

**EXECUTIVE OFFICER'S AGENDA REPORT
DECEMBER 5, 2018**

TO: LAFCO Commissioners

FROM: Sara Lytle-Pinhey, Executive Officer *SLP*

SUBJECT: ADOPTION OF AN UPDATED CONFLICT OF INTEREST CODE

RECOMMENDATION

Staff recommends that the Commission approve the updated Conflict of Interest Code ("Code") for Stanislaus LAFCO and adopt Resolution 2018-11, attached. The updated Code will replace the Commission's existing Conflict of Interest Code, which has not been significantly modified since 1992. The updated Code also uses the standard template recommended by the Fair Political Practices Commission ("FPPC").

DISCUSSION

The Political Reform Act of 1974, Government Code Section 81000 et seq. ("Act"), requires all public agencies to adopt and maintain a Conflict of Interest Code establishing the rules for disclosure of personal assets and the disqualification from making or participating in any decisions that may affect any personal assets. The Code must also list each official, employee and consultant that could possibly make or participate in any decisions which may have an effect on any financial interest of the official, employee, and consultant and list the specific types of personal assets to be disclosed by each designated position.

The Act further requires that on or before July 1 of each even-numbered year, a code-reviewing body must direct all subject agencies to conduct a review of their Codes to determine if an update is necessary, with any such update submitted to the code-reviewing body for approval in accordance with Section 87303. The Stanislaus Board of Supervisors is the code-reviewing body for Stanislaus LAFCO and will review the updated Code following adoption by the Commission.

Summary of Proposed Update

The updated Conflict of Interest Code has been streamlined to incorporate the FPPC regulations by reference instead of quoting them individually. This will reduce the need for future updates and simplify the Code for the Commission's use. The formatting of the Code has also been updated so that future disclosure categories can be incorporated as needed. New additions to the Code include:

- Clarification that Commissioners who also file statements of economic interest in their positions with a city or county may also submit copies of such filings to comply with LAFCO's Conflict of Interest Code requirements.
- Reference to the ability to file statements electronically using the County's e-filing system.

Attachments:

1. Draft LAFCO Resolution No. 2018-11
 - Updated Conflict of Interest Code for Stanislaus LAFCO
2. Copy of the Current Stanislaus LAFCO Conflict of Interest Code (Amended in 2012)

**STANISLAUS COUNTY LOCAL AGENCY
FORMATION COMMISSION**

RESOLUTION

DATE: December 5, 2018

NO. 2018-11

SUBJECT: Adoption of Updated Conflict of Interest Code

On the motion of Commissioner _____, seconded by Commissioner _____, and approved by the following:

Ayes: Commissioners:
Noes: Commissioners:
Absent: Commissioners:
Ineligible: Commissioners:

THE FOLLOWING RESOLUTION WAS ADOPTED:

WHEREAS, the Political Reform Act of 1974, Government Code Section 81000 et seq., requires the Stanislaus Local Agency Formation Commission to adopt and maintain a Conflict of Interest Code;

WHEREAS, the Fair Political Practices Commission (“FPPC”) has adopted a regulation containing a standard conflict of interest code which may be incorporated by reference into the code of a local agency;

WHEREAS, LAFCO is required to review and amend its Conflict of Interest Code biennially to determine if amendments are needed;

WHEREAS, pursuant to the Political Reform Act, the Stanislaus County Board of Supervisors is the Conflict of Interest Code reviewing body for County agencies and any other local governmental agencies whose jurisdiction is solely within the County; and

WHEREAS, the Stanislaus Local Agency Commission (LAFCO) has conducted a duly noticed public hearing on December 5, 2018, to consider the updated Conflict of Interest Code.

NOW, THEREFORE, BE IT RESOLVED that the Commission:

1. Adopts the updated Conflict of Interest Code, which shall be effective upon confirmation by the Stanislaus County Board of Supervisors as the code reviewing agency.
2. Directs the Executive Officer to immediately forward the updated Conflict of Interest Code and this resolution to the Stanislaus Board of Supervisors for their subsequent review, pursuant to Government Code Section 87303.

ATTEST: _____
Sara Lytle-Pinhey
Executive Officer

**STANISLAUS LOCAL AGENCY FORMATION COMMISSION
CONFLICT OF INTEREST CODE**

PART I

This document constitutes the Conflict of Interest Code of the Local Agency Formation Commission of Stanislaus County (Stanislaus LAFCO). 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 (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency’s code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference in this Conflict of Interest Code, along with the Parts II-IV that describe designated positions; committees and commissions; and disclosure categories.

