

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Office of the General Counsel
William L. Kasley, Managing Attorney
Mark Jacobson, Attorney, 415-865-7898,
mark.jacobson@jud.ca.gov

DATE: October 21, 2005

SUBJECT: Conflict of Interest Codes for Administrative Office of the Courts
and Habeas Corpus Resource Center (Action Required)

Issue Statement

Since the Conflict of Interest Codes of the Administrative Office of the Courts and of the Habeas Corpus Resource Center were last amended, seven job classifications have been created at the two agencies. Staff determined that these classifications should be added to the codes to bring them up to date. Staff also identified the types of financial interests that employees in these classifications should be required to disclose. In accordance with Government Code sections 87303 and 87306, the Judicial Council must review the amended codes.

In addition, the proposed amended code for the AOC reflects transfers of certain classifications to other divisions and titles that have changed. It also deletes some positions that either no longer exist or need not be listed in the code.

Recommendation

Administrative Office of the Courts (AOC) staff recommends that the Judicial Council, effective December 2, 2005, adopt:

1. The proposed revision of the AOC Conflict of Interest Code, which adds five new job classifications, moves one classification to a new division, renames several classifications, deletes several classifications that no longer exist, and removes the Trial Court Budget Working Group members from the code; and

2. The proposed revision of the Habeas Corpus Resource Center (HCRC) Conflict of Interest Code, which adds two new classifications.

The text of the proposed AOC code is attached at pages 6–17. The text of the proposed HCRC code is attached at pages 18–20.

Rationale for Recommendation

The Political Reform Act of 1974 (Gov. Code, § 81000 et seq.) requires public agencies to adopt conflict of interest codes. (Gov. Code, § 87300.) In 1984, the Legislature amended the Political Reform Act to require agencies and employees of the judicial branch to comply with the act. (Stats. 1984, ch. 727, amending Gov. Code, §§ 82011, 82041, 82048, 82049, and 87200 and adding Gov. Code, § 87311.5.) 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 AOC and the HCRC. In 1985, the Judicial Council approved a conflict of interest code for AOC employees. An agency’s conflict of interest code must be amended when new positions and duties are created. (Gov. Code, § 87306.)

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 to influence.

In brief, a conflict of interest code must:

- Designate the classifications of officers or employees who make or influence financial decisions (“designated employees”);
- Identify the categories of interests that foreseeably may be affected by such decisions (“disclosure categories”);
- Require officers and employees to file periodic reports of their financial interests (“disclosure statements”); and
- Require officers and employees to disqualify themselves from decisions affecting matters in which they have a financial interest.

(Gov. Code, § 87302.)

A conflict of interest code must designate the officers and employees who make, or participate in the making of, government decisions that foreseeably can have a material effect on their personal financial interests. (Gov. Code, § 87302(a).) The

disclosure categories for each job classification must correspond to those interests that employees foreseeably can affect. (Gov. Code, § 87302(c).) Thus, disclosure categories reflect the powers and responsibilities assigned to employees within each job classification.

The current AOC Conflict of Interest Code contains 19 disclosure categories. The broadest, 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 the Administrative Director of the Courts, the Chief Deputy Director, the regional administrative directors, the division directors, and the assistant division directors.¹ Other employees must disclose a narrower range of financial interests that could be affected as a result of their specific job duties. For example, certain employees in the Office of Communications and the Administrative Services Unit must disclose “[i]nvestments, sources of income, and business positions in business entities that are providers of printing, graphics hardware and software, duplicating, and publishing services, equipment, and supplies” (Category 3).

New AOC classifications

All the new classifications for the AOC are in the Office of Court Construction and Management (OCCM). They are:

1. Legislative Code Analyst;
2. Senior Budget Analyst;
3. Principal Structural Engineer;
4. Principal Architect; and
5. Principal Mechanical and Electrical Engineer.

The responsibilities of all these new positions involve a certain degree of independence. The Legislative Code Analyst, for example, interfaces with the Legislature and various code committees on a full range of facilities-related issues. Consequently, this person is in a position to influence legislators and governing bodies that adopt building codes applicable to court facilities.

The employees in the other new positions are responsible for reviewing contracts related to the development and renovation of court facilities and providing advice and recommendations on the hiring of consultants. An existing disclosure category applicable to the OCCM (Category 19) that requires disclosure of investments in business entities that provide commercial furniture, fixtures, design services, construction products and services, real estate services, and services, equipment,

¹ A few other positions at the AOC, such as contract specialists in the Finance Division, require disclosure under Category 1, owing to the level of authority those staff exercise.

or goods related to the operation and maintenance of facilities. We recommend that all the new classifications in this division be subject to this disclosure category.

