

WORKFORCE DEVELOPMENT BOARD OF MADERA COUNTY

CONFLICT OF INTEREST CODE

ARTICLE I

GENERAL

TITLE AND PURPOSES

Section 100. This Code shall be known and may be cited as the “Conflict of Interest Code” of the Workforce Development Board of Madera County. It is adopted pursuant to the provisions of the Conflict of Interest Codes of the Political Reform Act of 1974. The adoption of this Code is intended to accomplish the following purposes:

- a. To provide a Conflict of Interest Code appropriate to the individual circumstances of the Workforce Development Board of Madera County as required by Government Code Section 87302.
- b. To assure that designated occupants perform duties in an impartial manner, free from bias caused by their own financial interest or the financial interests of business entities in which they are directors, officers, partners, trustees or employees, or in which they hold any positions of management.
- c. To require the disclosure of such assets and income of designated occupants which may be foreseen to be materially affected by their official actions, without unduly impinging upon the rights of privacy, rights pertaining to privileged communications, or rights involved in confidential or fiduciary relationships.
- d. To enumerate specifically the positions within the Workforce Development Board of Madera County which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

- e. To set forth for each position or category of positions enumerated under Section 100 (d) of this Code the Specific types of investments, interests in real property, and income which are reportable under this Code by the holder of such position.
- f. To provide reasonable assurances that all foreseeable potential conflict of interest situations will be disclosed or prevented.
- g. To set forth those specific circumstances under which designated occupants or categories of designated occupants must disqualify themselves from making or participating in the making of a Workforce Development Board decision.
- h. To specify the times for filing required reports, the periods to be covered by such reports, and the officers with whom reports are to be filed.
- i. To insure that members of the Workforce Development Board of Madera County complete Ethics Training no less than once every two years as required by California Assembly Bill 1234 and Government Code Section 53235.

EFFECTIVE DATE OF CODE

Section 101. This Code shall become fully effective thirty (30) days following its approval by the Board of Supervisors of Madera County, as the Code Reviewing Body.

LEGAL EFFECT OF CODE

Section 102. This Code has the force of law, and any violation by a designated occupant shall be deemed by law to be a violation of the Political Reform Act.

Section 103. No member, officer, employee or consultant at any level of the Workforce Development Board shall 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. The provisions of the Political Reform Act governing conflict of interest issues (Government Code Section 87100 to 87500, inclusive) thus apply to any member or alternate member or officer of the

Workforce Development Board , even though not a designated occupant within the meaning of this Code.

Section 104. The Political Reform Act, which may be applicable to violations of this Code, provides that:

- a. a person who knowingly or willfully violates any provision of this Code is guilty of a misdemeanor;
- b. a fine of up to the greater of \$10,000.00 or three times the amount of the interest the person failed to report properly be imposed upon conviction for each violation;
- c. no person convicted of such a misdemeanor shall be a candidate for any elective office or act as a lobbyist for four (4) years thereafter unless the sentencing Court determines otherwise, and that any convicted person doing so is guilty of a felony,
- d. persons may sue to enjoin violations or to compel compliance with the Act and this Code, and the official governmental action may in appropriate circumstances be set aside by the Court as void;
- e. any person who violates a provision of this Code is subject to discipline by his or her agency, including dismissal, consistent with applicable personnel laws, regulations and procedures;
- f. any person who intentionally or negligently violates any of the reporting requirements of the Act and this Code shall be liable in a civil action for an amount not more than the amount or value not properly reported;
- g. any designated occupant who realizes an economic benefit as a result of a disqualification provision of this Code is liable in a civil action for an amount up to three times the value of the benefit;

- h. any person filing late statements or reports may be liable to the filing officer in the amount of \$10.00 for each day delinquent, but not to exceed the cumulative amount stated in the late statement or report, or the sum of \$100.00, whichever is the greater;
- i. every person who signs and verifies any statement or report required to be filed under this Code which contains material matter which he or she knows to be false is guilty of perjury; and
- j. the Court may award the prevailing party, in any action authorized by the Act, his or her costs of litigation, including reasonable attorney's fees.

ARTICLE 2

INTERPRETATION AND DEFINITIONS

INTERPRETATION

Section 200. This code is to be liberally construed to accomplish the purpose of this Code, consistent with the purpose of the Workforce Development Board.

DEFINITIONS

Section 201. Unless the contrary is stated or is clearly apparent from the context, the definitions set forth in this Article shall govern the interpretation of this Code.

Section 202. “Act” means the Political Reform Act of 1974, comprising Title 9 (commencing with section 81000) of the Government Code of the State of California.

