

Supplemental Ethics Policies
Children and Families Commission Of
_____ [insert county name] County
(First 5 _____ County)
7/12/10

Article 1: Policy Purpose and Background

A. Purpose. First 5 commissions must adopt ethics policies that satisfy the requirements of the Political Reform Act¹ and other state ethics laws.² The Children and Families Commission of _____ [insert county name] adopted such policies on _____ [insert date]. This policy supplements those policies by setting The Children and Families Commission of _____ [insert county name]'s sights higher than the minimum requirements of the law.

B. Background. The California Children and Families Act of 1998³ authorizes each county to establish a commission dedicated to promoting, supporting, and improving the early development of children from the pre-natal stage to five years of age. This is accomplished through appropriate standards, resources, and integrated and comprehensive programs emphasizing community awareness, parent and caregiver education, child care and development, social services, health care and research.

¹ See Cal. Gov't Code § 87300 and following:

87300. Every agency shall adopt and promulgate a Conflict of Interest Code pursuant to the provisions of this article. A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter.

² See Cal. Health & Safety Code §130140(d)(4), which reads as follows:

(4) The county commission, in a public hearing, has adopted policies that are consistent with the following state laws:

(A) With regard to conflict of interest of the commission members, the county commission's policies shall be consistent with Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code [relating to interests in contracts], Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code [relating to incompatible functions], and Chapter 7 (commencing with Section 87100) of Title 9 of the Government Code [The Political Reform Act].

³ See Health and Safety Code Section 130100 and following.

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C. First 5 Commission Composition. The county board of supervisors appoints commission members. Under the Children and Families Act, each county's First 5 commission must be comprised of a combination of county officials and community representatives. County representatives must include, at least:

1. A member of the county board of supervisors;
2. Two individuals selected from among the following: a) the county health officer and b) persons responsible for management of one 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 commission members must be selected from among representatives of:

1. Other county officials described in #2 above;
2. Recipients of project services included in the county First 5 strategic plan;
3. Educators specializing in early childhood development;
4. Local child care resource or referral agencies or local child care coordinating groups;
5. Local organizations focusing on prevention or early intervention for families at risk;
6. Community-based organizations that have the goal of promoting nurturing and early childhood development;
7. Local school districts; and
8. Local medical, pediatric, or obstetric associations or societies.⁴

D. Policy Goal and Mechanisms. The composition of First 5 commissions means that, from time to time, commission members may be from agencies that seek or receive First 5 funding. As a result, a key goal of this policy is to promote public confidence and trust in the decision-making processes of the Children and Families Commission of

⁴ See Cal. Health & Safety Code § 130140(a)(1)(A) (specifying composition of commissions).

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____ [insert county name]. Such public confidence and trust is a function of a number of factors:

1. Decision-makers' experience, knowledge and competence;
2. Their commitment to putting the interests of children under five before any personal or organizational interests;
3. Transparent and inclusive decision-making processes; and
4. Accountability mechanisms that assure the public that worthy public purposes are being achieved as the result of the expenditure of public resources on First 5 programs.

There are a number of state and federal laws⁵ that are designed to promote public trust and confidence in both local agency decisions and specifically First 5 commission decisions. These laws create minimum standards for public agency decision-makers that are important to satisfy. A key goal of this policy is to set the sights of the Children and Families Commission of ____ [insert county name] higher than the minimum standards of the law.

Article 2 The Commission's Additional Practices to Protect Public Trust and Confidence in the Commission

The Children and Families Commission of ____ [insert county name] believes that public trust and confidence in commission decisions and actions is vital to the accomplishment of the commission's mission. Accordingly, the commission will engage in the following practices to promote the public's trust and confidence in the commission's activities.

[Note to Users: Insert those best practices your local commission chooses to adopt from the Institute for Local Government's Best Practices – see list below]

⁵ See, for example, Cal. Const. art.XVI, § 6 (prohibition against gifts of public funds); Cal. Penal Code § 424 and Cal. Gov't Code § 8314. (prohibitions against misuse of public resources); See Cal Penal Code §§ 7 (definition number 6), 68(a), 74 (prohibitions against bribery and graft); Cal. Gov't Code § 87100 and following (the California Political Reform Act); Cal. Gov't Code § 1090 and following (including specifically Cal. Gov't Code § 1091.3); Cal. Gov't Code § 1126 (incompatibility of offices); See Cal. Gov't Code § 54950 and following (open meetings requirements); Cal. Gov't Code § 6250 and following (open records requirements). See also Cal. Gov't Code § 53235(a), (b) (ethics training requirements for certain kinds of local agency officials – see note 10 for further discussion). For more information about public service ethics laws, visit www.ca-ilg.org/ethicsbasics and www.ca-ilg.org/trust.

