

RESOLUTION NO. _____

**RESOLUTION OF THE HUMBOLDT COUNTY
BOARD OF SUPERVISORS RESCINDING
RESOLUTION NO. 18-99 AND ADOPTING AN
AMENDED CONFLICT OF INTEREST CODE
FOR THE COUNTY OF HUMBOLDT**

WHEREAS, the Political Reform Act, California Government Code Sections 81000, *et seq.*, requires state and local government agencies to adopt and promulgate conflict of interest codes; and

WHEREAS, the Fair Political Practices Commission has adopted Section 18730 of Title 2 of the California Code of Regulations (“CCR”), which contains the terms of a standard conflict of interest code; and

WHEREAS, 2 CCR Section 18730 can be incorporated by reference, and amended by the Fair Political Practices Commission after holding a properly noticed public hearing, in order to ensure conformance with the Political Reform Act; and

WHEREAS, the conflict of interest code previously approved on October 2, 2018 by the Humboldt County Board of Supervisors through the adoption of Resolution No. 18-99 is in need of revision; and

WHEREAS, all affected departments of the County of Humboldt have had an opportunity to review and comment on the proposed conflict of interest code.

**NOW THEREFORE, THE HUMBOLDT COUNTY BOARD OF SUPERVISORS
HEREBY RESOLVES AS FOLLOWS:**

1. Resolution No. 18-99, as adopted by the Humboldt County Board of Supervisors on October 2, 2018, is hereby rescinded.
2. The provisions of 2 CCR Section 18730, and any duly adopted amendments thereto, which are hereby incorporated by reference, along with the attached appendixes in which employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the County of Humboldt.
3. The Amended Conflict of Interest Code for the County of Humboldt, along with any and all appendixes attached thereto, as set forth herein and attached hereto, have been determined to comply with the requirements of the Political Reform Act of 1974.
4. The Amended Conflict of Interest Code for the County of Humboldt, along with any and all Appendixes thereto, as set forth herein and attached hereto, are hereby approved and adopted as authorized by 2 CCR Section 18730.

§18730. Provisions of Conflict of Interest Codes.

- (a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of California Government Code Section 87300 or the amendment of a conflict of interest code within the meaning of California Government Code Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A conflict of interest code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, California Government Code Sections 81000, *et seq.* The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in California Government Code Section 87100, and to other state or local laws pertaining to conflicts of interest.
- (b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, Regulations of the Fair Political Practices Commission (2 C.C.R. Sections 18110, *et seq.*), and any duly adopted amendments thereto, are hereby incorporated by reference into this Conflict of Interest Code.

Section 2. Designated Employees.

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

Section 3. Disclosure Categories.

This Conflict of Interest Code does not establish any disclosure obligation for those designated employees who are also specified in California Government Code Section 87200 if they are designated in this Conflict of Interest Code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, California Government Code Sections 87200, *et seq.*¹

¹Designated employees who are required to file Statements of Economic Interests under any other agency's Conflict

In addition, this Conflict of Interest Code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

- (A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;
- (B) The disclosure assigned in the conflict of interest code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, California Government Code Section 87200; and
- (C) The filing officer is the same for both agencies.

Such persons are covered by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her Statement of Economic Interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

Section 4. Statements of Economic Interests – Place of Filing.

The code reviewing body shall instruct all designated employees within this Conflict of Interest Code to file Statements of Economic Interests with the agency or with the code reviewing body as provided by this Conflict of Interest Code.²

The department head of each county department is the filing officer for the employees of each such department who are required to file Statements of Economic Interests pursuant to this Conflict of Interest

of Interest Code, or under Article 2 for a different jurisdiction, may expand their Statement of Economic Interests to cover reportable interests in both jurisdictions, and file copies of this expanded Statement of Economic Interests with both entities in lieu of filing separate and distinct Statements of Economic Interests, provided that each copy of such expanded Statement of Economic Interests filed in place of an original is signed and verified by the designated employee as if it were an original. (See California Government Code Section 81004.)

