



The Board of Governors of the California Community Colleges

PRESENTED TO THE BOARD OF GOVERNORS

DATE: July 8-9, 2013

SUBJECT: Biennial Conflict of Interest Code Amendment		Item Number: 1.3	
		Attachment: Yes	
CATEGORY:	Legal	TYPE OF BOARD CONSIDERATION:	
Recommended By:	 Steven Bruckman, Executive Vice Chancellor	Consent/Routine	X
		First Reading	
Approved for Consideration:	 Brice W. Harris, Chancellor	Action	
		Information	

ISSUE: This item presents revisions to the regulations of the Conflict of Interest Code of the Board of Governors of the California Community Colleges.

RECOMMENDED ACTION: Because the changes to the code are technical and nonsubstantive, notice to the public was not required and the board may act on the proposal at this meeting. However, the Fair Political Practices Commission (FPPC), as the code reviewing agency, must also approve the Conflict of Interest Code and may deem it necessary to request changes. Therefore, the board is being asked to endorse the regulation and delegate authority to the chancellor to adopt it after incorporating nonsubstantive, technical changes requested by the FPPC.

It is recommended that the Board of Governors adopts the following resolution:

Be it resolved that the Board of Governors of the California Community Colleges, acting under the authority of sections 70901(d) and 70901.5 of the Education Code, delegates authority to the chancellor of the California Community Colleges to finally adopt, on behalf of the Board of Governors, the Conflict of Interest Code regulation that has been reviewed and endorsed by the board, and that is set forth in attachment 1.

The chancellor shall have the authority to incorporate changes requested by the FPPC regarding these regulations that consist of nonsubstantive, technical changes. The chancellor shall adopt the regulation as endorsed by the board in this resolution only if, in the chancellor's opinion, no substantive changes are proposed by the FPPC. If the FPPC or the chancellor believes that

substantive changes are necessary, the item will again be presented to the Board of Governors for further consideration and a public hearing will be held.

Pursuant to section 208 of the Board of Governors' Procedures and Standing Orders, these regulations shall become effective 30 days after filing with the Secretary of State, after approval by the FPPC and adoption by the Chancellor.

BACKGROUND: The Political Reform Act of 1974, as amended (Government Code, section 81000 et seq.), requires each state agency to adopt and promulgate a conflict of interest code. The Conflict of Interest Code of the Board of Governors of the California Community Colleges is set forth in California Code of Regulations, title 5, section 50500. This section incorporates, by reference, the standard conflict of interest code developed by the FPPC and set forth in California Code of Regulations, title 2, section 18730. An appendix to the code also identifies designated employees who are required to make disclosures of possible conflicts of interests and the applicable disclosure categories.

Senate Bill 1738 (Stats. 1990, chapter 84) amended section 87306 of the Government Code to require each state agency to review its conflict of interest code biennially and to submit a report to the Fair Political Practices Commission. The biennial report specifies whether the code must be amended or, in the alternative, that it accurately reflects the current organization of the agency and the job duties of the various positions listed in the code, and that it lists all positions within the agency that should be designated under the applicable laws. If changes have been identified, an amended code must be submitted within 90 days from the date the biennial report is filed with the FPPC.

A Biennial Report was filed with the FPPC in March 2013, informing them that only nonsubstantive, technical changes are needed to this agency's code, for which notice is not required. As the FPPC is this agency's "code reviewing body," the revised conflict of interest code for the agency must be filed for review and approval with the FPPC in July 2013. If any comments are received from the FPPC, the chancellor will determine if other nonsubstantive, technical changes should be made.

ANALYSIS: Government Code section 87306 provides that state agencies must amend their conflict of interest codes to reflect changes made pursuant to the biennial review, including but not limited to the following:

- The creation or new designation of positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest (including consultants) and relevant changes to the duties assigned to existing positions;
- The reclassification, renaming, or deletion of previously-designated positions;
- The addition, deletion, or modification of definitional or operational provisions of a code; or

- Changes necessary to be made to the disclosure categories of the code to update the types of investments, business positions, interests in real property, and sources of income that are reportable.

The agency is also required to make nonsubstantive changes to the code. The regulations of the Fair Political Practices Commission, California Code of Regulations, title 2, section 18752, define nonsubstantive changes to a Conflict of Interest Code as those which involve:

- The reclassification or renaming of previously designated positions, provided no designated positions are created and provided no existing disclosure responsibilities are modified;
- The deletion of a position for which the classification has been abolished by the agency;
- The addition, deletion or modification of definitional or operational provisions of a conflict of interest code in conformity to a statutory amendment, a regulation of the Fair Political Practices Commission, a decision of the California Supreme Court, or a final decision of a California Court of Appeal; or
- The modification of any provision of a conflict of interest code provided no disclosure or disqualification obligation of any designated employee is disturbed thereby.

The Conflict of Interest Code of the Board of Governors of the California Community Colleges was last amended in 2011. Since that time two positions designated in the code have been added to the executive office. This change involves adding a position type already covered in our 2009 code and its current disclosure categories. This position has been added due to reorganization. For this position, the disclosure requirements in the appendix to the code have not been modified. The specific change to be made and the reason therefore are as follows:

DIVISION and CHANGE	REASON FOR CHANGE
Division: Executive	
Change -- Add currently-existing position:	Reorganization
Specialist/Academic Planning and Development Specialist/Labor Relations Analyst/Labor Relations	

The text of the revised conflict of interest code is set forth in the proposed regulation that follows.