

CONFLICT-OF-INTEREST POLICY
CHILDREN AND FAMILIES COMMISSION OF FRESNO COUNTY
(FIRST 5 FRESNO COUNTY)

Article 1
Purpose

The purpose of this Conflict-of-interest Policy (this "Policy") is to ensure public confidence in the integrity of the decision-making processes of the Children and Families Commission of Fresno County (the "Commission" or "First 5") and its appointed Commissioners,

- (a) while encouraging experienced and competent persons to seek and accept a seat on the Commission;
- (b) while facilitating interchange between the community and the Commission;
- (c) by establishing clear rules of conduct respecting conflicts-of-interest applicable to all Commissioners; and
- (d) by minimizing the possibility of conflicts arising between the private interests and public duties of Commissioners and providing for the resolution of such conflicts in the public interest should they arise.

The California Children and Families Act of 1998 (Health and Safety Code Section 130100 *et seq.*) requires the establishment of a commission in each county for the purposes of promoting, supporting, and improving the early development of children from the pre-natal stage to five years of age. These purposes are accomplished through the establishment, institution, and coordination of appropriate standards, resources, and integrated and comprehensive programs emphasizing community awareness, education, nurturing, child care, social services, health care and research.

Health & Safety Code section 130140(a) requires that the commission in each county be comprised of (i) a member of the County Board of Supervisors; (ii) the County health office; and (iii) the person responsible for management of the following County functions: Children's services, public health services, behavior health services, social services, and tobacco and other substance abuse prevention and treatment services. The remaining members of the Commission shall be representatives from the following categories: Recipients of project services included in the County strategic plan, educators specializing in early childhood development, local child care resource or referral agencies or local child care coordinating groups, local organizations focusing on prevention or early intervention for families at risk, community-based organizations that have the goal of promoting nurturing and early childhood development, local school districts, and local medical, pediatric, or obstetric associations or societies.

Because the California Children and Families Act of 1998 requires that Commission members be from agencies that may receive public funds, the Commission seeks to ensure that its purposes are not compromised by even the appearance of a conflict-of-interest by its commissioners and staff.

Article 2
Applicable Laws

The following laws and regulations guide First 5 commissioners and staff on how to prevent or minimize the risk of an actual or potential conflict-of-interest as well as the appearance of a conflict-of-interest:

(a) Government Code Section 1090 *et seq.*

Section 1090 addresses conflicts of interest in the contract making process. This section prohibits public agency board members and commissioners, officers and employees from being financially interested in contracts made by them in their official capacities, or by their respective boards or commissions. This prohibition extends to votes made by boards or commissions irrespective of whether or not the interested public agency board or commission member abstained from voting on the matter, disclosed the interest, or avoided discussions regarding the interest. A contract made in violation of Section 1090 is void even if a court finds no intentional wrongdoing by the financially interested member.

There are certain limited exceptions that will permit financially interested commissioners to recuse themselves and allow the Commission to enter into the contract. Government Code section 1091.3 is specifically applicable to the Commission. Section 1091.3 exempts the Commission from Government Code section 1090 unless both of the following are circumstances are present:

- (i) The contract or grant directly relates to services to be provided by any member of a county children and families commission or the entity the member represents or financially benefits the member or the entity he or she represents; and
- (ii) The member fails to recuse himself or herself from making, participating in making, or in any way attempting to use his or her official position to influence a decision on the grant or grants.

(b) Political Reform Act (Government Code § 87100 *et seq.*)

The Political Reform Act addresses financial conflicts of interest (i.e. conflicts of interest arising from economic interests). Under the Political Reform Act, no public official at any level of state or local government may make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to know that he or she has a financial interest.

Generally, a public official has a conflict-of-interest with respect to a particular governmental decision if it is sufficiently likely that the outcome of the decision will have a direct, and in some cases an indirect, impact on the public official's economic interests. The Commission's attention is directed to the California Fair Political Practices Commission's eight-step checklist to assist a public official in determining whether or not he or she has a financial conflict-of-interest.

(c) Incompatible Offices (Government Code § 1126)

First 5 commissioners and staff are prohibited from engaging in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to, his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed.

