

McKINLEYVILLE



COMMUNITY SERVICES DISTRICT



MCKINLEYVILLE COMMUNITY SERVICES DISTRICT CONFLICT OF INTEREST CODE

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Section 1. INTRODUCTION

In compliance with the Political Reform Act of 1974, California Government Code Section 81000, et seq., and specifically with Section 87300, et seq., the McKinleyville Community Services District hereby adopts this Conflict of Interest Code, which shall be applicable to all designated employees of the agency. The requirements of this Code are in addition to other requirements of the Act such as the general prohibition against conflicts of interest contained in Government Code Section 87100, and to any other state or local laws pertaining to conflicts of interest.

Section 2. DEFINITION OF TERMS

The definitions contained in the Political Reform Act of 1974, the regulations of the Fair Political Practices Commission (2 Cal. Adm. Code Sections 18100 et seq.) and any amendments of the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

Section 3. DESIGNATED EMPLOYEES

The persons holding positions listed in Section 16 are designated employees. It has been determined that these officers and employees make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

Section 4. DISCLOSURE CATEGORIES

A designated employee shall report income and investments within the disclosure categories set forth in Appendix C and as further defined in Section 17. It has been determined that the financial interests set forth in the disclosure categories are the types of financial interest which he or she foreseeably can effect materially through the conduct of his or her office. Each designated employee shall file statements of economic interests disclosing his or her financial interests as required by the applicable disclosure category.

Section 5. PLACE OF FILING

All designated employees required to submit a statement of economic interests shall file the original with the Board Secretary who shall be the filing officer for all designated employees including the members of the Board of Directors.

Members of local government agencies, boards, or commissions who manage public investments on behalf of their agency shall file one original with the filing officer of the local agency, board, or commission who shall make and retain a copy and forward the original to the Fair Political Practices Commission which shall be the filing officer. At its discretion, the Fair Political Practices Commission may provide that the original be filed directly with the local government agency, board or commission.

Section 6. TIME OF FILING

- (a) Initial Statements. All designated employees employed by the agency on the effective date of this Code shall file initial statements within thirty days after the effective date of this Code.
- (b) Assuming Office Statements. All persons appointed, promoted or transferred to designated positions after the effective date of the Code, shall file initial statements within thirty (30) days after assuming office.
- (c) Annual Statements. Effective in 1981, all designated employees shall file annual statements no later than April 1 of each year.
- (d) Leaving Office Statements. All persons who leave designated positions shall file leaving office statements within thirty days after leaving office.
- (e) Candidate Statements. All candidates for election to office shall file statements within 5 days after the final date for filing nomination petitions. This subsection shall not apply to candidates who have filed a disclosure statement with the agency within sixty (60) days of filing a nomination petition for candidacy. All candidates who have filed nomination papers prior to the effective date of this Code shall file candidate statements within 30 days after the effective date of this Code.

Section 7. CONTENTS OF STATEMENTS

- (a) Contents of Initial Statements. Initial statements shall disclose any reportable investments and interests in real property held on the effective date of the Code.
- (b) Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the preceding twelve (12) months.
- (c) Contents of Annual Statements. Annual Statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the Code or the date of assuming office, whichever is later.
- (d) Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.
- (e) Contents of Candidate Statements. Candidate statements shall disclose any reportable investments and interests in real property held during the preceding twelve (12) months.

Section 8. MANNER OF REPORTING

Disclosure statements shall be made on forms supplied by the McKinleyville Community Services District, and shall contain the following information:

(a) Contents of Investments and Real Property Reports - When an investment or interest in real property is required to be reported, the statement shall contain the following:¹

- (1) A statement of the nature of the investment or interest;
- (2) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
- (3) The address or other precise location of the real property;
- (4) A statement whether the fair market value of the investment or interest in real property exceeds two thousand dollars (\$2,000) but does not exceed ten thousand dollars (\$10,000), whether it exceeds ten thousand dollars (\$10,000) but does not exceed one hundred thousand dollars (\$100,000), whether it exceeds one hundred thousand dollars (\$100,000) but does not exceed one million dollars (\$1,000,000), or whether it exceeds one million dollars (\$1,000,000).