Existing AOC classifications

The existing classification for Linguistics Analyst has been transferred from the Human Resources Division to the Executive Office Programs Division. We recommend that the disclosure categories currently assigned to this position remain the same and that the code be amended to reflect the transfer.

Several classifications have undergone a name change. In the Finance Division, the Business Services Supervisor has been renamed the Supervising Procurement Specialist, and the Business Services Technicians are now referred to as the Senior Procurement Specialist and the Procurement Specialist. In the OCCM, the Supervising Facilities Manager and Facilities Manager positions have been reclassified as District Facility Operations & Maintenance Supervisor and Area Facility Operations & Maintenance Supervisor, respectively. We recommend that the code be amended to show the current titles for these positions.

The classification of one other AOC employee has been changed. In the Appellate and Trial Court Judicial Services Division, the Managing Attorney position has been reclassified as Division Director. As a managing attorney, this employee was required to disclose limited investments. However, all division directors at the AOC are subject to the broadest disclosure category (Category 1), which requires disclosure of “all investments, sources of income, interests in real property, and positions in business entities.” We therefore recommend that the Division Director in the Appellate and Trial Court Judicial Services Division be subject to Category 1 disclosure.

Some classifications no longer exist. We therefore recommend that the following classifications be deleted from the code: Supervising Court Services Analyst and Senior Court Services Analyst from the Human Resources Division and Contract Specialist from the OCCM. In addition, the Senior Emergency Response and Planning Manager is currently listed under both the Executive Office and the OCCM. Because this employee is associated with the Executive Office, the position should be deleted from the OCCM listing.

Finally, until last year, the code required members of the Judicial Branch Budget Advisory Committee to disclose investments in entities that provide consulting, surveying, or research services on matters relating to trial court budgets. Effective December 10, 2004, that advisory committee was officially dissolved. Some of its duties and responsibilities were assumed by the Trial Court Budget Working Group; consequently, members of the working group were included in the code.

On review of the working group's charter, it is apparent that the working group's role is limited to making policy recommendations to the Administrative Director of the Courts. There is no opportunity for working group members' personal financial interests to be materially affected by decisions based on the group's recommendations. We therefore recommend that the code be amended to delete the Trial Court Budget Working Group members.

New HCRC classifications

The new classifications in the HCRC are Supervising Administrative Coordinator and Systems Administrator. Among other duties, the Supervising Administrative Coordinator works with vendors to procure goods and services for the HCRC. We therefore recommend that this employee be required to disclose investments in business entities that are providers of equipment, supplies, and services of the type used by the HCRC (Category 3 of the HCRC code).

The HCRC Systems Administrator is responsible for support of the HCRC's information system, including coordinating, planning, and implementing systems and software upgrades. One of this employee's duties is to identify, evaluate, and recommend software and hardware products and vendors. We recommend disclosure under Category 4, which requires disclosure of investments in businesses that are providers of information systems hardware and/or software, telecommunications services, records management equipment, audio, video, and audiovisual presentation equipment, systems and software, and information system and audiovisual consulting services.

Alternative Actions Considered

None.

Comments From Interested Parties

Staff from each of the AOC divisions affected by the amendments to the AOC code were consulted about the proposed amendments and the disclosure categories.

Implementation Requirements and Costs

There are no implementation requirements or costs.

Attachments

**CONFLICT OF INTEREST CODE FOR THE
ADMINISTRATIVE OFFICE OF THE COURTS**
(Revised effective February 18, December 2, 2005)

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 (Cal. Code of Regs., tit. 2, § 18730) that contains the terms of a standard conflict of interest code, which 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 California Code of Regulations, title 2, section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached appendixes designating officials and employees and establishing disclosure categories shall constitute the Conflict of Interest Code of the Administrative Office of the Courts.

Designated employees shall file statements of economic interests with the secretary of the Judicial Council (Administrative Director of the Courts) on forms prescribed by the Fair Political Practices Commission.

