



## Judicial Council of California . Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 29, 2010

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Title	Agenda Item Type
Conflict of Interest Code for the Administrative Office of the Courts	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
N/A	October 29, 2010
Recommended by	Date of Report
Administrative Office of the Courts Mary M. Roberts, General Counsel Steven R. Crooks, Attorney Office of the General Counsel	September 28, 2010
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### Executive Summary

The Administrative Office of the Courts (AOC) recommends that the Judicial Council approve amendments to the Conflict of Interest Code for the Administrative Office of the Courts to bring the code up to date with the agency's current classification structure. In accordance with Government Code sections 87303 and 87306, the code must be updated "when change is necessitated by changed circumstances, including the creation of new positions" (*id.*, § 87306), and the council must review proposed amendments to the code and approve the code as amended or direct that it be further revised and resubmitted for approval.

## **Recommendation**

The AOC recommends that the Judicial Council, effective October 29, 2010, approve amendments to the AOC Conflict of Interest Code, that:

1. Add several classifications that staff have determined should file Statements of Economic Interests, along with their required categories of disclosure; and
2. Modify the disclosure policy for the Special Consultant classification.

The text of the amended code with its appendices is attached at pages 5–15.

## **Previous Council Action**

The Judicial Council periodically reviews and approves amendments to the AOC Conflict of Interest Code. The last review and approval were in April 2010.

## **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 § 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. In 1985, the Judicial Council first 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 and when positions are eliminated. (Gov. Code, § 87306.) Since 1985, the Judicial Council periodically has amended the AOC Conflict of Interest Code.

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 brief, Government Code section 87302 specifies that 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.

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.<sup>1</sup> 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 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).

The newly added classifications for the AOC, with assigned disclosure categories, are underlined in the attached Appendix A. The modified disclosure policy for Special Consultant is also underlined; this change will conform the disclosure policy for consultants to that recommended by the Fair Political Practices Commission.

### **Comments, Alternatives Considered, and Policy Implications**

The AOC posted the proposed amendments to the Conflict of Interest Code on the AOC’s Intranet, on the Court News Update (CNU), and on the Invitation to Comment (ITC) page on the California Courts website ([www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)) for a period of 30 days for the purpose of receiving comments from the public and AOC staff. A summary of the comments received and responses thereto is attached to this report. The proposed amendments to the code are required under the Political Reform Act of 1974, which does not provide for any alternative actions other than those presented in this report.

### **Implementation Requirements, Costs, and Operational Impacts**

To implement the amended code, the AOC will need to ensure that employees in the newly added classifications timely submit the Statement of Economic Interests required under the code and the Political Reform Act.

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<sup>1</sup> A few other positions at the AOC, such as contract specialists in the Finance Division, require disclosure under Category 1 because of the level of authority those staff exercise.

## **Attachments**

1. Proposed Amended Conflict of Interest Code for the Administrative Office of the Courts  
(revised effective October 29, 2010)
2. Summary of comments received from the public and AOC staff with responses thereto.

**CONFLICT OF INTEREST CODE FOR THE  
ADMINISTRATIVE OFFICE OF THE COURTS  
(Revised effective ~~April 23, 2010~~ October 29, 2010)**

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 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 appendices 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

<b>List of Designated Classifications</b>	<b>Assigned Disclosure Categories</b>
<b>Office of the General Counsel</b>	
General Counsel/Division 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
<b>Executive Office Programs Division</b>	
Division Director	1
Assistant Division Director	1
Senior Manager	1
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
Manager (Court Programs Services)	12, 15
Manager (Promising and Effective Programs)	12, 15
Manager (Court Interpreters Program)	12, 15
Senior Attorney	2
Senior Business Applications Analyst	12
Senior Communications Specialist	12
Supervising Business Applications Analyst	12
Senior Editor	3
Editor II	3

Senior Production Artist	3
Production Artist II	3
Senior Graphic Designer	3
Graphic Designer	3
<b>Administrative Services Unit</b>	
Manager	3, 6, 7, 10
Meeting and Conference Services Supervisor	7
Production and Mail Services Supervisor	3
Senior Administrative Coordinator	7
Administrative Coordinator I, II	7
<b>Finance Division</b>	
Division Director	1
Assistant Division Director	1
Senior Manager	1
Manager	1
Supervising Contract Specialist	1
Senior Contract Specialist	1
Contract Specialist	1
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
Internal Auditor I	18
Internal Auditor II	18
Telecommunications Specialist	6
<b>Human Resources Division</b>	
Division Director	1
Assistant Division Director	1
Senior Manager	1
Manager	4, 6, 12
Senior Labor and Employee Relations Officer	4
Labor and Employee Relations Officer	4
Supervising Human Resources Analyst	4
Labor Relations Negotiator	4
Senior Labor Relations Negotiator	4
Senior Human Resources Analyst	4
Human Resources Analyst	4

Management and Program Analyst	4, 6, 12
Supervising Business Applications Analyst	4, 6, 12
Business Applications Analyst	4, 6, 12
Senior Business Applications Analyst	4, 6, 12
Supervising Pay and Benefits Specialist	4, 6, 12

**Information Services Division**

Division Director	1
Assistant Division Director	1
Senior Manager	1
Manager	1
Information Systems Manager	1
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
Administrative Coordinator I, II (procurement)	6
Senior Technical Analyst	6
Senior Administrative Coordinator (procurement)	6
Management and Program Analyst	6
Senior Enterprise Technical Architect	6
Supervising Enterprise Architect	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
Manager	6, 11, 19
Senior Security Coordinator	11
Court Security Coordinator	11
Security Coordinator	11
Executive Office Liaison I, II, III	10, 15
Senior Emergency Response and Planning Manager	6, 11, 19