Recruitment and Appointment Process

- **Broad-based Recruitment.** When the board of supervisors requests help from the commission in recruiting potential candidates for the commission, the commission will do so from a broad cross section of the community. It will publicize openings on the commission broadly (including through county and commission websites, as well as through outreach to the philanthropic, faith-based and nonprofit communities) and encourage applications to serve.⁶ The commission will take advantage of ethnic and community-specific media in its outreach efforts. [The commission will use the same practices to recruit for advisory committee⁷ members.]⁸

- **Notice and Opportunity to Comment on Appointments.** The commission will post upcoming appointments to advisory committees and related agenda materials on the commission website a week [or more] before the public meeting at which appointments will be made.⁹

- **Avoiding Appointees with Conflicts.** The commission will avoid appointing people to advisory committees who are affiliated with organizations that receive or may seek funding from First 5 programs. In addition, the commission will advise organizations who may seek First 5 funding that their organizations will not be eligible for funding if they are affiliated with a commission decision-maker.¹⁰

⁶ Minimum requirements include those specified in Government Code sections 54970 through 54975.

⁷ State law contemplates that county commissions create one or more advisory committees to provide technical and professional expertise and support for "any purposes that will be beneficial in accomplishing the purposes of the act." See Cal. Health & Safety Code § 130145. Advisory committees offer the opportunity to expand public input into a commission's decision-making.

Some First 5 commissions use advisory committees for input on elements of the commission's strategic plan. See Cal. Health & Safety Code § 130140(a)(1)(C). Advisory committees are often used (these are not necessary mutually exclusive) to: 1) provide technical expertise to the commission; 2) get input from various sectors of the community not explicitly represented on the commission; and 3) assist in the strategic planning process. Advisory committees can assure that any decisions to fund county programs do in fact reflect the best interests of the public (see best practice #5 under When Making Funding Decisions below) given the statute's requirements that two members of local commissions be county staff with certain functions. See Cal. Health & Safety Code § 130140(a)(1)(A)(i).

⁸ This sentence would be relevant only if the commission uses advisory committees.

⁹ This section would be relevant only if the commission uses advisory committees.

¹⁰ This section would be relevant only if the commission uses advisory committees.

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- **Advance Disclosure of Appointee Affiliations.** The commission will develop and use a form that asks prospective appointees to the commission [and advisory committees]¹¹ to disclose organizations with which they or their family members are affiliated.¹² Decision-makers are expected to update this disclosure as their affiliations change.
- **Advance Notice to Potential Appointees.** Working with the county, the commission will alert people being considered for appointment to the commission [and advisory committees]¹³ of the need, as applicable, to 1) timely and accurately file state-required personal financial interest disclosure forms (Form 700s), 2) timely comply with the commission's ethics training requirements, and 3) step aside from any decision-making process that could benefit organizations with which they are affiliated.¹⁴

After Appointment

- **Public Information about Decision-makers.** The commission will publicly disclose (including on its website) who serves on the commission [and advisory committees],¹⁵ the qualifications they bring to their service (including their organizational affiliations), and the process by which they are appointed.
- **Orientation Materials.** The commission will provide appointees to commissions [and advisory committees]¹⁶ the local commission's policies and practices relating to avoiding even the appearance of conflicts of interest and other information relating to public service ethics as part of the appointee's orientation process/packet. Commission counsel will meet with each new appointee to convey this information and answer any questions. This information will include contact information for those appointees may consult for advice about

¹¹ This phrase would be relevant only if the commission uses advisory committees.

¹² "Affiliated with organizations" includes being employed by an organization, being on an organization's governing board or having a family member who has such an affiliation.

¹³ This phrase would be relevant only if the commission uses advisory committees.

¹⁴ Sample advisory pamphlet: <http://www.ca-ilg.org/candidatepamphlet>

¹⁵ This phrase would be relevant only if the commission uses advisory committees.