APPENDIX A: DESIGNATED CLASSIFICATIONS

List of Designated Classifications	Assigned Disclosure Categories
------------------------------------	--------------------------------

Office of the General Counsel

General Counsel/Deputy Administrative Director	1
Assistant General Counsel	1
Managing Attorney	2
Supervising Attorney	2
Senior Attorney	2
Attorney	2
Associate Attorney I, II	2
Research Attorney A, B	2
Senior Court Services Analyst	2

Executive Office Programs Division

Division Director	1
Assistant Division Director	1
Senior Manager	5, 6, 15
Public Information Officer	3
Manager (Office of Communications)	3, 6
Manager (Research and Planning)	5, 6, 15
Supervising Administrative Coordinator	7
Supervising Research Analyst	5, 6, 15
Senior Research Analyst	15
Judicial Administrative Librarian	5
Supervising Communications Specialist	3
Manager (Presiding Judges and Court Executives)	6, 12
Supervising Court Services Analyst	12
Senior Court Services Analyst	12
Supervising Editor	3
Senior Editor	3
Linguistics Analyst	4, 12

Administrative Services Unit

Manager	3, 6, 10
Support Services Supervisor	3
Meeting and Conference Services Supervisor	7
Production and Mail Services Supervisor	3
Senior Administrative Coordinator (travel and meeting planner)	7
Administrative Coordinator I, II (travel and meeting planner)	7

Finance Division

Division Director	1
Assistant Division Director	1
Manager	1
Supervising Contract Specialist	1
Senior Contract Specialist	1
Contract Specialist	1
Business Services Supervisor	1
Business Services Technician I, II	3, 10
Supervising Procurement Specialist	1
Senior Procurement Specialist	3, 10
Procurement Specialist	3, 10
Facilities Management Specialist	6, 10
Supervising Internal Auditor	18
Senior Internal Auditor	18
Internal Auditor	18

Human Resources Division

Division Director	1
Assistant Division Director	1
Senior Manager	4, 6, 12
Manager	4, 6, 12
Supervising Human Resources Analyst	4
Senior Human Resources Analyst	4
Human Resources Analyst	4
Supervising Court Services Analyst	12
Senior Court Services Analyst	12

Linguistics Analyst 4, 12

Information Services Division

Division Director	1
Assistant Division Director	1
Senior Manager	6
Information Systems Manager	6
Supervising Information Systems Analyst A, B	6
Senior Business Systems Analyst	6
Senior Web Analyst	6
Senior Application Development Analyst	6
Supervising Research Analyst	6
Senior Research Analyst	6
Records Management Supervisor	6
Administrative Coordinator I, II (materials acquisition)	6
Senior Technical Analyst	6

Center for Families, Children & the Courts

Division Director	1
Assistant Division Director	1
Manager	1
Managing Attorney	2
Supervising Attorney	2
Senior Attorney	2
Attorney	2
Associate Attorney I, II	2
Research Attorney A, B	2
Supervising Court Services Analyst	12
Senior Court Services Analyst	12
Supervising Research Analyst	12
Senior Research Analyst	12

Executive Office

Administrative Director of the Courts	1
Chief Deputy Director	1
Regional Administrative Director	1
Senior Security Coordinator	11
Security Coordinator	11
Executive Office Liaison	10, 15

Senior Emergency Response and Planning Manager 6, 11, 19

Appellate and Trial Court Judicial Services

Managing Attorney	6, 14
Division Director	1
Supervising Court Services Analyst	6, 14
Senior Court Services Analyst	14
Management and Program Analyst	14

Education Division

Division Director	1
Assistant Division Director	1
Manager	3, 4, 6, 7, 8
Managing Attorney	3, 4, 7, 8
Supervising Attorney	3, 4, 7, 8
Senior Attorney	3, 4, 7, 8
Attorney	3, 4, 7, 8
Associate Attorney I, II	3, 4, 7, 8
Research Attorney A, B	3, 4, 7, 8
Supervising Administrative Coordinator	7
Senior Administrative Coordinator (travel and meeting planner)	7
Administrative Coordinator I, II (travel and meeting planner)	7
Support Services Supervisor	4, 8
Supervising Editor	3
Senior Editor	3
Supervising Education Specialist	3, 4, 7, 8
Senior Education Specialist	3, 4, 7, 8
Education Specialist I, II	3, 4, 7, 8
Supervising A/V-Video Technician	8
Supervising Video Producer Director	8
Video Producer Director I, II	8
Supervising Media Production Specialist	8
Senior Media Production Specialist	8
Supervising A/V-Video Systems Technical Analyst	6, 8
Senior A/V-Video Systems Technical Analyst	6, 8
A/V-Video Systems Technical Analyst	6, 8
Media Production Specialist	8

Office of Governmental Affairs

Division Director	1
Assistant Division Director	1
Manager	6, 13
Supervising Attorney	2
Senior Attorney	2
Attorney	2
Associate Attorney I, II	2
Research Attorney A, B	2
Supervising Governmental Affairs Analyst	13