**Appellate and Trial Court Judicial Services Division**

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

**Education Division**

Division Director	1
Assistant Division Director	1
Senior Manager	3, 4, 6, 7, 8
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	7
Administrative Coordinator I, II	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 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
Special Consultant	3, 4, 6, 7, 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
Senior Governmental Affairs Analyst	13
<u>Governmental Affairs Analyst</u>	<u>13</u>

**Office of Court Construction and Management**

Division Director	1
Assistant Division Director	1
Manager	19
Design and Construction Project Manager I, II, III	19
Senior Design and Construction Project Manager	19
Supervising Real Estate Analyst	19
Senior Real Estate Analyst	19
Real Estate Analyst	19
Mechanical, Electrical, Plumbing Engineer	19
Environmental Analyst	19
Industrial Hygienist	19
Senior Cost Estimator	19
Cost Estimator	19
Construction Manager	19
Principal Architect	19
Specifications Specialist	19
Inventory Controller	19
Senior Facilities Risk Manager	19
Senior Budget Analyst	19
Budget Analyst	19
Supervising Facilities Planner	19
Senior Facilities Planner	19
O&M Customer Support Representative I	19
O&M Customer Support Representative II	19
O&M Customer Support Supervisor	19

Facilities Planner	19
Computer-Aided Facilities Management (CAFM) Application Analyst	6, 19
Supervising Construction Inspector	19
Senior Construction Inspector	19
Construction Inspector	19
California Environmental Quality Act (CEQA) Compliance Specialist	19
Accessibility Compliance Officer	19
Utility Engineer/Analyst	19
District Facility Operations & Maintenance (O&M) Supervisor	19
Area Facility Operations & Maintenance (O&M) Supervisor	19
Regional Manager of Facility Operations	19
Senior Manager	19
Staff Analyst I, II	19
Portfolio Administration Analyst	19
Business Applications Analyst	6, 19
Senior Business Applications Analyst	6, 19
Facilities Management Specialist	19

**Trial Court Administrative Services Division**

Division Director	1
Assistant Division Director	1
Senior Manager	1
Manager	1
Supervising Pay & Benefits Specialist	4, 6, 12

**Regional Offices**

Assistant Division Director	1
Senior Manager	1
Manager	1
Supervising Court Services Analyst	12
Senior Court Services Analyst	12
Senior Business Applications Analyst	6

**All Divisions and Bureaus**

Special Consultant *	1
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\* ~~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. Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:~~

## Judicial Council Advisory Committees

Family and Juvenile Law Advisory Committee Members

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The Administrative Director of the Courts 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.

## 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.

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|------------|---|
| 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 Court Construction and Management.

**SP10-03**

**Amended Conflict of Interest Code for the Administrative Office of the Courts**

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Paula Coombs Supervising Contract Specialist Trial Court Administrative Services Division Administrative Office of the Courts	A	The job classifications are listed under specific Divisions. If the job classification resides in another Division do the disclosure requirements apply? This may come up as a question and could be clarified with additional language in the amendment.	Only the job classifications listed under the identified AOC division are required to file a statement of economic interests under the code. The same classification may not be included in the code for another AOC division because the position does not make or influence decisions that could affect private financial interests.
2.	Enrique Monteagudo 10547 Caminito Banyon San Diego, CA 92131 enriquem03@yahoo.com	A	<p>More needs to be done in the area of transparency in Government Contracting, and COI Code needs to also include built-in, automatic conflict of interest safeguards for AOC contracts.</p> <p>In particular, RFPs for any project over a threshold amount of, say \$10,000, requiring a complex/sophisticated proposal, or resulting far-reaching policy Recommendations (e.g., the Quadrennial Review of the Child Support Guideline CFCC-15-09-LM) must be posted for at least 60 days to ensure a competitive bid process, a record must be made available of who submits proposals, who wins, and the AOC rationale for the winner's selection (including identification of the decision-makers). Also, records should be hyper-</p>	The AOC Conflict of Interest Code incorporates the provisions of California Code of Regulations, title 2, section 18730 (promulgated by the Fair Political Practices Commission) which contain language requiring an employee to disqualify himself or herself from participating in a government decision (which includes making contracting decisions) that would affect a private entity in which the employee has a financial interest. And a purpose of a conflict of interest code is to make public disclosure of such possibly disqualifying financial interests to interested members of the public. The comments regarding changes to the bidding and contracting process followed by courts and judicial branch agencies have been forwarded to the appropriate staff for consideration.

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

**SP10-03**

**Amended Conflict of Interest Code for the Administrative Office of the Courts**

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>linked to a library listing all RFPs for a given year in order to foster trust and confidence in the government in general and the courts in particular.</p> <p>For example, the abovementioned RFP CFCC-15-09-LM was initially open for a mere 2 weeks, prompting potential contractor requests to extend the deadline to allow for a competitive bid. In light of this, and other details of the actual grant recipient, there was certainly an air of pre-selection by the decision-makers and that the "open-RFP" was merely a formality. Moreover, without knowing who the decision-makers are, it is difficult for members of the public to determine whether the AOC's conflict of interest rules are being violated.</p>	

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