Pursuant to the standard conflict of interest code, adopted and incorporated by reference herein as the Conflict of Interest Code of Stanislaus LAFCO, designated employees and designated members shall file Statements of Economic Interests with the LAFCO Clerk (Clerk). The Clerk shall retain such statements in the LAFCO files. To the extent the Commissioners listed in Part III file the required statements of economic interest in their capacities as officers of a city or county, such statements shall be obtained and duplicated by the Clerk, retained in LAFCO’s files, and such filing shall thereupon constitute compliance with the requirement for filing as a Commissioner set forth above. If a statement is electronically filed using the County of Stanislaus’ Form 700 e-filing system, the filing official will have access to the e-filed statement immediately.

PART II – Designated Positions

Under the provisions of the Political Reform Act (Government Code Sections 87300, et seq.) designated positions shall file a Statement of Economic Interests. The following is a list of the designated positions of the Stanislaus Local Agency Formation Commission and the appropriate category for filing such statements:

Designated Positions	Disclosure Category
Executive Officer	1
Assistant Executive Officer	1
Legal Counsel	1
Consultants	1 (if applicable)

The LAFCO Executive Officer may determine in writing that a consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply or fully comply with all the disclosure requirements listed in Part IV. 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. This determination is a public record and shall be available for inspection and copying in the same location and manner as LAFCO’s copy of the Conflict of Interest Code.

PART III – Committees and Commissions

Under provisions of the Standard Code, all voting members and persons with contracting power or purchasing power shall file a Statement of Economic Interests. The following is a list of the positions and appropriate disclosure categories for filing such statements:

Designated Positions	Disclosure Category
Regular Commissioners	1
Alternate Commissioners	1

Part IV – Disclosure Categories

An investment, interest in real property, income, or “position of management” is reportable if the business entity in which the investment is held, the interest in real property, the income or source of income, or position of management may foreseeably be affected materially by any decision made or participated in by the person by virtue of their position. Designated positions described in Parts II and III shall disclose their financial interests pursuant to the appropriate disclosure categories.

Category 1

Subject to the definitions set forth in the Political Reform Act and applicable regulations, designated positions in this category shall disclose all sources of income, interests in real property, investments and business positions in business entities located in or doing business in Stanislaus County, including gifts, loans and travel payments. It is not required to disclose property used as the filer’s principal residence except as otherwise required by applicable law. Designated positions in this category shall complete all schedules of Form 700, if applicable.

CONFLICT OF INTEREST CODE
OF THE
STANISLAUS COUNTY LAFCO
Amended in 2012

Section 100. Purpose. Pursuant to the provisions of Government Code Section 87300, et seq., the Stanislaus County LAFCO hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000). The provisions of this Code are additional to Government Code Section 87100 and other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions of said Act and regulations adopted pursuant thereto are incorporated herein and this Code shall be interpreted in a manner consistent therewith.

Section 200. Designated Positions. The positions listed on Exhibit "A" are designated positions. Individuals holding those positions are designated members or employees and are deemed to make, or participate in the making of, decisions which may foreseeably have a material effect on a financial interest.

Section 300. Disclosure Statements. Each designated individual shall file an annual statement disclosing that individual's interest in investments, business positions, real property, and income, designated as reportable under the provisions of this code. An investment, business position, interest in real property, or income is reportable if the business entity in which the investment is held, the business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position. Designated employees must report:

- a) Investments in any business entity which, within the last two years, has contracted or in the future foreseeably may contract with the Stanislaus County LAFCO or with the County of Stanislaus to provide services, supplies, materials, machinery or equipment to Stanislaus County.
- b) Income, other than a gift, from any source which, within the last two years, has contracted, or in the future foreseeably may contract with the Stanislaus County LAFCO or with the County of Stanislaus, to provide services, supplies, materials, or machinery or equipment to Stanislaus County. Gifts valued at \$50 or more must be reported regardless of whether the donor is located in the County or is doing business with Stanislaus County.