Office of Court Construction and Management

Division Director	1
Assistant Division Director	1
Manager	19
Supervising Real Estate Analyst	19
Senior Real Estate Analyst	19
Real Estate Analyst	19
<u>Principal Structural Engineer</u>	<u>19</u>
Structural Engineer	19
<u>Principal Mechanical and Electrical Engineer</u>	<u>19</u>
Mechanical, Electrical, Plumbing Engineer	19
Environmental Analyst	19
Industrial Hygienist	19
Senior Cost Estimator	19
Cost Estimator	19
Construction Manager	19
Supervising Project Architect—Project Manager	19
Senior Project Architect—Project Manager	19
Project Architect—Project Manager	19
<u>Principal Architect</u>	<u>19</u>
Specifications Specialist	19
Senior Emergency Response and Planning Manager	19
Inventory Controller	19
Senior Facilities Risk Manager	19
<u>Senior Budget Analyst</u>	<u>19</u>
Budget Analyst	19
Court Facilities Analyst	19
Supervising Facilities Planner	19
Senior Facilities Planner	19

Facilities Planner	19
Computer-Aided Facilities Management (CAFM) Application Analyst	19
Supervising Construction Inspector	19
Senior Construction Inspector	19
Construction Inspector	19
California Environmental Quality Act (CEQA) Compliance Specialist	19
Occupational Safety and Health Administration (OSHA) Compliance Analyst	19
Accessibility Compliance Officer	19
Utility Engineer/Analyst	19
Supervising Facilities Manager	19
Facilities Manager	19
<u>District Facility Operations & Maintenance (O&M) Supervisor</u>	<u>19</u>
<u>Area Facility Operations & Maintenance (O&M) Supervisor</u>	<u>19</u>
Regional Manager of Facility Operations	19
Senior Manager	19
IS/Technical Liaison	19
County Liaison	19
Staff Analyst	19
Senior Scheduling Specialist	19
Scheduling Specialist	19
Portfolio Manager	19
Portfolio Administration Analyst	19
Relocations Coordinator	19
<u>Legislative Code Analyst</u>	<u>19</u>
Contract Specialist	19

Regional Offices

Manager	1
---------	---

All Divisions and Bureaus

Special Consultant*	1
---------------------	---

* The Administrative Director of the Courts may determine and state in writing that a consultant is hired to perform a limited range of duties and that the consultant is not required to comply with broad disclosure requirements. The statement must include a description of the consultant's duties and the extent of disclosure required. The consultant must comply with all other provisions of this code.

Judicial Council Advisory Committees

Trial Court Budget Working Group Members	16
Family and Juvenile Law Advisory Committee Members	17

APPENDIX B: DISCLOSURE CATEGORIES

Note: 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.

- | | |
|------------|---|
| Category 1 | All investments, sources of income, interests in real property, and positions in business entities. |
| Category 2 | Investments, sources of income, interests in real property, and positions in business entities as follows: If during a reporting period a designated employee in this category did not participate in an assignment in which he or she had a financial interest, the employee shall sign a statement to that effect under penalty of perjury. Employees who disqualified themselves from participating in an assignment in which they had a financial interest shall disclose that assignment and that interest in a statement signed under penalty of perjury. This statement shall be filed on form FPPC-1. |
| Category 3 | Investments, sources of income, and business positions in business entities that are providers of printing, graphics hardware and software, duplicating, and publishing services, equipment, and supplies. |
| Category 4 | Investments, sources of income, and business positions in business entities that are providers of recruitment advertising and media services, personnel and employment services, employee payroll and benefits services, organization development and employee education services, and human resources consulting. |
| Category 5 | Investments, sources of income, and business positions in business entities that are providers of publications, materials, equipment, and software of the type generally used by law libraries. |

- Category 6 Investments, sources of income, and business positions in business entities that are providers of information systems hardware and/or software, telecommunications services, records management equipment, audio, video, and audiovisual presentation equipment, systems, and software, and information system and audiovisual consulting services.
- Category 7 Investments, sources of income, and business positions in business entities that are providers of conference facilities, food services, travel services, hotel services, and audiovisual services and equipment.
- Category 8 Investments, sources of income, and business positions in business entities that are providers of equipment, supplies, and services of the type used by the Education Division in producing judicial education materials and programs, including computer and audio-video equipment.
- Category 9 Investments, sources of income, and business positions in business entities that are providers of supplies, equipment, real property, and services of a type used by the AOC or the appellate courts within the past two years, including, but not limited to, library, building maintenance, and security services, supplies, and equipment.
- Category 10 Investments, sources of income, and business positions in business entities that are providers of office and business equipment, furniture, supplies, and services.
- Category 11 Investments, sources of income, and business positions in business entities that are providers of building and court security services, supplies, and equipment.
- Category 12 Investments, sources of income, and business positions in business entities that are providers of consulting and training services of a type used by the Executive Office Programs Division, the Center for Families, Children & the Courts, or the Human Resources Division.