Section 203. “Code Reviewing Body” means the Board of Supervisors of the County of Madera, which Board is the Code Reviewing Body of this Code.

Section 204. “Business Entity” means any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.

Section 205. “Consultant” means any natural person who provides, under contract, information, advice, recommendation or counsel to the Workforce Development Board ; provided, however, that “consultant” does not include a person who:

- a. conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of Workforce Development Board officials, other than normal contract monitoring; and
- b. possesses no authority with respect to any Workforce Development Board decision beyond the rendition of information, advice, recommendation or counsel.

Section 206. “Designated occupant” – Directors, Workforce Development Board of Madera County.

Section 207. “Designated position” – Directors, Madera County Workforce Development Board.

Section 208. “Economic interests” is a generic term embracing investments, interests in real property, and income.

Section 209. “Filer” means the person filing or required to file any Statement of Economic Interests under this Code.

Section 210. “Gift” means any payment to the extent that consideration of equal or greater value is not received. The term “gift” does not include informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursements for any expense shall be deemed “informational material”.

Section 211. “Immediate family” means the spouse and dependent children. Whenever disclosure of investments or interests in real property is required by this Code, investments and interests in real property of members of the immediate family shall also be disclosed.

Section 212. “Indirect investment or interest” means any investment or interest owned by the spouse or dependent child or a designated occupant by an agent on behalf of a designated occupant, or by a trust in which a designated occupant has a substantial interest.

A business entity is controlled by designated occupant if the designated occupant, his or her agents, spouse and dependent children hold more than 50% of the ownership interest in the entity.

A designated occupant has a substantial interest in a trust when the designated occupant, his or her spouse and dependent children have a present or future interest worth more than \$1,000.00.

Section 213. “Interest in real property” includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction if the fair market value of the interest is greater than \$1,000.00.

Section 214. “Investment” means any financial interest in or security issued by a Workforce Development Board related business entity as more fully defined in Category I or Exhibit A. No asset is deemed an “investment” unless its fair market value exceeds \$1,000.00.

Section 215. “Jurisdiction” means the geographical area within the boundaries of the County of Madera. Real property shall be deemed to be “within the jurisdiction” of the County if the property or any part of it is located within not more than two (2) miles outside the boundaries of the County of Madera or within two (2) miles of any land owned or used by Workforce Development Board

Section 216. “Person” means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.

Section 217. “WDB” means the members of the Workforce Development Board of Madera County.,.

Section 218. “Reportable” subject matter means subject matter (an economic interest) which a filer is required by this Code to report in a Statement of Economic Interests.

Section 219. “Worth” refers to fair market value.

Section 220. “Material Financial Effect” means that the financial effect of a governmental decision on a financial interest of a public official is material if, at the time the official makes, participates in making, or attempts to use his or her official position to influence the making of the decision, the official knows or has reason to know that the

existence of the financial interest might interfere with the official's performance of his or her duties in an impartial manner, free from bias.

ARTICLE 3

STATEMENT OF ECONOMIC INTERESTS

DUTY TO FILE

Section 300. It shall be the duty of each designated occupant/position, Directors, Workforce Development Board of Madera County, to file Statements of Economic Interests conforming to all applicable requirements of this Code. The Statement of Economic Interests Form 700 will be required to be filed annually by April 1 and the filing entity is with the Madera County Workforce Investment Corporation. The forms will be submitted to the office of the Executive Director of the Workforce Development Board of Madera County and the annual notification will be generated by the office of the Executive Director of the Workforce Development Board of Madera County.

REPORTABLE ECONOMIC INTERESTS

Section 301. The economic interests to be reported by a designated occupant in such Statements are the interests included in those categories of interest described in Exhibit A.

REPORTABLE INTERESTS IN REAL PROPERTY

Section 302. When an investment or an interest in real property is reportable by the filer under this Code, the Statement shall contain:

- a. a statement of the nature of the investment or interest;
- b. 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;
- c. the address or other precise location of the real property;
- d. a statement whether the fair market value of the investment or interest in

real property exceeds \$10,000.00, and whether it exceeds \$100,000.00. This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer;

e. in the case of an investment which constitutes 50% or more of the ownership interest in a business entity, disclosure of the investments and interests in real property of the business entity;

f. in the case of a filer's second or subsequent statement, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the Statement, the date of acquisition or disposal.

REPORTABLE INCOME

Section 303. When income is reportable by the filer under this Code, the Statement shall contain, except as provided in Section 304:

a. the name and address of each source of income with an aggregate value of \$250.00 or more, or \$25.00 in value if the income was a gift, and a general description of the business activity, if any, of each source;

b. a statement whether the aggregate value of income from each source was greater than \$1,000.00, and whether it was greater than \$10,000.00;

c. a description of the consideration, if any, for which the income was received;

d. in the case of a gift, the amount and the date on which the gift was received.

