov't Code § 1090 and following (including specifically Cal. Gov't Code § 1091.3); Cal. Gov't Code § 1126 (incompatibility of offices); See Cal. Gov't Code § 54950 and following (open meetings requirements); Cal. Gov't Code § 6250 and following (open records requirements). See also Cal. Gov't Code § 53235(a), (b) (ethics training requirements for certain kinds of local agency officials—see note 10 for further discussion). For more information about public service ethics laws, visit www.ca-ilg.org/ethicsbasics and www.ca-ilg.org/trust.



- *Will the decision affect any business or person that gave or donated more than \$470 in case or goods or other gifts to you in the last 12 months?*

If the answer is “yes” to any of these questions, an economic interest exists which prohibits the Commissioner or staff person from participating in or using their position to influence a related decision.

No conflict of interest exists as to a remote interest if the following process is followed.

The Commission’s Additional Practices to Protect Public Trust and Confidence in the Commission

FIRST 5 Mendocino believes that public trust and confidence in commission decisions and actions is vital to the accomplishment of the commission’s mission. Accordingly, the commission will engage in the following practices to promote the public’s trust and confidence in the commission’s activities.

Recruitment and Appointment Process

- **Advance Disclosure of Appointee Affiliations.** The commission will develop and use a form that asks prospective appointees to the commission [and advisory committees]³ to disclose organizations with which they or their family members are affiliated.⁴ Decision-makers are expected to update this disclosure as their affiliations change.
- **Advance Notice to Potential Appointees.** Working with the county, the commission will alert people being considered for appointment to the commission⁵ of the need, as applicable, to (1) timely and accurately file state-required personal financial interest disclosure forms (Form 700s), (2) timely comply with the commission’s ethics training requirements, and (3) step aside from any decision-making process that could benefit organizations with which they are affiliated.⁶

After Appointment

- **Public Information about Decision-makers.** The commission will publicly disclose (including on its website) who serves on the commission, the qualifications they bring to their service (including their organizational affiliations), and the process by which they are appointed.

³ This phrase would be relevant only if the commission uses advisory committees.

⁴ “Affiliated with organizations” includes being employed by an organization, being on an organization’s governing board or having a family member who has such an affiliation.

⁵ This phrase would be relevant only if the commission uses advisory committees.

⁶ Sample advisory pamphlet: <http://www.ca-ilg.org/candidatepamphlet>



- Orientation Materials. The commission will provide appointees to commissions the local commission's policies and practices relating to avoiding even the appearance of conflicts of interest as part of the appointee's orientation process/packet.
- Financial Interest Disclosure. New commission members must file their first Form 700 within the statutory deadline.⁷ All commission and pertinent staff members must file their annual Form 700 within the statutory deadline.
- Ongoing Disclosure of Appointee Affiliations. Appointees to commissions must update their affiliations disclosure as their affiliations change.

Ethics Training

- Ethics Training. The commission will provide FIRST 5 commissioners and staff ethics training free of charge. Ethics training will comply with AB 1234 requirements to address public service laws and principles including the Political Reform Act, the Fair Political Practices Commission, Public Records Act, limitations on gifts, use of public resources, transparency, financial interest disclosure and fair process laws.
- Timing for Ethics Training. Commissioners must participate in such training within six months of becoming a FIRST 5 decision-maker and then every two years thereafter.⁸
- Staff Training. Commission executive staff must also participate in this training.
- Documentation. The commission will maintain certificates of compliance as public records available for inspection.

When Making Funding Decisions

- Broad-based Public Input Sought. The commission will use and document use of inclusive processes⁹ to seek broadly-based community input on strategic plan updates, including funding priorities, in addition to the public hearing required by law.¹⁰
- Publicity for Funding Opportunities. The commission will widely publicize the opportunity to compete for contracts and grants (through website, mailings and other outreach mechanisms), allowing a generous timeframe for interested organizations to respond. To achieve this widespread publicity, the

⁷ See Cal. Gov't Code § 87202-87204, 87304; 2 Cal. Code of Regs. § 18722.

⁸ The state law ethics training standard for local officials is that the first training must occur within one year of joining local agency service and every two years thereafter. See Cal. Gov't Code § 53235.1.

⁹ Ideas for authentic public engagement techniques are available at www.ca-ilg.org/cgj.

¹⁰ See Cal. Health & Safety Code § 130140(a)(1)(E).



commission will develop and maintain an up-to-date database of potential partners (either for programs or help with getting the message out), that includes community leaders, service and advocacy organizations, community/neighborhood and ethnic media, local community foundations and other philanthropic organizations, and area clergy.

- ❑ Process for Funding Decisions. As a general practice, the commission will use a merit-based, competitive process for grant and contract awards. When the commission determines that a competitive process does not best serve interests of the populations served by First 5 programs, it will document that determination with specific findings as to why the commission reached that determination.
- ❑ Special Procedures for Funding County Programs. County members of the First 5 Commission will not participate in the decision on funding county programs.
- ❑ Anti-Nepotism Policies. If a decision-maker's family member (including parent, grandparent, child, sibling, relation by marriage or civil union, aunt, uncle or cousin) works for an organization being considered for funding, that decision-maker is prohibited from participating in or influencing the decision on whether that organization receives funding. "Influencing" includes not only voting on a matter, but discussing it with staff or other decision-makers.

At Each Meeting (When Making Any Decisions about any Funding)

- ❑ Alerting Decision-Makers to Potential Conflict Issues. The commission will have at each meeting a written "conflict of interest advisory" on every commission agenda explaining: 1) the circumstances under which decision-makers need to step aside from the decision-making process,¹¹ and 2) which organizations are being considered for funding in that meeting (to minimize the likelihood a decision-maker will be unaware of an organization's involvement in an agenda item).¹²
- ❑ Disqualification Item on Each Agenda. The commission chair will ask commissioners about potential conflicts before each vote on a funding item to enable those decision-makers who will not be participating on an agenda item to announce that fact and why.¹³ Decision-makers must include as part of the announcement that a) the decision-maker will not be voting or participating in a discussion on that item, and b) the decision-maker has not discussed that item with other decision-makers.¹⁴

¹¹ These circumstances should include both state law requirements for disqualification (including receipt of campaign contributions under Government Code section 84308) and locally adopted policies.

¹² Note that the obligation to step aside from the decision-making process extends to all aspects of influencing the decision, including talking to staff and colleagues.

¹³ See Cal. Gov't Code § 87105.

¹⁴ See 2 Cal. Code of Regs. § 18702.5 (regulatory requirements relating to what a disqualified official must say when recusing him or herself upon which this best practice expands).



- Leave the Room Requirement. Anyone who is disqualified from participating in a decision because of a conflict of interest must leave the room when that agenda item is called.¹⁵

Adopted on June 2, 2006;
Revised on July 26, 2010;
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Erica D'Anis

Erica D'Anis
Commission Chair

¹⁵ See Cal. Gov't Code § 87105(a)(3) (statutory requirement that applies to elected officials and top level managers on which this best practice expands).