- Category 13 Investments, sources of income, and business positions in business entities that are providers of equipment, supplies, and services of the type used by the Office of Governmental Affairs.
- Category 14 Investments, sources of income, and business positions in business entities that are providers of equipment, supplies, and services of the type used by the Appellate and Trial Court Judicial Services Division.
- Category 15 Investments, sources of income, and business positions in business entities that are providers of consulting services that provide data gathering or policy analysis to assist in the enhancement of court administration and judicial branch policy decisions.
- Category 16 All investments and business positions in, and income from, business entities or nonprofit organizations that (1) provide consulting, surveying, or research services on matters relating to trial court budgets or (2) provide services, supplies, materials, machinery, or equipment of a type utilized by the trial courts.
- Category 17 All investments and business positions in, and income from, business entities or nonprofit organizations that (1) provide consulting, surveying, or research services on matters relating to family or juvenile law or (2) receive, or will be likely to receive, Judicial Council grant funding based on a recommendation from the member's advisory committee.
- Category 18 All investments, sources of income, interests in real property, and positions in business entities that are providers of services, materials, or information to the judicial branch and would be subject to review or examination by the Audit Unit.

Category 19

All investments, sources of income, interests in real property, and positions in business entities that are providers of commercial furniture, fixtures, design services, construction products and services, real estate services, services, equipment, or goods related to the operation and maintenance of facilities, and other services of the type used by the Office of the Court Construction and Management.

**CONFLICT OF INTEREST CODE FOR THE
HABEAS CORPUS RESOURCE CENTER**
(Effective ~~February 18~~ December 2, 2005)

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 (Cal. Code Regs., tit. 2, § 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 code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of California Code of Regulations, title 2, section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached appendixes designating officials and employees and establishing disclosure categories shall constitute the Conflict of Interest Code of the Habeas Corpus Resource Center.

Designated employees shall file statements of economic interests with the secretary of the Judicial Council (Administrative Director of the Courts) on forms prescribed by the Fair Political Practices Commission.

APPENDIX A: DESIGNATED CLASSIFICATIONS

List of Designated Classifications	Assigned Disclosure Categories
Member, Board of Directors	1
Executive Director	1
Deputy Director	1
Assistant Director	1
Special Consultant	1*
Senior Habeas Corpus Counsel	2
Habeas Corpus Counsel I, II, III	2
Staff Attorney I, II, III	2
Mitigation Specialist	2
Senior Habeas Corpus Investigator	3
Senior Paralegal	3
Supervising Administrative Coordinator	3
Administrative Coordinator	3
Research and Information Management Specialist	4
Senior Business Systems Analyst	4
Systems Administrator	4

* The executive director may determine and state in writing that a consultant is hired to perform a limited range of duties and that the consultant is not required to comply with broad disclosure requirements. The statement must include a description of the consultant's duties and the extent of disclosure required. The consultant must comply with all other provisions of this code.

APPENDIX B: DISCLOSURE CATEGORIES

Note: 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.

- | | |
|------------|---|
| Category 1 | All investments, sources of income, interests in real property, and positions in business entities. |
| Category 2 | Investments, sources of income, interests in real property, and positions in business entities as follows: If during a reporting period a designated employee in this category did not participate in an assignment in which he or she had a financial interest, the employee shall sign a statement to that effect under penalty of perjury. Employees who disqualified themselves from participating in an assignment in which they had a financial interest shall disclose that assignment and that interest in a statement signed under penalty of perjury. This statement shall be filed on form FPPC-1. |
| Category 3 | Investments, sources of income, and business positions in business entities that are providers of equipment, supplies, and services of the type used by the Habeas Corpus Resource Center. |
| Category 4 | Investments, sources of income, and business positions in business entities that are providers of information systems hardware and/or software, telecommunications services, records management equipment, audio, video, and audiovisual presentation equipment, systems, and software, and information system and audiovisual consulting services. |