- c) Status as a director, officer, sole owner, partner, trustee, employee or holder of a position of management in any business entity which, within the last two years, has contracted or in the future foreseeably may contract with the Stanislaus County LAFCO or with the County of Stanislaus, to provide services, supplies, materials, machinery or equipment to Stanislaus County.
- d) Interest in real property located within the County of Stanislaus. "Interest in real property" does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer.
- e) Investments and income otherwise reportable under paragraphs (a) and (b) shall not be reported unless the total amount of all contracts by the business entity to provide services, supplies, materials, machinery or equipment to the Stanislaus County LAFCO or to the County of Stanislaus was more than \$1,000 in the prior calendar year, or unless the total amount of all foreseeable contracts by the business entity to provide services, supplies, materials, or machinery or equipment to Stanislaus County will be more than \$1,000 in the next calendar year.

Section 400. Place and Time of Filing.

- a) All designated individuals required to submit a statement of financial interests shall file the original with the LAFCO Clerk of the Stanislaus County LAFCO.
- b) The LAFCO Clerk who receives the statement of financial interest shall file the original in the Stanislaus County Local Agency Formation Commission (LAFCO) Office located at: 1010 Tenth Street, Third Floor, Modesto, CA 95354.
- c) A designated individual required to submit a statement of financial interest shall submit an initial statement within 30 days after the effective date of this Code.
- d) Individuals appointed, promoted or transferred to designated positions shall file initial statements within 30 days after date of appointment to the position.
- e) Annual statements shall be filed during the month of March by all designated individuals. Such statements shall cover the period of the preceding calendar year.

- f) Any person whose appointment in a designated position is terminated shall, within 30 days after termination, file a statement covering the period between the closing date of the last prior statement and the date of termination.
- g) A designated individual required to file a statement of financial interest with any other agency, which is within the same territorial jurisdiction, may comply with the provisions of this Code by filing a duplicate copy of the statement filed with the other agency, in lieu of an entirely separate document.

Section 500. Contents of Disclosure Statements. Disclosure statement shall be made on forms prescribed by the Fair Political Practices Commission, and shall contain the following information:

- a) **CONTENTS OF INVESTMENT AND REAL PROPERTY REPORTS.** When an investment, or an interest in real property, is required to be reported, the statement shall contain:
 - 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 ten thousand dollars (\$10,000), and whether it exceeds one hundred thousand dollars (\$100,000).

This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer.

- 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 two hundred and fifty dollars (\$250) 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. Income, other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction,

not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this title. Income from the State, Local or Federal government, alimony and child support, loans from relatives, and loans from a commercial lending institution used for the purchase of the principal residence of the buyer need not be disclosed.

- 2) A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1,000), and whether it was greater than ten thousand dollars (\$10,000);
- 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; and 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 the security, if any, given for 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;
- 2) The name of every person from whom the business entity received payments if the filer's prorata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

d) **CONTENTS OF BUSINESS POSITIONS REPORTED.** When business positions are required to be reported, a designated individual shall list the name of each business entity not specified above in which he or she is a director, officer, sole owner, partner, trustee, employee, or in which he or she holds any position of management. A description of the business activity which the business entity is engaged, and the designated individual's position with the business entity.

- e) INITIAL STATEMENT. The initial statement filed by an individual appointed to a designed position shall disclose any reportable investments and interests in real property.

- f) ACQUISITION OR DISPOSAL DURING REPORTING PERIOD. In the case of a statement filed under Section 400(f), if the investment, or interest in real property, was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

Section 600. Disqualification. No designated individual shall make, participate in making, or use his or her official position to influence the making of any governmental decision which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on the individual or a member of his or her immediate family or on any other financial interest as defined in Government Code Section 87103.

No designated individual shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated individual who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

Section 700. Manner of Disqualification. When a designated individual determines that he or she should not make a governmental decision because he or she has a financial interest in it, the determination not to act must be accompanied by disclosure of the financial interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated individual who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated individuals, this determination and disclosure shall be made in writing to the designated employee's supervisor.

“EXHIBIT A”

Designated Positions

The following Stanislaus County LAFCO positions are designated:

Chairman, all Commissioners;
All Alternate Commissioners;
Executive Officer;
Assistant Executive Officer; and
Counsel

“EXHIBIT B”

Disclosure by Consultants

Consultants shall be included in the list of designated employees and shall disclose pursuant to the provisions of this code subject to the following limitation:

The Stanislaus County LAFCO 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 of this code. 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 Stanislaus County LAFCO’s determination is a public record and shall be retained for public inspection in the same manner and location as the conflict of interest code.