Section 304. When income of a business entity, including income of a sole proprietorship, is reportable by the filer under this Code, the Statement shall contain:

a. the name, address and a general description of the business entity;

b. in the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the filer's pro rata share of fees from such persons was equal to or greater than \$1,000.00;

c. in the case of a business entity not covered by Section 304(b), the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such persons was equal to or greater than \$10,000.00 during a calendar year.

PLACE OF FILING STATEMENTS

Section 305. Each designated occupant shall submit the original copy of his or her Statement of Economic Interests with office of the Executive Director of the Workforce Development Board.

TIME OF FILING FIRST STATEMENT

Section 306. A filer's first statement shall be filed:

- a. by a person who, after the effective date of this Code, is elected, appointed, promoted or transferred to a designated position; and
- b. persons who occupy designated positions at the adoption of this Code by the Workforce Development Board shall voluntarily file within thirty (30) days of the effective date of this Code.

TIME OF FILING SUBSEQUENT STATEMENTS

Section 307. Subsequent to the filing of a filer's first statement, the filer shall annually, prior to April 30th of each year, file subsequent Statements of Economic Interests.

TIME OF FILING LAST OR EXIT STATEMENT

Section 308. All occupants of designated positions shall file an exit Statement within thirty (30) days of vacating any designated position.

POINT IN TIME COVERED BY FIRST STATEMENT

Section 309. A filer's first Statement shall report the designated occupant's reportable investments and interests in real property (but not income) as those investments and interests in real property exist at the time of filing. No period of time is covered by the filer's first Statement.

PERIOD COVERED BY FILER'S SECOND STATEMENT

Section 310. A filer's second Statement, filed in April, shall cover that part of the preceding calendar year which is subsequent to the time of filing the filer's first Statement.

PERIOD COVERED BY FILER'S THIRD AND SUBSEQUENT STATEMENTS

Section 311. Each of a filer's third and subsequent Statements shall be filed prior to April 30th of each year for the preceding calendar year.

PERIOD COVERED BY FILER'S LAST OR EXIT STATEMENT

Section 312. A filer's last or exit Statement shall be within thirty (30) days of vacating the designated position, with the period covered being from the last filed Statement to the date of exit.

ARTICLE 4

DUTY TO DISQUALIFY SELF AS TO DECISIONS

MATERIALLY AFFECTING ECONOMICS INTERESTS

CIRCUMSTANCES REQUIRING DISQUALIFICATION

Section 400. Except as provided in Section 401, it shall be the duty of each designated occupant to disqualify himself or herself from making or participating in the making of any Workforce Development Board decision, or from using his or her official position to influence a Workforce Development Board decision, if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the decision's effect on the public generally, on:

- a. any business entity in which the designated occupant has a direct or indirect investment interest which is reportable;
- b. any real property in which the designated occupant has a direct or indirect investment interest which is reportable;
- c. any source of reportable income (not including loans by a commercial lending institution in the regular course of business) aggregating \$250.00 or more in value received by or promised to the designated occupant within twelve (12) months prior to the time when the decision is made; or
- d. any business entity in which the designated occupant is a director, officer, partner, trustee, employee, or holds any position of management.

As used in this Section, "indirect investment or interest" has the meaning given that term in Section 212 of this Code.

Section 401. Specifically, WIOA Section 107(h) states that a member of a local board may not—

- (1) vote on a matter under consideration by the local board;
 - (A) regarding the provision of services by such member (or by an entity that such member represents); or
 - (B) that would provide direct financial benefit to such member or the immediate family of such member; or
- (2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

Section 402. Section 18703(e)(5) of the Fair Political Practices Commission regulations states that the financial effect on a public official's financial interest is deemed indistinguishable from that of the public generally if the decision is made by a board or commission and the law that establishes the board or commission requires certain appointees have a representative interest in a particular industry, trade, or profession or other identified interest, and the public official is an appointed member representing that interest. This applies only if the effect is on the industry, trade, or profession or other identified interest represented and there is no unique effect on the official's interest.

ARTICLE 5

DESIGNATED POSITIONS – DESIGNATED OCCUPANTS

AND THEIR REPORTABLE ECONOMIC INTERESTS

DESIGNATED POSITION/OCCUPANTS

Section 500. “Designated occupant” – Directors, Workforce Development Board of Madera County.

