



Risk & Audit Committee

Agenda Item 5d

June 21, 2023

Item Name: Conflict of Interest Code Amendment

Program: Enterprise Compliance

Item Type: Information

Recommendation

Approve staff's recommendation to amend the CalPERS Conflict of Interest Code followed by submission to the Office of Administrative Law (OAL) upon conclusion of the comment periods if no public comments are received.

Executive Summary

The Political Reform Act requires CalPERS to adopt, and periodically update, a Conflict of Interest Code (Code) in order to designate positions required to file a Statement of Economic Interests - Form 700 (Form 700). CalPERS Code was last updated in 2015. Since that time, CalPERS has added to the list of designated new positions, re-evaluated existing classifications deemed to be filers, and realigned classifications with CalHR's renaming process. These changes require the Code to be amended.

The purpose of this agenda item is to present, for approval, a regulation package to amend the CalPERS Conflict of Interest Code to the Risk and Audit Committee. Upon approval by the Committee and Board, staff will submit the regulation package to the Office of Administrative Law.

Strategic Plan

ECOM prepared the proposed amendment to support CalPERS' FY 2022-27 Organizational Excellence strategic goal: *Cultivate a diverse, risk-intelligent, and innovative culture through our team and processes.*

Background

The Political Reform Act requires each state agency to adopt a Conflict of Interest Code (Gov. Code sec. 87300). The Code designates the agency officials, employees, and consultants who are required to file a Form 700 along with the extent of their reporting requirements. Each

agency must amend its Code when there are changes in circumstances, such as the creation of new positions or other organizational changes.

CalPERS Code is embodied in an administrative regulation (Cal. Code Regs., title 2, § 560). All employees who are required to file a Form 700 are listed in the Code and are referred to as “designated employees.” CalPERS has created new positions and amended the duties of existing positions, since the current Code was codified on October 8, 2015.

Analysis

In order to assess the current list of designated employees and develop proposed amendments to the Code, the Enterprise Compliance Division utilized criteria set forth in the Political Reform Act and FPPC regulations. These criteria essentially define designated employees as individuals who make or participate in the making of governmental decisions which may foreseeably have a material effect on a financial interest. Staff has provided the proposed amended Code to CalPERS senior leaders, the Legal Office, the Human Resources Division, and the Fair Political Practices Commission (FPPC) for their input and concurrence.

CalPERS currently has approximately 1,000 Form 700 filers. This amendment will add approximately 117 more. In addition to the update of the list of designated positions, impacted program areas include: ITSB (81), ACTO (31), and FINO (5).

The proposed FPPC-approved updates include:

The addition to the list of designated positions created since the last amendment:

- Chief Health Director
- Chief Operating Officer
- Deputy Chief Investment Officer
- Financial Accountant (All)
- Medical Program Consultant
- Special Consultant
- Senior Telecommunications Engineer

The addition of existing positions that were re-evaluated and determined to be making governmental decisions:

- Actuarial Analyst
- Actuarial Analyst Supervisor
- Actuarial Senior Analyst
- Information Technology Specialist (II, III)
- Senior Accounting Officer (All)

Alignment with CalHR's renaming of existing classifications:

- Previous Classification Names:
 - Data Processing Manager
 - Research Manager (All)
 - Associate Pension Actuary
 - Senior Pension Actuary
 - Senior Life Actuary
 - Supervising Pension Actuary

- Current Classification Names:
 - Information Technology Manager (All)
 - Information Technology Supervisor (All)
 - Research Data Specialist (All)
 - Research Data Supervisor (All)
 - Research Data Manager
 - Actuary
 - Actuarial Senior
 - Actuarial Analyst Supervisor

Budget and Fiscal Impacts

Not Applicable.

Benefits and Risks

The proposed amendment will ensure that the CalPERS' Conflict of Interest Code is current and it will keep CalPERS in compliance with the biennial review and amendment requirement.

The proposed amendments to the Code provide the following benefits:

- Designate positions that should be filing the Form 700.
- Help to ensure that potential conflict of interest situations will be disclosed or prevented.
- Promote transparency.

The approval of the proposed amendments to the Code reduces the following risks:

- Legal and financial risks due to consequences of failure to comply with laws or regulations.
- Operational risks resulting from significant noncompliance leading to error or process failure.

Attachments

Attachment 1 – Proposed CalPERS Conflict of Interest Code – Redline Version

Attachment 2 – Proposed CalPERS Conflict of Interest Code – Final Version

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