

How The Stem Cell Institute Compares to Other State Boards

CONFLICT OF INTEREST

Existing Law Applying to other State Boards	Stem Cell Institute (Including Voluntary Standards to be Voted on Today)
<p><i>Divestiture Required</i></p> <p>A member of a state agency cannot have a financial interest in any contract made by that agency. <u>Public officers cannot make themselves immune from a conflict-of-interest violation merely by recusing themselves from a vote or from participating in discussions or negotiations.</u> (Gov. Code 1090)</p> <p>For a member of a state agency that has a financial interest in a contract voted on by the board of which he or she is a member: “Mere membership on the board or council establishes the presumption that the officer participated in the forbidden transaction or influenced other members of the council.” (Thompson v. Call)</p> <p><i>Full Disclosure of Financial Interests</i></p> <p>All elected state officers, public officials, judges, district attorneys and members of state boards must report their investments and other financial interests. (Political Reform Act, Gov. Code§ 87200)</p>	<p><i>Limited Recusal</i></p> <p>The members of the stem cell oversight committee (ICOC) are not required to abide by state conflict-of-interest standards (Government Code §1090) except to <u>recuse themselves from voting on grants that could benefit them directly.</u> <u>ICOC members are not required to divest from companies that apply for grants.</u> (Section 125290 of Prop 71)</p> <p><i>Exempt from Disclosure of Financial Interests</i></p> <p>Working groups do not have to abide by the Political Reform Act. (Section 125290.50 (e)(2) of Prop 71).</p> <p><i>Current Voluntary Standards Fail to Provide Adequate Protections</i></p> <p>Standards adopted since the passage of Prop 71 are limited, provide differing levels of accountability, and do not provide for enforcement or penalties. For example:</p> <p>Stem cell employees may not have a financial interest in an entity that applies for a grant if more than 5% of that entity’s <u>research budget</u> is dedicated to stem cell therapy. Investments may not exceed \$10,000. <u>These standards do not apply to ICOC members.</u></p> <p><u>The ICOC may override conflicts-of-interest provisions for the Scientific and Medical Accountability Standards Working Group</u> and members of other working groups if the ICOC “judges that the disadvantages of a person’s conflict of interest are outweighed by the need for their particular expertise... .”</p> <p>Under new standards yet to be adopted, grant reviewers that have significant authority over which grants are approved, must disclose conflicts to stem cell institute staff, an auditor, and the legislature, <u>but these conflicts are not to be disclosed to the public.</u></p>

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PUBLIC RECORDS & MEETINGS

Existing Law Applying to other State Bodies	Stem Cell Institute
<p><i>State Boards Subject to Public Records Act</i></p> <p>All state board records are open to inspection, with some exceptions, including: trade secrets, preliminary drafts, records pertaining to pending litigation, personal or medical files, home addresses and phone numbers. (Public Records Act, Gov. Code, §6250-6300)</p>	<p><i>Many Records Are Exempt from Public Records Act</i></p> <p>The ICOC and working groups are largely exempt from the Public Records Act except for records submitted as part of the working groups' recommendations to the ICOC. (Section 125290.50 (f) of Prop 71)</p>
<p><i>Advisory Groups Must Abide by "Open Meetings" Rules</i></p> <p>Advisory groups created by state boards are required to abide by Open Meeting Act requirements if the advisory body "consists of three or more persons." (Gov. Code, §11121.8)</p>	<p><i>Advisory Groups Not "Open"</i></p> <p>Working Groups are not subject to <u>Open Meeting Act</u>. (Section 125290.50 (f) of Prop 71)</p>
<p><i>Board Meetings Must Abide by "Open Meetings" Rules</i></p> <p>All meetings of state boards must be open to any member of the public. If a member of the public requests notice, notice must be provided at least 10 days prior to the meeting. (Bagley-Keene Open Meeting Act, Gov. Code, §11120-11132)</p> <p>Prior to a closed meeting, a state body must hold a public hearing "in which it identifies the real property ... that the negotiations may concern and the person or persons with whom its negotiator may negotiate." (Gov. Code § 11126(c)7(B))</p>	<p><i>Key Discussions Exempt from Open Meetings</i></p> <p>The ICOC is exempt from Open Meeting Act requirements for meetings regarding compensation for officers or employees and issues relating to "confidential" intellectual property or scientific research. (Section 125290.30 (d) of Prop 71)</p>

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COMPETITIVE BIDDING & CONTRACTING

Existing Law Applying to other State Bodies	Stem Cell Institute
<p data-bbox="117 329 720 362"><i>State Contracts Must Meet Strict Requirements</i></p> <p data-bbox="117 402 993 508">Almost all state contracts are required to abide by extensive requirements related to competitive bidding, fair opportunity for all qualified bidders, and oversight of contracts. (Public Contract Code)</p>	<p data-bbox="1064 329 1728 362"><i>Grants & Loans Not Subject to Competitive Bidding</i></p> <p data-bbox="1064 402 1980 573">Grants and loans approved by the ICOC <u>are exempt from the Public Contract Code</u>. Contracts are largely exempt from the Public Contract Code except for requirements applicable to the University of California including those requiring consideration of historically underrepresented businesses. (125290.30 (e)(2)(C) of Prop 71)</p>

SALARY LIMITS

Existing Law Applying to other State Bodies	Stem Cell Institute
<p data-bbox="117 784 615 816"><i>Public Official Salaries Are Regulated</i></p> <p data-bbox="117 857 1035 917">State board salaries are set by statute and increases are governed by the Department of Personnel. (Gov. Code § 11550)</p>	<p data-bbox="1064 784 1675 816"><i>Stem Cell Institute Has Refused to Cap Salaries</i></p> <p data-bbox="1064 857 1192 889">No limits.</p>