



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

*Item No.: 21-136*

For business meeting on: November 19, 2021

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**Title**

Judicial Council Administration: Judicial  
Council Conflict of Interest Code

**Agenda Item Type**

Action Required

**Effective Date**

December 1, 2021

**Rules, Forms, Standards, or Statutes Affected**

*Amend Conflict of Interest Code for the  
Judicial Council of California*

**Date of Report**

November 2, 2021

**Recommended by**

Judicial Council staff  
Patrick Farrales, Supervising Analyst  
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Human Resources

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### Executive Summary

Judicial Council staff recommends amending *Conflict of Interest Code for the Judicial Council of California* to add Construction Inspector to the list of job classifications requiring disclosure of economic interests. The conflict of interest code does not accurately reflect the current structure of the Judicial Council, and leaving the code in its current form places the council at risk of noncompliance with Government Code section 87306. Under Government Code section 82011(h), the Judicial Council is the body that must review and approve proposed amendments to the agency's conflict of interest code.

### Recommendation

Judicial Council staff recommends that the Judicial Council, effective December 1, 2021, amend *Conflict of Interest Code for the Judicial Council of California* to:

1. Add the job classification of Construction Inspector with a disclosure requirement of category 7; and

2. Change the effective date of the code to December 1, 2021, and make other, minor copyediting corrections.

The text of the proposed amended code is attached at pages 4–10.

### **Relevant Previous Council Action**

At its business meeting on November 30, 2018, the Judicial Council amended the conflict of interest code to consolidate and clarify the disclosure categories for designated employees.<sup>1</sup> The change replaced office names and job titles with leadership areas and job classifications to ensure that classifications required to report their economic interests continue to do so regardless of office or organizational changes.

### **Analysis/Rationale**

The Political Reform Act of 1974 (Gov. Code, § 81000 et seq.) requires public agencies to adopt conflict of interest codes. (Gov. Code, § 87300.) A conflict of interest code is a document that states the rules and procedures by which designated officers and employees of a public agency must disclose certain personal financial interests. The financial interests required to be disclosed are those that foreseeably could be materially affected by decisions that these officers or employees are authorized to make or influence. In 1984, the Legislature amended the Political Reform Act to require agencies and employees of the judicial branch to comply with the act.<sup>2</sup> Every conflict of interest code, including amended codes, must be submitted to and approved by a “code reviewing body.” (Gov. Code, §§ 87303, 87306.)

The Judicial Council is the code reviewing body for “any state agency within the judicial branch of government,” where no other code reviewing body has been specified (Gov. Code, § 82011(h)), which includes the Judicial Council and its staff. The Government Code further states that an agency’s conflict of interest code must be amended “when change is necessitated by changed circumstances.” (Gov. Code, § 87306.)

### **Conflict of interest code for Judicial Council staff**

The current conflict of interest code for staff contains seven disclosure categories. The broadest category, category 1, provides for disclosure of “[a]ll investments, sources of income, interests in real property, and positions in business entities.” Those who fall within this category include certain classification designations with foreseeable decisionmaking authority that could be affected by personal financial interests. Other employees must disclose a narrower range of financial interests that could be affected by their specific job duties.

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<sup>1</sup> Judicial Council of Cal., Staff Rep., *Judicial Council Administration: Judicial Council Conflict of Interest Code* (Nov. 7, 2018), <https://jcc.legistar.com/View.ashx?M=F&ID=6786766&GUID=44B27F3D-4CB6-4E91-9F42-D95F9CD207FE>.

<sup>2</sup> Stats. 1984, ch. 727, amending Gov. Code, §§ 82011, 82019, 82041, 82048, 82049, and 87200, and adding § 87311.5.

The Judicial Council of California has added a job classification that requires an amendment to the conflict of interest code. The proposed amendment would add Construction Inspector to section 3.f. of Appendix B of the code, with a disclosure category of 7. Employees in this category have decisionmaking authority affecting real property and management.

### **Policy implications**

There are no policy implications.

### **Comments**

This proposal circulated for public comment as SP21-06 from September 14 to October 18, 2021. Neither of the two comments were related to the proposal. A summary of the comments and responses thereto are attached at page 11-13.

### **Alternatives considered**

Under Government Code section 87306, periodic reviews of an agency's conflict of interest code are required to ensure that it reflects the current structure of the agency and properly identifies all officials and employees who should file *Statement of Economic Interests* (form 700) from the California Fair Political Practices Commission. The *Conflict of Interest Code for the Judicial Council of California* does not accurately reflect the current structure of the Judicial Council, and leaving the code in its current form places the council at risk of noncompliance. The statutory scheme does not provide for any alternative actions other than those presented in this report.