²See California Government Code Section 81010 and 2 CCR Section 18115 for the duties of filing officers and persons in agencies who make and retain copies of Statements of Economic Interests and forward the originals to the filing officer.

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Code. Department heads shall complete and forward their personal Statements of Economic Interests to the Registrar of Voters who shall retain said statements within that department.

For county boards, committees, councils, commissions, panels, task forces, advisory groups, coordinating councils, corporations, coalitions, and the like that have a “sponsoring department,” the department head of the “sponsoring department” is designated as the filing officer. For county boards, committees, councils, commissions, panels, task forces, advisory groups, coordinating councils, corporations, coalitions and the like that do not have a “sponsoring department,” the commission/committee secretary is the designated filing officer.

Section 5. Statements of Economic Interests – Time of Filing.

- (A) **Initial Statements.** All designated employees employed by the agency on the effective date of this Conflict of Interest Code as originally adopted, promulgated and approved by the code reviewing body, shall file Statements of Economic Interests within thirty (30) calendar days after the effective date of this Conflict of Interest Code. Thereafter, each person already in a position when it is designated by an amendment to this Conflict of Interest Code shall file an initial Statement of Economic Interests within thirty (30) calendar days after the effective date of the amendment.
- (B) **Assuming Office Statements.** All persons assuming designated positions after the effective date of this Conflict of Interest Code shall file Statements of Economic Interests within thirty (30) calendar days after assuming the designated positions, or if subject to State Senate confirmation, thirty (30) calendar days after being nominated or appointed.
- (C) **Annual Statements.** All designated employees shall file Statements of Economic Interests no later than April 1. If a person reports for military service as defined in the Service member’s Civil Relief Act, the deadline for the annual Statement of Economic Interests is thirty (30) calendar days following his or her return to office, provided the person, or someone authorized to represent the person’s interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.
- (D) **Leaving Office Statements.** All persons who leave designated positions shall file Statements of Economic Interests within thirty

(30) calendar days after leaving office.

Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within twelve (12) months of initial appointment, or within thirty (30) calendar days of the date of notice provided by the filing officer to file an assuming office Statement of Economic Interests, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office Statement of Economic Interests.

(A) Any person who resigns a position within thirty (30) calendar days of the date of a notice from the filing officer shall do both of the following:

- (1) File a written resignation with the appointing power; and
- (2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) **Contents of Initial Statements.** Initial Statements Economic Interests shall disclose any reportable investments, interest in real property and business positions held on the effective date of this Conflict of Interest Code and income received during the twelve (12) months prior to the effective date of this Conflict of Interest Code.

(B) **Contents of Assuming Office Statements.** Assuming office Statements of Economic Interests shall disclose any reportable investments, interest in real property and business positions held on the date of assuming office, or if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the twelve (12) months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) **Contents of Annual Statements.** Annual Statements of Economic Interests 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 of Economic Interests shall begin on the effective date of this Conflict of Interest Code or the date of assuming office whichever is later, or for a board or commission member subject to California Government Code Section 87302.6, the day after the closing date of the most recent Statement of Economic Interests filed by the member pursuant to 2 CCR Section 18754.

(D) **Contents of Leaving Office Statements.** Leaving office Statements of Economic Interests 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 of Economic Interests filed and the date of leaving office.

Section 7. Manner of Reporting.

Statements of Economic Interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) **Investments and Real Property Disclosure.** When an investment or an interest in real property³ is required to be reported,⁴ the Statement of Economic Interests shall contain the following:

- (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;

³For purpose of disclosure only (not disqualification), an interest in real property does not include the principle residence of the designated employee.

⁴Investments and interests in real property which have a fair market value of less than Two Thousand Dollars (\$2,000.00) are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of ten percent (10%) or greater.

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- (4) A statement whether the fair market value of the investment or interest in real property equals or exceeds Two Thousand Dollars (\$2,000.00), exceeds Ten Thousand Dollars (\$10,000.00), exceeds One Hundred Thousand Dollars (\$100,000.00), or exceeds One Million Dollars (\$1,000,000.00).

