

ALAMEDA COUNTY BOARD OF SUPERVISORS MINUTE ORDER

The following action was taken by the Alameda County Board of Supervisors on 05/16/2023

Approved as Recommended ☒

Other ☐

Unanimous ☒ Tam: ☐ Haubert: ☐ Miley: ☐ Márquez: ☐ Carson: ☐ - **5**

Vote Key: N=No; A=Abstain; X=Excused

Documents accompanying this matter:

Documents to be signed by Agency/Purchasing Agent:

File No. 30950
Item No. 59

Copies sent to:

ACERA 475 14th Street, Suite 1000, Oakland, CA 94612

Special Notes:



I certify that the foregoing is a correct copy of a Minute Order adopted by the Board of Supervisors, Alameda County, State of California.

ATTEST:
Clerk of the Board
Board of Supervisors

By: Rhonda Bailey
Deputy



AGENDA _____ May 23, 2023

May 1, 2023

The Honorable Board of Supervisors
% Clerk of the Board of Supervisors
County of Alameda Administration Building
1221 Oak Street, Room 536
Oakland, CA 94612

SUBJECT: Approval of ACERA's Conflict of Interest Code

Dear Members of the Board of Supervisors:

RECOMMENDATION

Approve the Alameda County Employees' Retirement Association's (ACERA) revised Conflict of Interest Code.

DISCUSSION/SUMMARY

The Political Reform Act (Gov't Code § 81000 et seq.) requires local agencies to adopt and periodically review a Conflict of Interest Code. The ACERA Board of Retirement hereby requests that the Board of Supervisors approve ACERA's Conflict of Interest Code, as amended, in accordance with the resolution enclosed herewith. Explanations of the revisions are below.

Disclosure Categories

The FPPC Regulations require the "formulation of disclosure categories." 2 C.C.R. § 18730. Currently, ACERA's Conflict of Interest Code has two disclosure categories, but it subjects all filers to both categories. This means that all filers must disclose all items called for under the Form 700 without any limitation and, therefore, as a practical matter, ACERA has only one disclosure category. The FPPC regulations contemplate differentiation among positions based on the kinds of ACERA decisions each position might be able to influence. The FPPC website explains: "The categories must be tailored to the financial interests affected, and must not require public officials to disclose private financial information that does not relate to their public employment."

The revised ACERA's Conflict of Interest Code will subject six positions to only the narrower Category 2. Those ACERA positions would be required to "disclose the financial interests called for in the Form 700, but only to the extent it is reasonably foreseeable that an ACERA decision

Exhibit A

**Revised Conflict of Interest Code, per
Resolution 23-29 (4.20.2023)**



ACERA Conflict of Interest Code

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference.

Individuals holding designated positions shall timely file their statements of economic interests (Form 700) with the ACERA Chief Counsel or his or her designee (475 14th Street, Suite 1000, Oakland, CA 94612) who shall serve as the Filing Officer for ACERA. Filings may be made through DocuSign. All statements will be retained by ACERA and are available for public inspection and reproduction.

Designated Positions and Disclosure Categories

Category 1: These ACERA positions must disclose all financial interests called for in the Form 700:

Investment Operations Officer	Chief Counsel
Investment Officer	Associate Counsel
Assistant Chief Executive Officer	

Category 2: These ACERA positions must disclose the financial interests called for in the Form 700, but only to the extent it is reasonably foreseeable that an ACERA decision might impact such financial interests (for example, a financial interest in a business that currently provides, or may in the future, provide goods or services to ACERA).

Fiscal Services Officer	Chief of Internal Audit
Retirement Benefits Manager	Communications Manager
Chief Technology Officer	Human Resources Officer

New Positions and Consultants: Consultants and newly created positions that make or participate in the making of ACERA decisions that may foreseeably have a material effect on any financial interest must disclose all financial interests called for in the Form 700 (Category 1). The Chief Executive Officer may set disclosure requirements that are tailored to positions with a limited range of duties pursuant to 2 CCR § 18734. Any such limited disclosure requirements determined by the CEO shall be in writing and are public records.

**Conflict of Interest Code Appendix: Agency Positions that Manage Public
Investments for Purposes of Section 87200 of the Government Code**

Trustee

Chief Executive Officer

Chief Investment Officer

Exhibit B

Current Conflict of Interest Code



Conflict of Interest Code for ACERA

Conflict of Interest Code for the Alameda County Employees' Retirement Association

The Conflict of Interest Code is promulgated under the authority of the Political Reform Act, Government Code, sections 81000, et seq., which requires all state and local government agencies to adopt and promulgate conflict of interest codes. Title 2, California Code of Regulations, section 18730, as adopted by the Fair Political Practices Commission contains the terms of a standard conflict of interest code; which may be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearing to conform to amendments in the Political Reform Act.

Therefore, the terms of 2 Cal. Code of Regs., sec. 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference and, along with the attached Appendix A and B in which positions are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the Alameda County Employees' Retirement Association.