### **Fiscal and Operational Impacts**

Approving this recommendation will create no financial impact on the Judicial Council. To implement the amended conflict of interest code, the Judicial Council will need to ensure that its employees in the designated classification timely submit *Statement of Economic Interests* (form 700) required under the conflict of interest code and the Political Reform Act. If approved, the amended conflict of interest code will take effect on December 1, 2021, and will be applied accordingly to filers in 2022.

### **Attachments and Links**

1. Attachment A: Proposed amended *Conflict of Interest Code for the Judicial Council of California*, at pages 4–10
2. Chart of comments, at pages 11-13

**CONFLICT OF INTEREST CODE  
FOR THE  
JUDICIAL COUNCIL OF CALIFORNIA  
(Revised effective December 1, ~~2018~~2021)**

The Political Reform Act (Gov. Code, § 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, California Code of Regulations, title 2, section 18730, which contains the terms of a standard conflict of interest code, and can be incorporated by reference into an agency's code. After public notice and hearing, the code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of the code (Cal. Code Regs., tit. 2, § 18730), and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached appendices shall constitute the Conflict of Interest Code for the Judicial Council of California.

Designated employees and contractors shall file statements of economic interests with the Administrative Director as prescribed by the Fair Political Practices Commission.

## Appendix A. Judicial Council Members

Under Article VI, section 6, of the California Constitution, Judicial Council voting membership is limited to justices, judges, legislators, and attorneys. Two nonvoting court administrators and such other nonvoting members are determined by the voting membership of the council. Council members, voting or nonvoting, who are justices, judges, state legislators, court executive officers, and court administrators and clerks are required to file disclosure statements at their primary position because they are subject to comprehensive disclosure requirements arising out of their primary offices, pursuant to Government Code sections 87200 and 87300. When filing their annual statement of economic interests, council members, voting or non-voting, should indicate on the cover sheet of the Conflict of Interest-Form 700 that their statements are being filed for both their primary and their Judicial Council positions.

### Designation of Positions

#### 1. Voting Council Members

##### a. Justices, Judges, Legislators

- i. **Disclosure of Financial Interests:** Council members must disclose all investments, sources of income, interests in real property, and positions in business entities, including those of their spouses, registered domestic partners, and/or dependent children.
- ii. **Manner of Reporting:** When filing their annual statement of economic interests, council members should indicate on the cover sheet of Conflict of Interest-Form 700 that their statements are being filed for both their primary and their Judicial Council positions.

##### b. Attorneys

- i. **Disclosure of Financial Interests:** The disclosure requirements under this code for the designated attorney members are limited to those in Business and Professions Code section 6036, subdivision (d). Under this provision, a member required to disqualify himself or herself because of a conflict of interest shall (1) immediately disclose the interest, (2) withdraw from any participation in the matter, (3) refrain from attempting to influence another member, and (4) refrain from voting. Consistent with section 6036, subdivision (d), it is sufficient that the member indicate only that he or she has a disqualifying financial or personal interest, without disclosing the specific interest.
- ii. **Manner of Reporting:** Attorney members of the Judicial Council of California shall file the Statement of Economic Interests (form FPPC-2). This form requires

members to (1) disclose whether or not they were required to disqualify themselves from making, participating in making, or attempting to influence a decision of the Judicial Council during the reporting period because of a conflict of interest under Business and Professions Code section 6036, and (2) identify each decision requiring disqualification.

## **2. Nonvoting Council Members**

- a. Justices, Judges, Court Executive Officers, Court Administrators, and Clerks, and such other nonvoting members as determined by the voting membership of the council**
  - i. Disclosure of Financial Interests:** Council members must disclose all investments, sources of income, interests in real property, and positions in business entities, including those of their spouses, including registered domestic partners, and/or dependent children.
  - ii. Manner of Reporting:** When filing their annual statement of economic interests, council members should indicate on the cover sheet of Conflict of Interest-Form 700 that their statements are being filed for both their primary and their Judicial Council positions.

