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MEMORANDUM

TO: Form 700 Filing Officials for Santa Clara County Local Agencies

FROM: James R. Williams, County Counsel *JRW*
Tiffany Lennear, Clerk of the Board of Supervisors *TL*

RE: Filing of Statements of Economic Interests - Form 700

**STATUTORY DEADLINE TO NOTIFY CLERK OF THE BOARD OF THE
CURRENT FILERS IN YOUR AGENCY: FEBRUARY 1, 2022**

**TIMEFRAME TO DISTRIBUTE EMAIL & REFERENCE MATERIALS
TO YOUR DESIGNATED FILERS: FEBRUARY 9, 2022**

**STATUTORY DEADLINE FOR YOUR FILERS TO FILE THEIR
ANNUAL FORM 700s: APRIL 1, 2022**

DATE: January 20, 2022

All officers, employees, and consultants of your agency who are in a position that makes or participates in making decisions that may foreseeably have a material effect on any financial interest of the position holder, must file a Form 700 annually—by April 1st this year. The positions designated to file Form 700s should be accurately listed in your agency's Conflict of Interest Code.

This memorandum discusses the Filing Official's Responsibilities for the Annual Filing, as well as throughout the year. **In addition, please refer to the enclosed checklist for the Filing Official's use to assist in tracking the required steps and timeframes of the Annual Filing process.**

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I. Filing Official Must Provide List of Filers to Clerk of the Board by Tuesday, February 1st

State law requires that each Filing Official notify the Clerk of the Board annually with the name and position title of every designated employee and consultant in your department who must file a Form 700. In future, this due date has been updated to December 15th of each year. You need to use eDisclosure's built-in "List of Filers" report to make sure eDisclosure accurately reflects your agency's current filers and then submit an email to the Clerk of the Board's Office with your "List of Filers" report, certifying in the body of your email that you have verified the List is accurate.

To access and update the "List of Filers" report from eDisclosure:

1. Login to eDisclosure: <https://www.southtechhosting.com/SantaClara/eDisclosure/>
2. On the menu on the left-hand side of the screen, select "Filer Reports"
3. A new screen will appear. In the "Report" drop-down menu, select "List of Filers" and click "Get Report" (you do not have to mark or change any other fields)
4. The report will appear showing the following information for each filer listed in eDisclosure for your agency: last name, first name, middle name, position/category, division (optional), email address, login ID, and start date.
5. Review the report for the following:
 - a. Ensure all listed Form 700 filers have the correct information.
 - If anyone has incorrect information, such as an email address, fix the individual's information in eDisclosure (on the Filer Management page, highlight the filer's name and click on the Account Info button). (Note: you need to contact the Clerk of the Board at form700@cob.sccgov.org to change or correct a filer's name (e.g., changed due to marriage or divorce, first and last name erroneously swapped when entered, or is otherwise in the system incorrectly).)
 - If a filer has moved to a different designated position in your agency, process the change using the transfer button in eDisclosure entering the actual end date the person was in the prior designated position and the start date the person began in the current designated position. This does not trigger any filing notice to the individual. (See c. below for a person who is listed and is no longer in any designated position in your agency.)
 - b. Ensure all individuals currently holding a designated position in your agency are listed on the report.

- As part of your check, you should refer to your agency's conflict of interest code which lists each of your agency's designated positions.
 - If anyone who holds a designated position listed on your agency's conflict of interest code is not listed on the eDisclosure report:
 - Refer to *Handout on Filing Official's Responsibilities re Assuming Office* for guidance.
 - Use sample email for Assuming Office to email the individual regarding the Assuming Office Form 700 requirement.
 - Add the individual into eDisclosure with the actual start date they began in the designated position.
 - "Log a Note" in eDisclosure indicating the delay in notification to the filer about the Assuming Office Form 700 requirement.
- c. Check if any individuals are listed who no longer have a Form 700 filing requirement with your agency.
- If anyone who is no longer in a designated position is listed on the eDisclosure report:
 - Refer to *Handout on Filing Official's Responsibilities re Leaving Office* for guidance.
 - If necessary, obtain an updated email address for the person and update the person's email address in eDisclosure.
 - Use sample email for Leaving Office to email the individual regarding the Leaving Office Form 700 requirement. If you are unable to obtain an email address, mail notice to the individual.
 - Click "Leave Office" in eDisclosure and enter the actual date the individual left the position.
 - "Log a Note" in eDisclosure indicating the delay in notification to the filer about the Leaving Office Form 700 requirement and add the mailing address if you had to mail notice to the individual.
6. Once you have updated eDisclosure, run the report again. Once the report accurately reflects your current Form 700 filers, submit the report by February 1, 2022 to form700@cob.sccgov.org. Indicate in the body of your email that you have verified that the list of filers in eDisclosure is up-to-date.