Individuals holding designated positions shall file their statements of economic interests with the Filing Officer for ACERA. The ACERA Chief Counsel shall serve as the Filing Officer for ACERA and shall carry out the duties of the Filing Officer as set out in Political Reform Act and Fair Political Practices Commission Regulations. As part of the requirements set out in the Political Reform Act, the Filing Officer will make the statements available for public inspection and reproduction (Gov. Code, sec. 81008).



Conflict of Interest Code

Appendix A

Appendix A

Disclosure Categories

1. Persons in this category must disclose all investments and business positions in business entities, sources of income and interests in real property.
2. Persons in this category must disclose investments and business positions in business entities, sources of income and interests in real property which provide or directly support or in the future may likely provide or directly support, the provisions of services, supplies, materials, machinery, or equipment to ACERA.



Conflict of Interest Code Appendix B

Appendix B

Designated Positions, Officials And Consultants

I. Designated Positions

<u>Position</u>	<u>Disclosure Category</u>
Assistant Chief Executive Officers	1 and 2
Fiscal Services Officer	1 and 2
Chief Counsel	1 and 2
Benefits Manager	1 and 2
Associate Counsel	1 and 2
Project & Information Services Manager	1 and 2
Human Resources Officer	1 and 2
Chief of Internal Audit	1 and 2
Senior Investment Officer	1 and 2
Investment Officer	1 and 2
Consultants*	(Reference note below.)

II. Officials Who Manage Public Investments

It has been determined that the positions listed below manage public investments and will file a statement of economic interests pursuant to Gov. Code, sec. 87200:

- Each ACERA Trustee
- Chief Executive Officer
- Chief Investment Officer

III. Consultants

* Only those consultants who perform one or more of the following functions shall be required to complete and file Conflict of Interest/Form 700 Statement of Economic Interests with the Legal Department:

- Making a governmental decision;
- Serve in staff capacity and participate in making a governmental decision; or
- Serve in staff capacity and perform the same or substantially all the same duties that would otherwise be performed by an individual holding a designated position in the agency's Conflict of Interest Code.

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category, which is category 1, in the Code subject to the following limitation:

The Chief Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in the section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

Exhibit C

ACERA Board of Retirement Resolution, No. 23-29



**BOARD OF RETIREMENT
ALAMEDA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION**

RESOLUTION NUMBER 23-29

Adoption of Conflict of Interest Code with Revisions

WHEREAS:

1. At the Governance Committee meeting on April 20, 2023, the Committee considered Staff's recommended revisions to the ACERA Conflict of Interest Code.
2. After discussion, the Committee recommended that the Board adopt the ACERA Conflict of Interest Code included in the Governance Committee agenda packet.

THEREFORE, BE IT RESOLVED: The Board of Retirement hereby adopts the ACERA Conflict of Interest Code included in the Governance Committee agenda packet.

THE FOREGOING was PASSED and ADOPTED by the following vote of the ACERA Board of Retirement on April 20, 2023:

MOTION OF MEMBER: WOOD

SECONDED BY MEMBER: CLIPPINGER

AYES: CLIPPINGER, GODFREY, LEVY, ROGERS, SIMON, WOOD

NOES:

ABSTENTIONS:

RECUSED:

EXCUSED: BASGAL, CARSON, GAMBLE, BARON, BRYANT

DocuSigned by:

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JAIME GODFREY

CHAIRPERSON, BOARD OF RETIREMENT

Executed this 28 day of April, 2022

might impact such financial interests (for example, a financial interest in a business that currently provides, or may in the future, provide goods or services to ACERA).” The other designated positions will continue to be required to disclose all interests called for in the Form 700.

Changed Titles

Three positions listed in the current ACERA Conflict of Interest Code have new formal titles. “Benefit Manager” is now “Retirement Benefits Manager.” “Senior Investment Officer” is now “Investment Operations Officer.” “Project & Information Services Manager” is now “Chief Technology Officer.”

Additional Position

“Communications Manager” has been added (Category 2) because the Communication Manager plays a role in the contracting with some vendors.

Per Gov’t Code § 87303, ACERA’s revisions to its Conflict of Interest Code are not effective until approved by the Board of Retirement and then approved by the Board of Supervisors as the “code reviewing body.” On April 20, 2023, the ACERA Board of Retirement approved the enclosed Conflict of Interest Code, as amended, and now submits this request and recommendation that the Board of Supervisors approve the amended Conflict of Interest Code.

FINANCING

There is no net financial impact on the County.

VISION 2026 GOAL

Approval of this item supports the County’s Vision 2026 **Operating Principal of Fiscal Stewardship.**

Sincerely,



Dave Nelsen,
ACERA Chief Executive Officer

Enclosures: Exhibit A: Revised *Conflict of Interest Code, per Resolution 23-29 (4.20.2023)*
Exhibit B: Current *Conflict of Interest Code*
Exhibit C: ACERA Board of Retirement Resolution, No. 23-29

cc: Susan Muranishi, Alameda County Administrator (via email only)
Donna Ziegler; Alameda County Counsel (via email only)
Jeff Rieger, ACERA Chief Counsel (via email only)
Angela Bradford, ACERA Executive Secretary (via email only)