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the Statement of Economic Interests shall contain:

- (1) The name and address of each source of income aggregating Five Hundred Dollars (\$500.00) or more in value, or Fifty Dollars (\$50.00) 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 (\$1,000.00) or less, greater than One Thousand Dollars (\$1,000.00), greater than Ten Thousand Dollars (\$10,000.00), or greater than One Hundred Thousand Dollars (\$100,000.00).
- (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 the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the Statement of Economic Interests shall contain:

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

⁵A designated employee's income includes his or her community property interest in the income of his or her spouse, but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶Income of a business entity is reportable if the direct, indirect or beneficial interest of the designated employee and the designated employee's spouse in the business entity aggregates a ten percent (10%) or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the designated employee.

activity of the business entity;

- (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 (\$10,000.00).

(D) **Travel.** 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 Interests. 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.

(E) **Business Position Disclosures.** 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.

(F) **Acquisition or Disposal During Reporting Period.** In the case of an annual or leaving office Statement of Economic Interests, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the Statement of Economic Interests, the Statement of Economic Interests shall contain the date of acquisition or disposal.

Section 8. Prohibition on Receipt of Honoraria, Gifts in Excess of \$500, and Loans to Public Officials.

The Prohibition on Receipt of Honoraria, Gifts in Excess of \$500, and Loans to Public Officials contained in the Political Reform Act of 1974, as set forth in the Regulations of the Fair Political Practices Commission, 2 CCR Section 18730(b)(8)-(8.4), are hereby incorporated by reference into this Conflict of Interest Code.

Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to

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know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

- (A) Any business entity in which the designated employee has a direct or indirect investment worth Two Thousand Dollars (\$2,000.00) or more;
- (B) Any real property in which the designated employee has a direct or indirect interest worth Two Thousand Dollars (\$2,000.00) or more;
- (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 Dollars (\$500.00) or more in value provided to, received by or promised to the designated employee within twelve (12) months prior to the time when the decision is made;
- (D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
- (E) Any donor, or any agent for a donor, of a gift or gifts aggregating Five Hundred Seventy Dollars (\$500.00) or more provided to, received by, or promised to the designated employee within twelve (12) months prior to the time when the decision is made.

Section 9.1. Legally Required Participation.

No designated employee 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 employee 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 9.2. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of Section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or

her immediate family has, within twelve (12) months prior to the time when the official action is to be taken:

- (A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
- (B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value One Thousand Dollars (\$1,000.00) or more.

Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of a voting body, such determination, and disclosure thereof, shall be made part of the official record; in the case of a designated employee who is the head of an agency, such determination, and disclosure thereof, shall be made in writing to the appointing authority or the County Administrative Officer, if said employee is supervised thereby; and in the case of other designated employees, such a determination shall be made in writing to the designated employee's supervisor.

Section 11. Assistance of the Commission.

Any designated employee who is unsure of his or her duties under this Conflict of Interest Code may request assistance from the Fair Political Practices Commission pursuant to California Government Code Section 83114, and 2 CCR Sections 18329 and 18329.5.

Section 12. Violations.

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

The following positions are not designated by the County of Humboldt

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Conflict of Interest Code because they are subject to Article 2, Chapter 7, Title 9 (commencing with Section 87200) of the California Government Code, and file Conflict of Interest Statements with the Registrar of Voters:

| | |
|-------------------------------------|-------------------------|
| Members of the Board of Supervisors | District Attorney |
| County Administrative Officer | Planning Commissioners |
| County Counsel | Treasurer-Tax Collector |

Dated: _____, 2020

Estelle Fennell, Chair
Humboldt County Board of
Supervisors

Adopted on motion by Supervisor _____, seconded by Supervisor _____, and the following vote:

AYES: Supervisors--
NOES: Supervisors--
ABSENT: Supervisors--
ABSTAIN: Supervisors--

STATE OF CALIFORNIA)
)
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Board of Supervisors

KATHY HAYES:

Clerk of the Board of
Supervisors of the County of
Humboldt, State of California