



San Diego County
Local Agency Formation Commission
 Regional Service Planning | Subdivision of the State of California

6h

AGENDA REPORT
 Consent | Action

October 7, 2024

TO: Commissioners

FROM: Keene Simonds, Executive Officer
 Erica Sellen, Commission Clerk

SUBJECT: Proposed Update to Conflict of Interest Code

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider amendments to its adopted Conflict of Interest Code as part of a biennial review. The proposed amendments are considered minor and involve adding two positions – Commission Clerk and Communications Associate – to the list of LAFCO employees required to file annual statements of economic interest. The proposed amendments are being presented for Commission approval and for subsequent filing with the County of San Diego Board of Supervisors as the code-reviewing body for LAFCO.

BACKGROUND

Political Reform Act

California Government Code Section 87300 codifies the Political Reform Act of 1974 and requires State and local government agencies to adopt their own conflict of interest codes and perform biennial reviews to consider amendments as needed. The conflict of interest code prescribes filing requirements for public officials with respect to reporting outside incomes, gifts, and other financial interests. The underlying purpose is to prevent biases – actual and apparent – tied to the financial interests of decision-makers.

<p>Administration Keene Simonds, Executive Officer 2550 Fifth Avenue, Suite 725 San Diego, California 92103 T 619.321.3380 E lafco@sdcounty.ca.gov www.sdlafco.org</p>	<p>Joel Anderson County of San Diego</p> <p>Jim Desmond County of San Diego</p> <p>Nora Vargas, Alt. County of San Diego</p>	<p>Kristi Becker City of Solana Beach</p> <p>Dane White City of Escondido</p> <p>John McCann Alt. City of Chula Vista</p>	<p>Chair Stephen Whitburn City of San Diego</p> <p>Marni von Wilpert, Alt. City of San Diego</p>	<p>Vice Chair Barry Willis Alpine Fire Protection</p> <p>Jo MacKenzie Vista Irrigation</p> <p>David Drake, Alt. Rincon del Diablo</p>	<p>Harry Mathis General Public</p> <p>Brigette Browning, Alt. General Public</p>
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San Diego LAFCO | Adopted Conflict of Interest Code

San Diego LAFCO adopted its Conflict of Interest Code in 1992 with subsequent amendments approved in 1995, 2008, and 2020. The latter set of amendments streamlined the Code and marked by explicitly syncing LAFCO disclosure categories to Form 700 categories.

A copy of the current Code is attached.

DISCUSSION

This item is for San Diego LAFCO to consider amendments to its adopted Conflict of Interest Code as part of the Commission's biennial review. The amendments are limited to addition two positions – Commission Clerk and Communications Associate – to the list of responsible parties needing to file Form 700s. Should the Commission approve the amendments, they would be forwarded to the County of San Diego Board of Supervisors for their approval as the code-reviewing body for LAFCO under statute. The deadline to file proposed amendments with the County is October 18, 2024.

ANALYSIS

The recommended amendments before San Diego LAFCO are minor and add two new positions – Commission Clerk and Communications Associate – to the list of employees subject to the regular (assuming office, leaving office, and annual) Form 700 filings. It is relatedly proposed both positions be subject to the same level of Form 700 filing as the Analyst series to include Categories 4 (gifts) and 5 (travel) only.

RECOMMENDATION

It is recommended San Diego LAFCO approve the proposed amendments to the Conflict of Interest Code based on the preceding analysis. This recommendation is consistent with Alternative One outlined in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO.

Alternative One (recommended):

- (a) Approve the proposed amendments to the Conflict of Interest Code as presented in Attachment One with any specified changes.
- (b) Direct the Commission Clerk to file the amended Conflict of Interest Code with the County Board Clerk for consideration by the County of San Diego Board of Supervisors by the October 18, 2024 deadline.

Alternative Two:

Continue consideration to a future meeting and provide direction to staff concerning additional information or related tasks.

PROCEDURES

This item has been placed on the San Diego LAFCO's agenda as part of the consent calendar. A successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

On behalf of the Executive Officer,



Erica Sellen
Commission Clerk

Attachments:

- 1) Existing Conflict of Interest Code
- 2) Review Notice by County of San Diego

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**SAN DIEGO COUNTY
LOCAL AGENCY FORMATION COMMISSION**

**ARTICLE VII
CONFLICT OF INTEREST CODE**

On September 14, 1992, pursuant to the provisions of Government Code Section 87306, the San Diego Local Agency Formation Commission (LAFCO) amended its Conflict of Interest Code adopted September 12, 1977 by substituting and incorporating by reference the terms of Fair Political Practices Commission Regulation No. 18730. Said amended Code was approved by the Board of Supervisors, as LAFCO's Code Reviewing Body, on January 5, 1993.

Copies of the Commission's amended Conflict of Interest Code and FPPC Regulation 18730 are attached hereto for reference, and identified as, respectively, Attachment 1 and Attachment 2.

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**CONFLICT OF INTEREST CODE
SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION**

The Political Reform Act, Government Code Section 81000 et seq., requires state and local government agencies to adopt and promulgate conflict of interests codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference, and, along with the attached Appendix in which members and employees are designated and disclosure categories are set forth, constitute the conflict of interest code of the San Diego County Local Agency Formation Commission.

All officials and designated employees shall file statements of economic interests – also known as Form 700 – with the Commission Clerk. Should statements be received in signed paper format the Commission Clerk shall make and retain copies and forward the originals to the Clerk of the Board of Supervisors for the County of San Diego as the LAFCO filing officer. Should statements be filed using the County of San Diego's Form 700 e-filing system both the Commission Clerk and the Clerk of the Board of Supervisors will receive access to the e-filed statements simultaneously. The Commission Clerk will

make all retained statements available for public inspection and reproduction during regular business hours.