PLEASE NOTE: The list of filers from eDisclosure will list all current, active filers; it will not list filers who may have a leaving office statement due, as they are not considered "active" filers.

For questions related to updating eDisclosure, please contact form700@cob.sccgov.org.

II. After List of Filers is accurate in eDisclosure, Filing Official Must Provide Materials to Designated Filers (distribution to occur between February 9 and February 10, 2022)

Please Use the Sample Email to Send to Your Filers with Links to Materials.

A. Sample Email to Distribute to your Filers

We are providing a sample email for you to send to your filers to explain the process.

Once you have confirmed that your list of filers is correct, please ensure that the email and reference materials are distributed between February 9 and February 10 to filers who need to submit an annual statement this year (see below about filers who are not required to submit an annual statement this year). This ensures they receive your instructions and reference materials prior to receiving the automated annual filing notice from eDisclosure.

➤ **Do not send your email to individuals who assumed office on or after October 1, 2021.**

Under the law, any filer who assumed office or whose filing requirement began on or after October 1, 2021, does not need to complete an annual statement in 2022. Since those individuals had to complete an Assuming Office Form 700 since October 1, 2021, the eDisclosure automated notice of annual filing due April 1, 2022 will not go to these individuals. (This does not apply to people who just transferred from one designated position to another designated position.)

B. Information for Filers

One of your regulatory responsibilities as a Filing Official is to provide the necessary forms prescribed by the Fair Political Practices Commission (FPPC). The sample email to your filers includes the URLs to reference materials so you can send the reference information in paperless format to your filers. **Your email must include the links to all of the reference materials, so filers are properly informed of what and how they are required to complete the Form 700 under penalty of perjury.**

(1) Attach Your Agency's Conflict of Interest Code to Email to Filers

You should attach or link to your agency's conflict of interest code in the email to your filers so they can see exactly what their position is required to disclose. The disclosure requirements for a filer's position will appear to the filer in eDisclosure as well.

(2) Link to Form 700 Instruction Pages

To encourage filers to access the Form 700 in eDisclosure, the sample email includes a link to an excerpted version of the Form 700 with just the Instruction pages.

(3) Links to FPPC Materials

The email includes links to the following FPPC reference materials for your filers:

- **Frequently Asked Questions: Form 700 Disclosure (11/21)**
- **2021/2022 Form 700 Reference Pamphlet**
- **Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans (01/21)**

III. Annual Filing Deadline and Filer Penalties

As set by law, annual Form 700s must be filed no later than **Friday, April 1, 2022**.

A penalty against the filer in the amount of \$10 per day after the April 1st deadline up to \$100 may be assessed. Additionally, if a matter is referred to the FPPC Enforcement Division for failure to file or failure to include all required economic interests, the fine may be substantially higher.

IV. County's eDisclosure System

The County of Santa Clara Clerk of the Board's Office uses eDisclosure, an electronic Form 700 system which allows: filer management by Filing Officials; record-keeping and processing by the Clerk of the Board's office; and password-protected, savable, online completion and submission of Form 700s by filers.

eDisclosure will send an email notice in mid-February only to those filers required to file an annual Form 700 in 2022. The annual Form 700 due April 1, 2022 is for the period since the individual's last Form 700 through December 31, 2021. eDisclosure keeps track of the coverage period for Form 700s, based on the dates entered for each filer by the Filing Official.

You should have all of your filers with Internet access use the link to eDisclosure to fill out their Form 700s. eDisclosure assists filers in filling out the Form accurately and completely (benefitting both the filer and the Filing Official). It allows the filer to copy over information that is still applicable from prior Forms completed in eDisclosure, and save information to return later to complete.

Forms e-filed in eDisclosure will automatically be submitted directly to the Clerk of the Board's office so there is no further action required by the Filing Official. As the Filing Official, you will receive a copy of the automated confirmation email sent when a filer has e-

filed their Form 700. The filer does not need to sign an e-filed Form, and you do not need to submit a paper copy of an e-filed Form.

V. Filing Official’s Responsibilities regarding Paper-Submitted Forms

Filers who choose not to e-file in eDisclosure will need to submit a paper Form 700 with original signature to you as the Filing Official (copies, facsimiles, pdfs, and Forms electronically signed outside eDisclosure are not acceptable). You are responsible for collecting, checking, date-stamping, copying for your agency’s records, and forwarding the original paper Forms to the Clerk of the Board’s office.