(b) Contents of Personal Income Reports. When personal income is required to be reported the statement shall contain:

- (1) The name and address of each source of income aggregating five hundred dollars (\$500) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.
- (2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000);
- (3) A description of the consideration, if any, for which the income was received;
- (4) In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made, a description of the gift, the amount or value of the gift, and the date on which the gift was received.
- (5) In the case of a loan, the annual interest rate and security, if any, given for the loan and the term of the loan.

(c) Contents of Business Entity Income Reports. When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:

- (1) The name, address, and a general description of the business activity of the business entity;

¹ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(3) When a payment, including an advance or reimbursement, for travel is required to be reported pursuant to this section, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interest. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income.

(d) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(e) Acquisition or Disposal during Reporting Period. In the case of an annual or Leaving Office Statement, if an investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

Section 9. PROHIBITION ON RECEIPT OF HONORARIA

(a) No designated employee shall accept any honorarium from any source, if the employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(b) Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section. This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

Section 10. PROHIBITION ON RECEIPT OF GIFTS IN EXCESS OF \$460

(a) No designated employee shall accept gifts with a total value of more than \$460 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(b) Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

Section 11. LOANS TO PUBLIC OFFICIALS

(a) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a

personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

- (b) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.
- (c) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.
- (d) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.
- (e) This section shall not apply to the following:
 - (1) Loans made to the campaign committee of an elected officer or candidate for elective office.
 - (2) Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
 - (3) Loans from a person which, in the aggregate, do not exceed \$500 at any given time.
 - (4) Loans made, or offered in writing, before January 1, 1998.

Section 12. LOAN TERMS FOR TO PUBLIC OFFICIALS

- (a) Except as set forth in subdivision (b), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.
- (b) This section shall not apply to the following types of loans:
- (1) Loans made to the campaign committee of the elected officer.
 - (2) Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.
 - (3) Loans made, or offered in writing, before January 1, 1998.
- (c) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

Section 13. PERSONAL LOANS TO DESIGNATED EMPLOYEES

- (a) Except as set forth in subdivision (b), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:
- (1) If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
 - (2) If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
 - A. The date the loan was made.
 - B. The date the last payment of \$100 or more was made on the loan.
 - C. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months
- (b) This section shall not apply to the following types of loans:
- (1) A loan made to the campaign committee of an elected officer or a candidate for elective office.
 - (2) A loan that would otherwise not be a gift as defined in this title.
 - (3) A loan that would otherwise be a gift as set forth under subdivision (a), but on which the creditor has taken reasonable action to collect the balance due.
 - (4) A loan that would otherwise be a gift as set forth under subdivision (a), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving

that the decision for not taking collection action was based on reasonable business considerations.

(5) A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(c) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

Section 14. DISQUALIFICATION

Designated employees must disqualify themselves from making, participating in the making or using their official positions to influence the making of any governmental decision which he or she has reasons to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the employee or immediate family member of the employee or on:

- (a) Any business entity in which the designated employee has a direct or indirect investment worth more than two thousand dollars (\$2,000);
- (b) Any real property in which the designated employee has a direct or indirect interest worth more than two thousand dollars (\$2,000)
- (c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred (\$500) dollars or more in value provided to, received by or promised to the designated employee within twelve months prior to the time when the decision is made; or
- (d) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.
- (e) Any donor of, or intermediary or agent for a donor of, a gift or gifts aggregating \$460 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

No designated employee shall be prevented from making or participating in the making of any decisions to the extent his or her participation is legally required for the decision to be made. The fact that a director's vote is needed to break a tie does not make his or her participation legally required for purposes of this section.

Section 15. MANNER OF DISQUALIFICATION

A designated employee, other than a member of the Board of Directors, required to disqualify himself or herself shall do so in writing to the general manager, who shall record the employee's disqualification. Upon receipt of such statement, the supervisor shall reassign the matter to another employee.

In the case of a designated employee who is a member of the Board of Directors, notice of disqualification shall be given at the meeting during which consideration of the decision takes place and shall be made part of the official record of the board or commission.

Section 16. WHO MUST FILE

Those persons required to file the statements under this Code are those persons holding the designated positions listed in Appendix B hereto.