¹⁶ This phrase would be relevant only if the commission uses advisory committees.

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how these principles apply to specific situations that may arise. Appointees will be asked to sign a form indicating they have received and reviewed materials.

- Financial Interest Disclosure.** New commission members must file Form 700 within the statutory deadline.¹⁷
- Ongoing Disclosure of Appointee Affiliations.** Appointees to commissions [and advisory committees]¹⁸ must update their affiliations disclosure as their affiliations change.

Ethics Training

- Tailored Ethics Training.** The commission will provide First 5 commissioners [and advisory committee members]¹⁹ ethics training that meets the specific information needs and legal obligations of First 5 decision-makers.²⁰
- Timing for Ethics Training.** Commissioners [and advisory committee members]²¹ will receive such training within six months of becoming a First 5 decision-maker and then every two years thereafter.²² [For advisory committee members, participation in such training is a condition of continuing to serve.]²³
- Staff Training.** Commission executive staff must also participate in this training.

¹⁷ See Cal. Gov't Code § 87202-87204, 87304; 2 Cal. Code of Regs. § 18722.

¹⁸ This phrase would be relevant only if the commission uses advisory committees.

¹⁹ This phrase would be relevant only if the commission uses advisory committees.

²⁰ State law allows those counties who choose to participate in the California Children and Families Program to create a local First 5 commission that is *either* a legal public entity separate from the county or an agency within the county with certain independent authorities. See Cal. Health & Safety Code § 130140.1(a)(1) and (2). It is not clear that commissions in the former category are subject to the state law (AB 1234) that requires city, county and special district officials to receive periodic ethics training." See Cal. Gov't Code § 53235(a), (b). This creates the opportunity, however, for independent commissions to adopt their own training requirements and specifically tailor that training to the issues that are likely to arise for First 5 commissioners. Note that either standard AB 1234 training or more tailored training can be either in person or through self study exercises (for example, using written materials and a test – see www.ca-ilg.org/AB1234compliance for examples of self study materials).

²¹ This phrase would be relevant only if the commission uses advisory committees.

²² The state law ethics training standard for local officials is that the first training must occur within one year of joining local agency service and every two years thereafter. See Cal. Gov't Code § 53235.1.

²³ This sentence would be relevant only if the commission uses advisory committees.

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- **Documentation.** The commission will post certificates of compliance with ethics training requirements on the commission's website, in addition to maintaining such certificates as public records available for inspection.

When Making Funding Decisions

- **Broad-based Public Input Sought.** The commission will use and document use of inclusive processes²⁴ to seek broadly-based community input on strategic plan updates, including funding priorities, in addition to the public hearing required by law.²⁵ Outreach strategies will include invitations to participate to the philanthropic, faith-based and nonprofit communities, as well as through county and commission websites and social media outlets. The commission will also reach out early to community leaders and organizations, taking advantage of lines of communication offered through ethnic and community-specific media.
- **Publicity for Funding Opportunities.** The commission will widely publicize the opportunity to compete for contracts and grants (through website, mailings and other outreach mechanisms), allowing a generous timeframe for interested organizations to respond. To achieve this widespread publicity, the commission will develop and maintain an up-to-date database of potential partners (either for programs or help with getting the message out), that includes community leaders, service and advocacy organizations, community/neighborhood and ethnic media, local community foundations and other philanthropic organizations, and area clergy.
- **Process for Funding Decisions.** As a general practice, the commission will use a merit-based, competitive process for grant and contract awards. When the commission determines that a competitive process does not best serve interests of the populations served by First 5 programs, it will document that determination with specific findings as to why the commission reached that determination.
- **Special Procedures for Funding County Programs.** To address concerns about any decisions to fund county programs given statutory requirements concerning the composition of local commissions, the commission will require all decisions relating to county program funding be reviewed by an advisory committee that

²⁴ Ideas for authentic public engagement techniques are available at www.ca-ilg.org/cgi.

²⁵ See Cal. Health & Safety Code § 130140(a)(1)(E).

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does not include county employees or elected officials²⁶ (see also best practices about appointing members of such committees above). The commission will provide ample notice and opportunity to have input at the meeting(s) during which the committee considers its recommendations relating to the merits of using First 5 monies for county programs should be provided. The committee's recommendations (and reasoning underlying the recommendations) will be included in the staff reports to the First 5 commission. County members of the First 5 Commission will not participate in the decision on funding county programs.

