

Conservation Administrative Manual			
Subject:	Conflict of Interest Policy and Incompatible Activities Statement		
Authoring Unit:	Legal Office	Section:	36100
Date:	March 26, 2020		

APPLICABILITY

This policy applies to all Department of Conservation (DOC) employees. An employee includes any officer, official, employee, temporary worker, student assistant, or intern (full-time or part-time).

PURPOSE

To protect the public's trust, each DOC employee has a special responsibility to observe the highest ethical standards and avoid even the perception of a conflict of interest. This policy helps ensure that all DOC employees understand DOC's high expectations, are aware of prohibited conduct, and can identify situations which could undermine public trust and lead to disciplinary action up to and including termination of employment.

AUTHORITY

Government Code sections [1090](#), [1099](#), [3205](#), [8314](#), [19990](#), and [87100](#) et seq; [Title 2 California Code of Regulations section 18700 et seq.](#)

RESPONSIBILITIES OF EMPLOYEES

It is the responsibility of every DOC employee:

- To review this policy at the time of his or her hiring.
- To review the policy periodically, and at least annually, ensure that he or she is in compliance with its provisions.
- Where required, to timely submit a Form 700, Statement of Economic Interests (1) upon appointment to his or her position, (2) on or before April 1 every year, and (3) upon separation from the DOC.
- To follow all applicable provisions of the Political Reform Act, Government Code section 1090, Government Code section [19990](#), and this policy.
- If a conflict-of-interest question arises, to report it immediately to his or her supervisor.

PROHIBITED CONDUCT

The Political Reform Act prohibits state officers and employees from influencing, participating in, or making any governmental decisions that may affect (positively or negatively) their financial interests. Financial interests include: sources of income, business management and investment, real property, sources of gifts, and immediate family's personal finances. (Gov. Code, § [87100](#) et seq.)

Where it is reasonably foreseeable that a DOC employee's participation in a governmental decision will materially affect the employee's financial interest, the Political Reform Act requires the employee's recusal from every part of the decision-making

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process. In cases where it has been determined that a DOC employee must be recused from decision-making, that recusal shall be communicated to all participants in the decision-making process.

State officers and employees are further prohibited from making or participating in making agreements or contracts in which they have a financial interest. (Gov. Code, § [1090](#).) Any agreement made in violation of section [1090](#) is void and unenforceable, and a private party to the agreement may be stripped of any benefits received under the agreement.

California Government Code section 19990 also prohibits state officers and employees from engaging in certain activities that are determined by their appointing or hiring authority to be inconsistent, incompatible, in conflict with, or inimical to their duties as state officers or employees. No employment, activity, or enterprise shall be engaged in by any DOC employee or official that might result in, or create the appearance of resulting in, any of the following:

- (a) Using the prestige or influence of the state or the appointing authority for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- (b) Using state time, facilities, equipment, or supplies for the officer's or employee's private gain or advantage, or the private gain or advantage of another.¹
- (c) Using or gaining access to confidential information available by virtue of state employment for private gain or advantage, or providing confidential information to persons to whom issuance of this information has not been authorized.
- (d) Receiving or accepting money or any other consideration from anyone other than the state for the performance of an act which the officer or employee would be required or expected to render in the regular course his or her duties.
- (e) Performance of an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly, to control, inspection, review, audit, or enforcement by the officer or employee.
- (f) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the DOC or whose activities are regulated, controlled, or funded in any way by the DOC, under circumstances from which it reasonably could be inferred that the gift was intended to influence the officer or employee in his or her official duties, or was

¹ Incidental use of state resources is permitted under Conservation Administrative Manual Policy No. 17000-40.

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intended as a reward for any official action on his or her part. Examples of gifts and items of value include, but are not limited to the following:

- Food and/or meals
- Tickets to sponsored events, mixers, social functions, fundraisers, or sponsored trainings
- Merchandise or “swag,” such as pens, clothing, keychains, electronic devices
- Free or discounted lodging
- Discounted or designated parking
- Gift cards or coupons
- Gift baskets

- (g) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her required or regular hours of duty as a state officer or employee.