We recommend that you request that all designated filers in your agency who choose to submit their Form 700s via paper return their original Forms to you well in advance of the due date to permit you with time to review paper-submitted Forms for completeness (recommended internal due date for paper-submitted forms: Wednesday, March 16, 2022).

- (1) For paper Forms submitted, before you submit the Forms to the Clerk of the Board, you need to determine that the Form is complete as to the following:**
 - (a) Ensure the correct year’s Form is used**—for annual filings due in 2022, each page must say **FPPC Form 700 (2021/2022)** in the bottom-right corner.
 - If a prior year’s form is used, you need to inform the individual they need to re-do the form on the current year’s form. This is because the FPPC updates the Form each year, based on legal updates, and because the pre-printed calendar year dates throughout the form for reporting interests will only work if the correct year’s form is used. Dates may not be manually changed on the Form.
 - (b) On the Cover Page, confirm the following:**
 - *Name*: the filer’s name is legible and matches how the filer’s name is entered in eDisclosure;
 - *Section 1*: the agency name is listed under “Agency Name” (no abbreviations) and matches the way it is listed on your agency’s conflict of interest code;
 - *Section 1*: the filer’s position title is listed under “Your Position” (no abbreviations) and matches the way it is listed on your agency’s conflict of interest code;
 - *Section 2*: the correct jurisdiction box is checked – either “County of” with “Santa Clara” written in; or “Other” with “portions of Santa Clara County” written in;
 - *Section 3*: the correct type of statement is marked – “Annual” for the annual filing; additionally, if someone started on October 1, 2020 or after, their start date must also be entered in the blank in “The period covered is __/__/__ through December 31, 2021”;
 - *Section 4*: the filer has checked in the Schedule Summary each Schedule that

has been filled out (do not submit blank schedules) or has marked “none”;

- *Section 4*: total number of pages lists the correct number of total pages, including the Cover Page (with no blank Schedules counted);
- *Section 5*: the verification info includes an email address, residential or business street address (must be a street name, city, state, zip code) of the filer, date, and required original signature.

(c) On each Schedule page, confirm the following:

- the filer’s first and last name are listed in the box at the top right on each Schedule page that has been filled out and submitted.

(2) If a Form is not complete or in the proper format, as listed above, you need to notify the filer that the Form is not complete and that they need to make corrections before you can accept it. The filing deadline remains April 1, 2022.

You should not make the corrections on your own. The Form is filed under penalty of perjury by the filer and it is the filer’s responsibility to accurately complete the Form.

(3) Once you have received a Form that is in the proper format and complete, you must:

- (a) Date-stamp the Form on the upper-right corner of the Cover Page with the date you received it as complete.**
- (b) Make a copy for your agency’s records.**
- (c) Forward the original Form to the Clerk of the Board’s office** at Clerk of the Board, Attn: Form 700s, 70 W. Hedding Street, 10th Floor, San Jose, CA 95110.

Original signatures are required for all paper-submitted Forms to the Clerk.

VI. Agency Review of Forms

The Form 700 is a public document intended to alert public officials and members of the public to the types of financial interests that may create conflicts of interest. Your Agency’s Form 700s, whether submitted electronically or via paper, should be reviewed by an Agency Manager for content so potential conflicts can be noted. For example, if an individual has a financial interest, such as spousal income, in a particular company, the manager should be aware of this so that if a project arises that involves that company, the manager/agency can evaluate if the individual should not be assigned to the project due to a conflict of interest. A filer’s financial activities could result in a conflict not only under the Political Reform Act, but also other State or local laws, as well as your agency’s employment policies.

VII. Consultants

Consultants are included in the definition of those public officials who must file Form 700s. California Code of Regulations §18700.3(a) defines consultant for purposes of Political Reform Act disclosure.

Under the Political Reform Act, it is not the business or firm providing services to your agency that is considered the consultant. Each *individual* working for the firm who meets the definition of consultant must individually file Form 700s for their personal economic interests.

As the Filing Official, it is your responsibility to ensure that each consultant with your agency who is required to file is notified of their Form 700 filing requirement, and is completing an assuming, annual, and leaving Form 700. Any consultants in your agency who are required to file are to be entered in eDisclosure under the position title “Consultant.”

