

<h1>POLICY MANUAL</h1>	Date Adopted: December 19, 2001
Classification: BOARD OF DIRECTORS	Date Last Amended:
Subject: Conflict of Interest: Incompatible Activities	Approved By:

Background

The State of California has established specific requirements to protect against the inappropriate influencing of public policy decisions because of conflicted interests of decision makers. Included in the State requirements is the obligation for all public agencies to adopt policies describing “Incompatible Activities” and the means to address such occurrences should they arise.

Policy

The following defines District policy as to “Incompatible Activities”:

WHEREAS, Government Code Subsection 1126(a) prohibits a local agency’s officers and employees from engaging in any employment, activity, or enterprise for compensation which is inconsistent with, incompatible with, in conflict with, or inimical to their duties as a local agency officers or employees, or with the duties, functions or responsibilities of their appointing power or the agency by which they are employed; and

<h1>POLICY MANUAL</h1>	Date Adopted: December 19, 2001
Classification: BOARD OF DIRECTORS	Date Last Amended:
Subject: Conflict of Interest: Incompatible Activities	Approved By:

WHEREAS, Government Code Subsection 1126(a) also prohibits a local agency's officers and employees from engaging in any work, service, or counsel for compensation outside of the agency's employment where any part of their efforts will be subject to approval by any other officer, employee, board, or commission of the agency, unless otherwise approved in a manner prescribed in Subsection 1126(b); and

WHEREAS, Government Code Subsection 1126(b) permits each appointing power to determine, subject to approval of the local agency, those activities which, for employees under its jurisdiction, are inconsistent with, incompatible to or in conflict with their duties as local agency officers or employees. It provides that an employee's outside employment, activity or enterprise may be prohibited if it involves any of the activities set forth in Section I hereinbelow; and

WHEREAS, Government Code Subsection 1126(c) requires each local agency to adopt rules governing the application of Section 1126, including provision for notice to employees of (i) the determination of prohibited activities; (ii) disciplinary action to be taken against employees for engaging in prohibited activities; and (iii) of rights of appeal by employees from such a determination, and from its application to an employee.

<h1>POLICY MANUAL</h1>	Date Adopted: December 19, 2001
Classification: BOARD OF DIRECTORS	Date Last Amended:
Subject: Conflict of Interest: Incompatible Activities	Approved By:

I

DETERMINATION AND PROHIBITION OF INCOMPATIBLE ACTIVITIES

The following are hereby determined to be activities incompatible with service as an official or employee of the Fresno Metropolitan Flood Control District, and are hereby prohibited:

A. Using for private gain or advantage his/her District time, facilities, equipment and supplies, or the badge, uniform, prestige or influence of his/her District office or employment;

B. Receiving or accepting any money or any consideration from anyone other than the District for the performance of an act that the officer or employee, if not performing such an act, would be required or expected to render in the regular course or hours of his/her District employment, or as a part of his/her duties as a District officer or employee;

C. Except as permitted by Subsection II B hereinbelow, performing an act in other than his/her capacity as a District officer or employee that is directly or indirectly, subject to the control, inspection, review, audit or enforcement of any other officer or employee of the District;

D. Any activity involving time demands that would render performance of his/her duties as a District officer or employee less efficient.

<h1>POLICY MANUAL</h1>	Date Adopted: December 19, 2001
Classification: BOARD OF DIRECTORS	Date Last Amended:
Subject: Conflict of Interest: Incompatible Activities	Approved By:

The items listed here are principles, and are not all-inclusive. Interpretation of this Statement shall be made on a case-by-case basis¹.

An activity known to the body appointing a District officer, and not determined at that time to be in conflict with the officer's duties, is deemed approved².

II

IMPLEMENTATION BY THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

A. Each District officer and employee shall be given a copy of this Statement of Incompatible Activities, and shall sign a certificate stating that he/she has read the same. The certificate shall be maintained in the officer's/employee's District personnel file. This policy shall also be explained to employees by legal counsel as a part of the annual conflict of interest briefing.

B. When an outside pursuit of a Director may constitute an incompatible activity prescribed in Section I above, he/she shall (i) identify the conflict of interest on the public record at the next meeting of the Board of Directors; and (ii) abstain from participating in the transaction either on behalf of the District or the private entity. If the incompatibility is of such

¹ Long Beach Police Officers Association vs. City of Long Beach (1998) 43 Cal.3d 776

<h1>POLICY MANUAL</h1>	Date Adopted: December 19, 2001
Classification: BOARD OF DIRECTORS	Date Last Amended:
Subject: Conflict of Interest: Incompatible Activities	Approved By:

a continuing and pervasive nature that a Director must constantly abstain from performing his/her duties, the Board of Directors shall refer the matter to the body appointing that Director.

C. District employees and their respective supervisors shall be responsible to determine if any of their present or potential future activities are subject to the prohibitions specified above by submitting a written request for review by the General Manager (or another impartial designee of the Administrative Committee) of any potentially incompatible activities. The Board of Directors as to the General Manager, and the General Manager or designee, as to employees, shall give the employee or officer a written reply determining whether any such potentially incompatible activities are in fact prohibited, and shall place a copy of such request and notification in the employee' or officer's personnel file. The reply may require that the employee or officer abstain from participating in all transactions between the District and the other entity, or may require that the employee or officer terminate the outside activity.

D. An employee may appeal the determination of a prohibited activity, or the application of the determination of an incompatible activity against the employee, by requesting a hearing before the Administrative Committee.

E. The failure of an employee to comply with any requirement hereof may be cause for disciplinary proceedings pursuant to the District's Personnel Policy.

<h1>POLICY MANUAL</h1>	Date Adopted: December 19, 2001
Classification: BOARD OF DIRECTORS	Date Last Amended:
Subject: Conflict of Interest: Incompatible Activities	Approved By:

F. An employee may appeal (i) the determination of a prohibited activity; or (ii) the application of the determination of an incompatible activity against him/her, by requesting a hearing before the Administrative Committee.