- **Anti-Nepotism Policies.** If a decision-maker's family member (including parent, grandparent, child, sibling, relation by marriage or civil union, aunt, uncle or cousin) works for an organization being considered for funding, that decision-maker is prohibited from participating in or influencing the decision on whether that organization receives funding. "Influencing" includes not only voting on a matter, but discussing it with staff or other decision-makers.

At Each Meeting (When Making Decisions about Funding)

- **Alerting Decision-Makers to Potential Conflict Issues.** The commission will include "conflict of interest advisory" on every commission [and advisory committee]²⁷ agenda explaining: 1) the circumstances under which decision-makers need to step aside from the decision-making process,²⁸ and 2) which organizations are being considered for funding in that meeting (to minimize the likelihood a decision-maker will be unaware of an organization's involvement in an agenda item).²⁹
- **Disqualification Item on Each Agenda.** The commission will have a standing agenda item on every commission [and advisory committee]³⁰ agenda to enable those decision-makers who will not be participating on an agenda item to

²⁶ State law allows county commissions to create one or more advisory committees to provide technical and professional expertise and support for "any purposes that will be beneficial in accomplishing the purposes of the act." See Cal. Health & Safety Code § 130145.

²⁷ This phrase would be relevant only if the commission uses advisory committees.

²⁸ These circumstances should include both state law requirements for disqualification (including receipt of campaign contributions under Government Code section 84308) and locally adopted policies.

²⁹ Note that the obligation to step aside from the decision-making process extends to all aspects of influencing the decision, including talking to staff and colleagues.

³⁰ This phrase would be relevant only if the commission uses advisory committees.

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announce that fact and why.³¹ Decision-makers must include as part of the announcement that a) the decision-maker will not be voting or participating in a discussion on that item, and b) the decision-maker has not discussed that item with other decision-makers or staff.³²

- **Leave the Room Requirement.** Anyone who is disqualified from participating in a decision because of a conflict of interest must leave the room when that agenda item is called.³³
- **Public Notice and Comment Opportunities.** The commission will maximize the public's knowledge and opportunity to comment on proposed funding decisions by posting them a week [or longer time period] in advance on agency's website, including any proposed decision and findings relating to not using a competitive process for awarding grants/contracts.
- **Document Efforts.** Commission staff reports will document the process used to publicize the funding opportunities and the process used to select proposed grantee/contractor(s).

In General

- **First 5 Legal Framework Explanation.** To enhance public understanding of the legal framework within which First 5 commissions operate, the commission will include a plain language explanation of the law relating to First 5 commission membership and conflicts of interest exceptions on its website.
- **Commitment to Ethics Demonstration.** The commission will include a section on its website relating to decision-making ethics that explains and includes: a) the local commission's conflict of interest code, b) the practices decision-makers employ to assure that decisions-relating to funding and funding priorities are motivated solely by the interests of the populations served by First 5 programs and not narrow personal, organizational or familial interests, c) copies of decision-makers' most recent Form 700 filing [alternative: provide list of decision-makers who have filed a Form 700 and link to county agency that will

³¹ See Cal. Gov't Code § 87105.

³² See 2 Cal. Code of Regs. § 18702.5 (regulatory requirements relating to what a disqualified official must say when recusing him or herself upon which this best practice expands).

³³ See Cal. Gov't Code § 87105(a)(3) (statutory requirement that applies to elected officials and top level managers on which this best practice expands).

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provide these forms as a public record] has and d) commissioners', staff's and advisory committee members' ethics training documentation.

- **Accountability Mechanism Explanations.** The commission will include plain language materials for its website 1) to help the public understand the accountability mechanisms for contracts and grants provided for in the California Children and Families Act, and 2) share the results of (or copies of) audits and performance reviews to help the public understand how contractors and grantees performed under their agreements with the commission.³⁴

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³⁴ See Cal. Health & Safety Code §§ 130100 (referring to "outcome based accountability"), 130140 (a)(1)(C)(ii) (county plans must have measurable outcomes, commission must use reliable indicators, services and programs must be consumer oriented and easily accessible); §130140 (a)(1)(C)(iv) (measure outcomes annually and review as part of public review of strategic plan).