Please refer to the enclosed handout on “*Local Agency Filing Official's Responsibilities Regarding Consultants' Form 700 Filing Requirements*” for detailed instructions.

VIII. Assuming Office, Leaving Office, and Transfers Throughout the Year

As the Filing Official, you are required under the law to notify the Clerk of the Board's Office within 10 days of any change (e.g., filers assuming office, leaving office, or changing from one designated position to another designated position). (2 CCR § 18115.) You can satisfy this requirement by simply updating eDisclosure with the appropriate information when it happens (adding a filer for assuming office, indicating a leaving office date for leaving office, or transferring a filer from one designated position to another designated position within your agency).

If someone assumes a designated position during the year, the law requires the individual to complete and submit an Assuming Office Form 700 within 30 days of assuming the position.

Likewise, if a designated filer leaves their position during the year, the law requires the individual to complete and submit a Leaving Office Form 700 within 30 days of leaving office.

If an individual is moving from one designated position to another designated position within your agency, a leaving and assuming Form 700 is not required.* However, you need to process this change when it happens using the “transfer” button in eDisclosure to update the filer's record. On the next Form 700 that the individual files, it will show both position titles the individual held and the time period they held each position.

** There are limited exceptions in which filing is required at the time of the transfer, as discussed in the Transfers handout.*

Please refer to the enclosed handouts for detailed instructions on your responsibilities as the Filing Official in each situation:

- “Local Agency Filing Official’s Responsibilities Regarding Assuming Office”
- “Local Agency Filing Official’s Responsibilities Regarding Leaving Office”
- “Local Agency Filing Official’s Responsibilities Regarding Transfers Throughout the Year”

IX. Newly-Created Designated Positions

Under the law, if your agency creates a new position that makes or participates in making decisions that may foreseeably have a material effect on any financial interest of the position holder, the position is considered a “designated” position and any individual holding the position must file a Form 700. This requirement applies as soon as the new position is created.

If an individual is simply moving from an already designated position within your agency to the newly-created designated position, a leaving/assuming Form 700 is not required, but the individual will need to be “transferred” to the newly-created designated position in eDisclosure.

However, if an individual was not previously filing for a designated position in your agency, they are required to file an Assuming Office Form 700 within 30 days of assuming the newly-created designated position. **By law, this individual’s filing requirement begins as soon as they assumes the newly-created designated position, even if the position is not yet added to your conflict of interest code.**

Because newly-created designated positions will not be reflected on your agency’s conflict of interest code or in eDisclosure, there are 3 required steps, summarized below.

Please refer to the enclosed handout “Local Agency Filing Official’s Responsibilities Regarding Newly-Created Designated Positions” for further details.

- (1) Because the newly-created designated position is not yet in your agency’s conflict of interest code, the position has no assigned disclosure requirement. Your agency needs to determine if the position will file under the broadest category in your code (default by law) or if the agency will put in writing a more limited disclosure requirement for the newly-created position.
- (2) Please contact the Office of the County Counsel (kim.forrester@cco.sccgov.org) and Clerk of the Board’s Office (form700@cob.sccgov.org) prior to processing a Form 700 for a filer holding a newly-created designated position title not yet on your conflict of interest code so that the Clerk of the Board’s Office can add the position title in eDisclosure. Once the Clerk of the Board’s Office has added the position title, it is your responsibility to enter the filer’s information and start date under that position title in eDisclosure.

- (3) Your agency needs to update its conflict of interest code within 90 days to reflect the newly-created designated position and the position's disclosure requirement. Local agencies' conflict of interest code updates must be submitted to Kim Forrester in the Office of the County Counsel for review and processing for approval by the code-reviewing body (the Board of Supervisors). A local agency's conflict of interest code amendment is not effective by law until it has been approved by the Board of Supervisors.

X. Contacts for Assistance

As the Filing Official, you can answer your filers' questions relating to filing deadlines and the general process for the Form 700.

If your filers have questions regarding filling out the Form 700 (i.e., what is reportable and what isn't), filers should be advised to refer to the reference materials provided to them via links in the email sent by you, or contact the Fair Political Practices Commission by calling toll free 1-866-275-3772 (1-866-ASK-FPPC) or emailing advice@fppc.ca.gov. This is included in the email to filers.

If you as the Filing Official have questions regarding processing of the Form 700s and eDisclosure, you may contact the Clerk of the Board's office at (408) 299-6441 or form700@cob.sccgov.org.

For questions regarding conflict of interest code updates, contact Kim Forrester in the Office of the County Counsel at kim.forrester@cco.sccgov.org.