Exhibit A:

Designated Positions

Exhibit B:

Disclosure Categories

Adopted September 14, 1992

Administratively Revised and Corrected September 22, 1994

Updated July 31, 1995

Administratively Revised and Corrected March 27, 2000

Comprehensively Updated and re-adopted March 3, 2008

Administratively Revised and Corrected June 15, 2010

Amended: August 3, 2020

EXHIBIT A

DESIGNATED POSITIONS

<u>Designated Positions</u>	<u>*Reportable Economic Interest Category Number</u>
A. Officials	
Regular Members of the Commission	1, 2, 3, 4, and 5
Alternate Members of the Commission	1, 2, 3, 4 and 5
B. Management and Other Employees	
Executive Officer	1, 2, 3, 4, and 5
Assistant Executive Officer	, 3, 4, and 5
Chief, Policy Research	3, 4, and 5
Chief, Governmental Services	3, 4, and 5
Local Governmental Analyst III	4 and 5
Local Governmental Analyst II	4 and 5
Local Governmental Analyst I	4 and 5
GIS/IT Analyst	4 and 5
C. General Counsel	
Commission Counsel	1, 2, 3, 4, and 5
Deputy Commission Counsel	1, 2, 3, 4, and 5
D. Consultants	
<p>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 limitations:</p> <p>The 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 fully comply with the disclosure requirements described in this section. Such written 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 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.</p>	

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EXHIBIT B

DISCLOSURE CATEGORIES

Category 1

Designated officials or employees assigned to this category must report:

All investments involving stocks, bonds, and other interest where ownership is less than 10 percent. (Schedule A-1 in Form 700)

All investments, income, and assets of businesses entities and/or trusts where ownership is 10 percent or greater. (Schedule A-2 in Form 700)

Category 2

Designated officials or employees assigned to this category must report:

All interests in real estate – including rental properties – located within San Diego County and any other areas in which the Commission is exercising any of its regulatory or planning duties and powers. (Schedule B in Form 700)

Category 3

Designated officials or employees assigned to this category must report:

All income and associated businesses and business positions that include spouses or domestic partners as well as any personnel loans. (Schedule C in Form 700)

Category 4

Designated officials or employees assigned to this category must report:

All gifts received directly or through intermediaries with a fair market value of \$50 or more. (Schedule D in Form 700).

Category 5

Designated officials or employees assigned to this category must report:

All travel and associated lodging and meals provided free of charge or reimbursed. (Schedule E in Form 700)

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**CLERK OF THE BOARD OF SUPERVISORS
DISCLOSURE SERVICES UNIT**

ANDREW POTTER, CCB
EXECUTIVE OFFICER/CLERK 1600 PACIFIC HIGHWAY, ROOM 402, SAN DIEGO, CALIFORNIA 92101-2422
(619) 531-5600

RYAN SHARP
ASSISTANT CLERK

ANN MOORE
ASSISTANT CLERK

June 26, 2024

TO: Agency Officials

FROM: Andrew Potter
Clerk of the Board of Supervisors

CONFLICT OF INTEREST CODE: AGENCY BIENNIAL REVIEW

Every two years, local government agencies must review their Conflict of Interest Code to see if it needs changes (Government Code Section 87306.5). After this review, they must inform the code reviewing body.

The San Diego County Board of Supervisors, as your agency's code reviewing body, is reminding you of these requirements.

To comply with these requirements, please do the following:

1. Review your Department's COI Code Appendix to ensure the positions and disclosure categories are accurate. The appendices are available online at: www.sandiegocounty.gov/cob/conflict_interest/.
2. Determine if amendments are needed. If no amendments are necessary, go to Item 3. If amendments are necessary, go to Item 4.
3. **If no amendments are necessary**, complete the Biennial Reply Form (enclosed with this letter) indicating that no amendment is required and return it to the Clerk of the Board by **October 1, 2024**. No further action will be required beyond returning the form.
4. **If amendments are necessary**:
 - Complete the Biennial Reply Form indicating that an amendment is required and return it to the Clerk of the Board by **October 1, 2024**.
 - Amend your Conflict of Interest Code and submit to the Clerk of the Board by **October 18, 2024**.
 - You can use the Sample Conflict of Interest Code and additional resources provided by County Counsel available at: www.sandiegocounty.gov/cob/conflict_interest/.

June 26, 2024

Conflict of Interest Code: Agency Biennial Review

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The Clerk of the Board will submit the proposed amendments to the Board of Supervisors for approval. The amended Conflict of Interest Code is not effective until approved by the Board of Supervisors. The Clerk of the Board will notify you of the Board's action.

Please complete and submit the enclosed Biennial Reply Form, signed by a designated officer of your agency, by e-mail no later than October 1, 2024 to:

Form700@sdcountry.ca.gov
Subject: COI Biennial Review

Fair Political Practices Commission

The FPPC has online resources to assist you, including articles like "Local Government Agencies – Adopting & Amending Conflict of Interest Codes," available at: www.fppc.ca.gov/learn/rules-on-conflict-of-interest-codes.html.

Non-Compliance

Agencies that fail to respond by the deadline may be referred to the FPPC's enforcement division for investigation and possible prosecution.

Thank you for your prompt attention to this matter. If you need more information, please contact Senior Board Assistant Jocelyn Porter at (619) 685-2593 or jocelyn.porter@sdcountry.ca.gov.

Respectfully,


ANDREW POTTER

Clerk of the Board of Supervisors

AP:GM:ac

Attachments

cc: Ebony N. Shelton, Chief Administrative Officer
Claudia G. Silva, County Counsel
Board of Supervisors Communications Received (CR)