



# CITY OF OXNARD

## MEMORANDUM

February 24, 1976

**To:** All Departments

**From:** City Attorney

**SUBJECT:** Conflict of Interest Code - Proposition 9 (Government Code Sections 81000 et seq.)

Section 87100 of the Government Code provides that no public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on

- (a) any business entity in which the public official has a direct or indirect investment worth more than \$1000;
- (b) any real property in which the public official has a direct or indirect interest worth more than \$1000;
- (c) any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating more than \$250 in value received by or promised to the public official within 12 months prior to the time the decision is made; or
- (d) any business entity in which the public official is a director, officer, employee, partner, trustee or holds any position of management.

An indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, by any business entity controlled by the public official, or by a trust in which he has a substantial interest. A business entity is controlled by a public official, if he, his agents, spouse and dependent children hold more than 50% of the ownership interest in the entity. He has a substantial interest

in a trust if he, his spouse, agents or dependent children have a present or future interest worth more than \$1000. (Section 87103).

Each City is required to adopt and promulgate a conflict of interest code pursuant to the provisions of Sections 87300 et seq. of the Government Code. The code shall be formulated at the most decentralized level possible, but without precluding intra-departmental review. (§87301).

Section 87302 requires each conflict of interest code to contain the following provisions:

- (a) Specific enumeration of the positions within the agency which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.
- (b)
  - (1) Requirements that each designated employee file annual statements disclosing reportable investments, interests in real property and income.
  - (2) The specific types of investments, interests in real property and income which are reportable and the manner of reporting shall be set forth for each position or category of positions.
  - (3) An investment, interest in real property or income shall be made reportable if the business entity in which the investment 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 his position.
  - (4) The manner of reporting reportable items shall be substantially equivalent to the requirements for reporting observed by the City Council.
  - (5) The first statement filed by a designated employee shall disclose reportable investments and interests in real property.
  - (6) Statements shall be filed within 30 days after the effective date of the code.
  - (7) New civil service designated employees file within 30 days after assuming office.
  - (8) All other new designated employees shall file statements not less than 10 days before assuming office or 10 days before being confirmed.



- (9) The provisions of the conflict of interest code do not apply to the Mayor, Councilmen or City Manager. (They are subject to other provisions).
- (c) (1) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making or participating in the making of any decision.
- (2) Disqualification shall be required when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision.
- (3) No designated employee shall be required to disqualify himself with respect to any matter which could not legally be acted upon or decided without his participation.

The League of California has prepared and distributed a model conflict of interest code, and it will be submitted to each department at an early date for approval. Once the department has adopted its code, it must be submitted to the City Council for approval.

Each Department Head now should give consideration to and start preparing a list of all employee positions or categories of positions within the department which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest of the person making or participating in the decision.

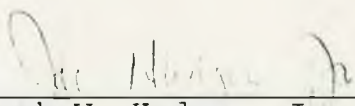
The League in its memorandum enclosing the conflict of interest code opined that the following employees would be subject to the disclosure requirements:

1. Purchasing. All employees who are in any appreciable way involved in the purchase of services or supplies.
2. Department heads and elected officials.
3. City Clerk, both as an elected official and as a purchaser of election supplies.
4. City Manager and all deputies.
5. City Treasurer and all employees who exercise judgment.
6. Police officers who hold administrative or policy positions.

7. Fire officials, including fire marshals, who hold administrative or policy making positions.
8. All planning officials and employees who exercise judgment with respect to the planning process and/or planning applications at any level.
9. City Attorney, Assistant City Attorney and Deputy City Attorney.
10. Finance Department. The director and all employees employed in that office who have the authority to approve or recommend the approval of claims.
11. The Public Works Director and all members of his administrative staff, and the following employees:
  - a. Everyone who exercises judgment with respect to approval of parcel or subdivision maps.
  - b. The engineering staff, except for employees engaged in non-discretionary drafting and preparation of calculations.
  - c. Right of way agents.
  - d. Road maintenance employees who have administrative or policy making authority.
12. The Personnel Director may be exempt.
13. All building inspectors.
14. The administrative staff of the Library and individuals who have discretion in buying books.
15. The Community Relations Commissioners and the head of the department.
16. All judgmental personnel involved in environmental impact reports.
17. All employees in the Industrial Development Department.
18. The Parks and Recreation Commission.
19. Redevelopment Agency, Housing Authority and the director and administrative staff.
20. All other boards, commissions or departments which influence or implement governmental policy.

I believe you should go through your organization chart and determine what employees exercise judgment or discretion in performing their duties. Usually employees whose jobs are solely clerical, ministerial or involve manual labor will not be designated employees to disclose their assets.

The list of designated employees to file disclosure statements should be prepared now, and I will try to ready the conflict of interest code for your consideration.

  
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Joseph W. Hodges, Jr.

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