## **Appendix B.**

### **Judicial Council Member and Staff List of Designated Classifications and Assigned Disclosure Categories**

#### **1. Judicial Council Members**

- |                                          |    |
|------------------------------------------|----|
| a. Voting and Nonvoting Members          | 1a |
| b. Voting and Nonvoting Attorney Members | 2a |

#### **2. Executive Level**

- |                                                          |      |
|----------------------------------------------------------|------|
| a. Supervisorial and Management-Level Classifications    | 1b   |
| b. All Attorney and Supervising Attorney Classifications | 2b   |
| c. Legislative Advocate                                  | 3, 4 |
| d. Principal Advisor                                     | 3, 4 |

#### **3. All Divisions\***

- |                                                                                         |      |
|-----------------------------------------------------------------------------------------|------|
| a. Supervisorial and Management-Level Classifications                                   | 1b   |
| b. All Attorney and Supervising Attorney Classifications                                | 2b   |
| c. Facilities Management Administrator                                                  | 7    |
| d. Senior Facilities Analyst and Facilities Analyst                                     | 7    |
| e. Senior Project Manager and Project Manager                                           | 7    |
| f. Engineering Specialist, <u>Engineer</u> , and <u>Engineer Construction Inspector</u> | 7    |
| g. All Classifications in Procurement & Contracts                                       | 3, 4 |
| h. All Classifications in Phoenix Purchasing Support Services                           | 3, 4 |
| i. Information Technology Architect                                                     | 5    |
| j. Education Developer and Senior Education Developer                                   | 6    |
| k. Administrative Coordinators in Conference & Registration Services                    | 3, 4 |
| l. Special Consultant                                                                   | 1b   |
| m. Contractor                                                                           | 1b   |

\*Consultants (contractors) shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Administrative Director may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that are 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 consultant must comply with all other provisions of this code. The Administrative Director’s determination is a matter of public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

Per Policy 8.3(B) of the *Judicial Council Personnel Policies and Procedures Manual*, “[i]f an employee determines that he or she must not be involved in a decision on a particular matter because of a financial interest, then the employee must immediately withdraw from participating in the decision, refrain from influencing others, and disclose the financial interest in writing to his or her supervisor.”

## **Appendix C.**

### **Judicial Council Staff Disclosure Categories**

An employee need only disclose a financial interest, or a spouse's financial interest, in a business entity included in an assigned category if the employee's duties involve making recommendations and/or decisions concerning that type of business entity. In this appendix, "positions" includes employee, partner, officer, director, trustee, and any other management position. "Providers" includes business entities and individuals that are manufacturers, distributors, vendors, sellers, lessors, suppliers, contractors, subcontractors, and other providers of the supplies, equipment, real property, and services indicated in the category.

#### **1. Executive authority**

All investments, sources of income, interests in real property, and positions in business entities

- a. Council members who are justices, judges, legislators, court executive officers, court administrators, and clerks are required to file disclosure statements at their primary position because they are subject to comprehensive disclosure requirements arising out of their primary offices, pursuant to Government Code sections 87200 and 87300. When filing their annual statement of economic interests, council members, voting or nonvoting, should indicate on the cover sheet of Conflict of Interest-Form 700 that their statements are being filed for both their primary and their Judicial Council positions.
- b. Designated Judicial Council staff are required to file all investments, sources of income (including gifts, loans, and travel payments), interests in real property, and positions in business entities.

#### **2. Attorneys**

Attorneys are required to (1) disclose whether or not they were required to disqualify themselves from making, participating in making, or attempting to influence a decision of the Judicial Council during the reporting period because of a conflict of interest under Business and Professions Code section 6036<sup>1/2</sup> and (2) identify each decision requiring disqualification.

- a. Attorneys who are Judicial Council members shall file the Statement of Economic Interests for the Judicial Council on form FPPC-2.
- b. Attorneys who are Judicial Council staff shall file the Statement of Economic Interests for the Judicial Council on form FPPC-1.



### **3. Decisionmaking authority affecting the purchasing of office equipment, materials, and supplies**

Investments, sources of income, and business positions in entities that are providers of office equipment, materials, and supplies including, but not limited to, commercial and noncommercial furniture, fixtures, publication materials, printing, graphics, publishing services, audiovisual equipment, and/or any other non-IT electronic devices of the type used by the Judicial Council.

### **4. Decisionmaking authority affecting external consultants and contracts**

Investments, sources of income, and business positions in business entities that are providers of services used by any office in the Judicial Council for the purposes of, ~~including~~, but not limited to, personnel and employment services, editing, publications, data gathering, data management, researching and surveying, policy analysis, real estate management, fleet management, conference and travel services, financial services, external legal counsel, and court security.

### **5. Decisionmaking authority affecting information technology**

Investments, sources of income, and business positions in business entities that are providers of information technology, data management systems, computer software, computer equipment, and hardware of the type used by the Judicial Council.

### **6. Decisionmaking authority affecting judicial education**

Investments, sources of income, and business positions in business entities that are providers of training and educational development services of the type used by the Judicial Council.