(d) Assembly Bill No. 1234

Assembly Bill No. 1234 requires, among other things, that all local agencies that provide compensation, salary, or stipends to, or reimburse the expenses of, members of a legislative body must provide ethics training to local agency officials by January 1, 2007 and every two (2) years thereafter.

(e) Conflict-of-Interest Code; Statement of Economic Interests

By July 1 of each even-numbered year, the Commission must review and adopt a Conflict-of-Interest Code in accordance to the Political Reform Act. If a change in the code is necessitated by changed circumstances, the Commission must submit an amended Conflict-of-interest Code to the Clerk of the Fresno County Board of Supervisors.

Upon review of the code, if no change in the code is required, the Commission shall submit a written statement to that effect to the Clerk of the Fresno County Board of Supervisors by October 1 of the same year.

All “Designated Employees,” which are persons who make or participate in the making of decisions that may have a foreseeable material effect on financial interests, must complete a Form 700, Statement of Economic Interests form (the “Statement”), pursuant to and under the rules provided in the California State Fair Political Practices Commission’s Regulation 18730.

For purposes of this policy, “designated employees” are the duly appointed members of the Commission, the Executive Director of the Commission, and any other Commission employee with independent decision-making authority.

Article 3
The Commission’s Policy

The Commission has adopted the following rules and requirements, which will serve to assure adherence to the purpose of this Policy.

(a) Each member of the Commission and staff shall individually determine whether or not he or she has a conflict-of-interest with respect to any action before the Commission. The Commissioners and staff are encouraged to contact Commission counsel regarding such matters.

(b) If a member of the Commission has determined that he or she has a conflict-of-interest, and such conflict does not violate the provisions contained in Government Code Section

1090 *et seq.*, that Commission member must disclose and recue him or herself from the matter giving rise to the conflict.

(c) Commission members shall not make, participate in making, or use their official position to influence the making of any governmental decision which may have a direct or indirect foreseeable material financial effect (distinguishable from its effect on the public generally) on:

(i) Any business entity in which the member has a direct or indirect investment worth one thousand dollars (\$1000) or more;

(ii) Any real property in which the member has a direct or indirect interest worth one thousand dollars (\$1000) or more;

(iii) Any source of income, 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 two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the member within twelve months prior to the time when the decision is made; or

(iv) Any business entity in which the member is a director, officer, partner, trustee, employee, or holds any position of management. No member 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 a vote of a member who is on the voting body is needed to break a tie does not make his or her participation legally required.

(d) Commissioners and Commission staff are prohibited from engaging in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to, their duties as a commissioner or Commission staff or with their duties, functions, or responsibilities of the appointing power or the agency by which he or she is employed.

(e) Every two (2) years, members of the Commission and certain staff, as determined by the Executive Director, must participate in AB 1234 ethics training.

(f) All *newly appointed* commissioners shall complete the Statement within 30 days of appointment to the Commission. *All* commissioners shall complete the Statement annually no later than April 1 of each year. *All commissioners leaving their seats on the commission* shall file a Statement no later than thirty (30) days after leaving office.

(g) By October 1 of every even numbered year, the Commission must review any Conflict-of-interest Code adopted pursuant to the Political Reform Act. If changes to the Conflict-of-interest Code are necessary due to changes in circumstance an amended code must be submitted to the Clerk of the Fresno County Board of Supervisors. If no changes are required, a written statement to that effect must be made to the Clerk of the Fresno County Board of Supervisors by October 1 of the same year.

(h) Relatives (which shall include, but not be limited to, parents, adult children, siblings, aunts and uncles) of First 5 Commissioners and staff who are not dependents are

discouraged from contracting with First 5. If a Commission staff person becomes aware that his or her non-financially dependent relative is in negotiations, or has entered into, contract with First 5, that staff person shall immediately disclose the existence of this potential/actual relationship to the Executive Director. Moreover, that staff person shall immediately be screened from any contract discussions and such relationship shall be disclosed to the Commission prior to any approval by the Commission. If a Commissioner is aware that his or her non-financially dependent relative is in negotiations to contract with First 5, that Commissioner shall disclose the relationship at a public meeting and may choose to recuse himself or herself from any part of the decision-making process.