In addition, as a general rule, employees may not hold financial interests related to DOC’s work. A financial interest is defined by the Fair Political Practices Commission in [Title 2, California Code of Regulations, section 18700\(c\)\(6\)](#).² A financial interest could include owning a business, stock or other investments, real property, an entity that is a source of income for the employee or for which the employee serves as an officer, director, partner, trustee, or manager. Exceptions to this rule are very limited and are described below. Specifically, without prior written approval by DOC’s director, DOC employees may not:

- Own or control financial interests in any business that does business with the employee’s Division within DOC. (Employees of the Administrative or Executive Divisions may not own or control financial interests in any business that does business with DOC.)
- Own or control financial interests in any business in the market sector regulated by the employee’s Division within DOC, regardless of whether the Division directly regulates the business and regardless of whether the business is active in California. A market sector includes all businesses regulated by a Division, plus those businesses’ reasonably foreseeable suppliers, customers, and competitors. (Employees of the Administrative or Executive Divisions may not own or control financial interests in any business in any market sector regulated by DOC.)
- Own or control financial interests in a market sector in which maps or reports prepared by the employee’s Division may affect government decisions involving a business in that market sector.
- Be employed by, serve as a consultant to, or have a formal affiliation with any business that does business with DOC or whose business operations include

² Financial interests that do not exceed the dollar limitations specified in regulation 18700(c)(6) do not violate this policy.

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mining operations, land conservation activities, or the exploration, extraction, or development of hydrocarbon or geothermal resources.

Exceptions to the prohibition on financial holdings may be approved only by the DOC director and must be in writing. Any written approval by DOC's director must explain why the approval is consistent with the requirements of the Political Reform Act, Government Code section [1090](#), and Government Code section [19990](#); and must include specific directions for communicating any applicable recusal to all participants in the decision-making process.

Some examples of interests that DOC employees may not own or control without written approval are:

- For employees in the California Geological Survey: financial interests in construction companies, mining-related businesses, or real estate developers.
- For employees in the Division of Land Resources Protection: financial interests in farms, agricultural-equipment manufacturers, conservancies, construction companies, real estate developers, resource conservation districts, forest or watershed restoration, land trusts, or nature conservancies.
- For employees in the Division of Mine Reclamation: financial interests in businesses whose activities include mining operations or exploration, extraction, processing, recycling, or development of mineral resources.
- For employees in the California Geologic Energy Management Division: financial interests in businesses whose activities include exploration, extraction, processing, refining, retailing, or recycling hydrocarbon or geothermal resources.

APPEALS PROCESS

For bargaining units (BUs) with an existing Memorandum of Understanding (MOU), if the MOU contains appeals process language that is in conflict with this policy, the MOU language shall be controlling.

- (1) If any employee wishes to engage in employment, an activity, or action that is or could be a violation of this policy, he or she must appeal and request a waiver. The appeal must be in writing, must describe the proposed activities in detail, their length, and what steps the employee proposes to take to avoid conflicts. The request should be emailed to DOCEthics@conservation.ca.gov with a cc: to the employee's immediate supervisor.
- (2) Within five (5) days of receiving an appeal, the Ethics Officer will notify the employee in writing that the appeal was received and will confer with the employee to identify suitable dates and times for an informal hearing on the matter. The matter will be heard and decided by a three-member panel from the Conservation Ethics Committee, at least one of whom must be the Ethics Officer.

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- (3) The hearing will occur at the DOC and may occur in person or by telephone. The hearing is an informal process where the employee explains the reasons he or she is requesting a waiver and why the proposed employment, activity, or action is not, or would not be, a violation of the policy. The employee will be permitted to submit documents in support of his or her position and may argue the reasons a waiver is appropriate. The employee must also respond to the panel's questions.
- (4) Within five (5) days of the hearing, the hearing panel will notify the employee and the employee's supervisor in writing of its decision to grant a waiver or not to, and the reasons therefor. The CEC's decision shall be final.
- (5) This appeal process is not available to employees facing formal discipline (e.g. notice of adverse action) for a violation of Government Code section 19990.

FORM 700 AND REPORTING CHANGES OF ECONOMIC INTERESTS

Every DOC employee that is required to file a Form 700 must do so on or before April 1 of every year. If an employee is alerted to error in his or her Form 700, the employee must file an amended Form 700 within ten business days.

If an employee's economic interests change after he or she has submitted the annual Form 700, and if a conflict or perceived conflict can reasonably be foreseen as a result of the change, the employee shall, within ten business days of the change, notify his or her immediate supervisor. The supervisor must immediately report any reported interest that violates this policy to the head of the division and to the Administrative Director, and must direct the employee to refrain from influencing, participating in, or making any decision for which the employee has a disqualifying interest.

VIOLATIONS

Employees who violate this policy may be subject to disciplinary action up to and including termination of employment.