### **7. Decisionmaking authority affecting real property and management**

Investments, sources of income, and business positions in business entities that are providers of real estate purchasing, maintenance, construction, and development.

## Appendix D. Reporting Instructions

### 1. Time of filing statements and reporting period

- a. **Annual Statement:** The statement shall disclose the information required in section 3 for the previous 12-month period.
  - i. Each Judicial Council member and each designated Judicial Council employee and contingent worker shall file a statement of economic interest in accordance with the Fair Political Practices Commission's regulations (Cal. Code Regs., tit. 2, § 18723.)
    - Judicial Council ~~M~~members who are not attorneys shall file an annual statement by March 1.

All others, including but not limited to:

      - Judicial Council members who are ~~A~~attorneys, shall file by April 1.
- b. **Statements when assuming office:** Under Government Code sections 87200 and 87300, every Judicial Council member or designated staff incumbent shall file a statement within 30 days after assuming office.
- c. **Statements after leaving offices:** Under Government Code sections 87200 and 87300, each former council member or designated staff incumbent shall file a statement within 30 days after leaving office. The statement shall disclose the information required by section 3 for the period between the closing date of the last statement required to be filed and the date of leaving office.

### 2. Place of filing statements

- a. Judicial Council members and designated staff incumbents shall file the required statements with the Secretary of the Judicial Council (Administrative Director) on the Statement of Economic Interests for Judicial Council Members Conflict of Interest-Form 700, FPPC-1, or FPPC-2.

### 3. Assistance to members

- a. A member may request assistance concerning duties under this code from the Fair Political Practices Commission under section 83114 of the Government Code.

## ATTACHMENT 2

### SP21-06

#### Judicial Council Administration: Amendment to Judicial Council Conflict of Interest Code

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
1.	Shaun Villafana San Jose, CA	AM	<p>In appreciation for the wise decision of the Judicial Administration Proposal SP21-06 and on behalf of KAPUHUNA Publishing I would like to extend my sincere gratitude here along with a modification addition which found bipartisan concurrence among professional peers:</p> <p>For the additional amendment of SP21-06 to include classification for a Press-Pharmaceutical conflict of interest inspector.</p> <p>In consideration for the amount of courage required for the position given the historical track record of murder in the theme of accountability over pharmaceutical industry crime, my Team, along with a research team from our business partner located in India and private investigators in Canada, have come together to co-author and edit a review statement:</p> <p>(**BRIEF) -As with the verified evidence and by these data collected of the US Government Agencies and Medical Board letters, it has become irrefutably clear that a growing need of courage is suffered by the western regulatory agencies which has caused suffering not only in India as well - but globally.</p> <p>By a withered integrity of judicial system and ethical journalism the demoralization of offices</p>	<p>The Conflict of Interest Code requires designated officers and employees of the Judicial Council to disclose financial interests. The Judicial Council does not have a classification for a “Press-Pharmaceutical conflict of interest inspector,” nor does it employ any individuals or contractors with that classification, rendering the need for the proposed amendment moot.</p>

# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

			<p>by a collective of Communist Party-ran nations subverting the value of the offices and regulatory agencies in a manner to where the platform of trust much of our economies relies on in culminated level of importance weighed to the initial discrepant.</p> <p>By the lack of deterrent set in-place to protect the innocent from criminal activities by conspirators in the press and pharmaceutical industrial niche it is clear that there is a shy or meek attitude in government and regulatory agencies.</p> <p>Accountability must be had. Deterrent must be set.</p> <p>In concern of these ideals we have taken it upon ourselves to entrust the public with the power by provision of the knowledge of affected areas to hold all accountable in focused order to the root of these issues and starting from the bottom-up, as sincerity is the foundation of all politics and economics and where there is lack of it -there is crime.</p> <p>In this way by the public masses wishes for safety, especially after it had been entrusted upon all of our systems and made fraud by the spineless, accountability will be had and a deterrent will be set for the well-being of us all and the betterment of mankind, by the better people who do have that backbone to stand.</p> <p>Every member of the public who stands is found much more valuable. But luckily humility builds character and so humility will be the cure.</p>	
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2.	Fernando Shah Stockton, CA	N	<p>In recent view of the State's position on related issues to Border, Municipal Securities... I find that an oversight is not viable to systemic enforcements.</p> <p>There is no definitive action that would do nothing than displace crime, and mayhem.</p> <p>My view is that the socially disadvantage should not carry the burden to change community services for collaboration of local criminal preference.</p> <p>There have always been constituents who loose their safety in the process/.</p>	The Judicial Council of California Conflict of Interest Code has no bearing or jurisdiction over issues of border and municipal securities.
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