REPORTED ECONOMIC INTERESTS

Section 501. The specific types of investments, interests in real property, and income which are reportable under this Code by the holder or proposed holder of a designated position are as identified in Exhibit A. These identifications are by reference to the category numbers of the specific types of economic interests as identified in Exhibit A.

ARTICLE 6

WHISTLEBLOWER PROTECTIONS

It is the public policy of the State of California to encourage employees to notify an appropriate government or law enforcement agency, person with authority over the employee, or another employee with authority to investigate, discover, or correct the violation or noncompliance, and to provide information to and testify before a public body conducting an investigation, hearing or inquiry, when they have reason to believe their employer is violating a state or federal statute, or violating or not complying with a local , state of federal rule or regulation.

Who is protected?

Pursuant to California Labor code Section 1102.5, employee are the protected class of individuals. ‘Employee’ means any person employed by an employer, private or public, including, but not limited to, individuals employed by the state or any subdivision thereof, any county, city, city and county, including any charter city or county, and any school district, community college district, municipal or public corporation, political subdivision, or the University of California. [California Labor Code Section 11063]

What is a whistleblower?

A “whistleblower” is an employee who discloses information to a government or law enforcement agency, person with authority over the employee, or to another employee with authority to investigate, discover, or correct the violation or noncompliance, or who provides information to or testifies before a public body conducting an investigation, hearing or inquiry, where the employee has reasonable cause to believe that the information discloses:

1. A violation of a state or federal statute,
2. A violation or noncompliance with a local, state or federal rule or regulation, or
3. With reference to employee safety or health, unsafe working conditions or work practices in the employee's employment or place of employment.

A whistleblower can also be an employee who refuses to participate in an activity that would result in a violation of a state or federal statute, or a violation of or noncompliance with a local, state or federal rule or regulation.

What protections are afforded to whistleblowers?

1. An employer may not make, adopt, or enforce any rule, regulation, or policy preventing an employee from being a whistleblower.
2. An employer may not retaliate against an employee who is a whistleblower.
3. An employer may not retaliate against an employee for refusing to participate in an activity that would result in a violation of a state or federal statute, or a violation or noncompliance with a state of federal rule or regulation.
4. An employer may not retaliate against an employee for having exercised his or her rights as a whistleblower in any former employment.

Under California Labor Code Section 1102.5, if an employer retaliates against a whistleblower, the employer may be required to reinstate the employee's employment and work benefits, pay lost wages, and take other steps necessary to comply with the law.

How to report improper acts

If you have information regarding possible violations of state or federal statutes, rules, or regulations, or violations of fiduciary responsibility by a corporation or limited liability company to its shareholders, investors, or employees, **call the California State Attorney General's Whistleblower Hotline at 1-800-952-5225**. The Attorney General will refer your call to the appropriate government authority for review and possible investigation.

EXHIBIT "A"

CATEGORY 1:

Persons in this category shall disclose all investments. This disclosure category, however, shall be limited to business entities of any size involved in occupational or employment training, workforce development, or business entities not involved in such training but which employ fifty (50) or more people.

"Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest, if the business entity or any parent subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two (2) years prior to the time any statement or other action is required under this title. No asset shall be deemed an investment unless its fair market value exceeds \$1,000.00. The term "investment" does not include time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940, a common trust fund which is created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency. Investments of an individual include a pro rata share of investments of any business entity, mutual or trust in which the individual or spouse owns, directly, indirectly, or beneficially, a 10% interest or greater.

CATEGORY 2:

Persons in this category shall also disclose all income. This disclosure category, however, shall be limited to sources of income which are business entities of any size involved in occupational or employment training, workforce development, or business entities not involved in such training but which employ fifty (50) or more people.

“Income” means a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent proceeds, from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. “Income” also includes an outstanding loan. “Income” of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10% interest or greater. “Income”, other than a gift, does not include income received from any source outside the jurisdiction not doing business within the jurisdiction, and not planning to do business within the jurisdiction during the two (2) years prior to the time any statement or other action is required under this code.

CATEGORY 3:

Persons in this category shall disclose all interests in real property. This disclosure category, however, shall be limited to non-residential real property located within the jurisdiction which is used, or which reasonably could be used, for occupational or employment training or workforce development.

DIRECTOR ACKNOWLEDGEMENT

This is to acknowledge that I have received a copy of the Workforce Development Board of Madera County Conflict of Interest Code. I understand that I have an obligation to familiarize myself with these duties and responsibilities, to complete required Ethics Training no less frequently than once every two years, and to file an annual Statement of Economic Interest.

Dated: _____

Signed: _____

(Revised 6/21/18)