Section 17. DISCLOSURE REQUIREMENTS

Those persons listed in Section 16 must disclose investments in business entities and sources of income from business entities or persons who manufacture, distribute, sell or supply the following goods or services: Motor vehicles and specialty vehicles and parts therefore; construction and building materials; office equipment and supplies; petroleum products; electrical or electrical generating equipment and supplies; irrigation equipment and supplies—pipes, valves, fittings, tanks, pumps, meters, etc.; agricultural equipment and supplies; well drilling equipment and supplies; safety equipment, facilities, and instructional material; real property; farming; real estate firms and appraisals; engineering services; printing or reproduction services; publications, and distribution; educational and medical services and materials; preparation of actions leading to taking in eminent domain; soil test, compaction and other agreements on grading requirements; banks and lending institutions; EPA agreements and research; insurance companies; public utilities; and audit agreements and contracts.

Section 18. CHALLENGES TO DISCLOSURE SUFFICIENCY

No person shall commence any suit, challenging the sufficiency of any designated employees disclosure statement without first furnishing the District and the employee whose statement is challenged a written notice stating as follows:

- (a) The specific item or items alleged to be insufficiently described in the employees disclosure statement on file;
- (b) That unless the statement on file is amended so as to provide the information requested in sub-paragraph (a) hereof within the time limit specified herein, suit will be commenced to compel compliance with the disclosure law.

The designated employee whose disclosure statement is questioned as described herein shall have 20 days from the date notice is furnished, as set forth above, to amend the disclosure statement so as to comply with the requirements of this Code. No action shall be commenced until the expiration of said 20-day period.

All notices, including the notice to the designated employee, shall be delivered or mailed to the District office in McKinleyville, California:

1656 Sutter Road
P. O. Box 2037
McKinleyville, CA 95519

Section 19. ASSISTANCE OF THE COMMISSION AND COUNSEL

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and

Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

Section 20. VIOLATIONS

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

APPENDICES

APPENDIX A

CONFLICT OF INTEREST CODE FOR THE MCKINLEYVILLE COMMUNITY SERVICES DISTRICT

The Political Reform Act, Government Code Section 81000, et seq. requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation Title 2, Division 6, California Code of Regulations, 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 amendments to the Political Reform Act. Therefore, the terms of Title 2, Division 6, California Code of Regulations, 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 B in which the Board members and employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the McKinleyville Community Services District.

Designated employees listed in Appendix B, shall file statements of economic interest with the agency that will make the statements available for public inspection and reproduction (Government Code Section 81008). Upon receipt of statements of the designated employees, the agency shall make and retain a copy and forward the original of these statements to the Humboldt County Elections Division, County Clerk's Office. Statements of all other designated employees will be retained by the agency.

APPENDIX B

DESIGNATED POSITIONS

DISCLOSURE CATEGORIES

Board of Directors Members	All
General Manager	All
Recreations Director	All
Finance Director	All
Operations Dept. Director	All
Legal Counsel	All
Engineer (contract)*	All
Consultant*	All
Recreation Advisory Committee Members	All
Standing Committee Members	All

* The Board may determine in writing that a particular consultant is hired to perform a range of duties that is limited in scope and thus is not required to comply with the disclosure requirements described in these categories. Where such a determination is adopted it shall be forwarded to the Humboldt County Board of Supervisors. Nothing herein excuses any such consultant from any other provision of the Conflict of Interest Code.

APPENDIX C

General Provisions

When a designated employee is required to disclose investments, sources of income and business positions, he/she need only disclose investments and positions in business entities and sources of income (other than gifts) which do business in the jurisdiction, plan to do business in the jurisdiction or have done business in the jurisdiction within the past two years. In addition to other activities, a business entity is doing business within the jurisdiction if it owns real property within the jurisdiction. Gifts must be disclosed without regard to location of the donor. When a designated employee is required to disclose interests in real property, he/she need only disclose real property that is located in whole or in part within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the McKinleyville Community Services District.

Designated employees shall disclose their financial interests pursuant to the appropriate disclosure categories indicated below.

Disclosure Categories

Category 1: Investments and sources of income (including loans and gifts)

Category 2: All interests in real property

Category 3: All Business positions