

MCTC JULY BOARD MEETING - NOTES FOR DISCUSSION AND CONSIDERATION
REGARDING THE CONFLICT OF INTEREST POLICY

OPTION 1): Retain the Board approved Conflict of Interest Policy prepared by the MCTC Development Ad Hoc Committee -

Not recommended by J.O.; she suggests drafting a new policy based on:

“The confusion component of this is that the entity is in one sense, a separate corporate entity - a non profit public benefit corporation - which, normally would fall under provisions of the Corporations Code 5233 regarding disclosure/determination by other board members/and possible approval upon certain findings. A typical non profit entity can enter into some self dealing transactions under certain circumstances. Public officials cannot, being subject to Civil code 1090 (as well as a host of other conflict related statutes).

However, public agencies dealing in public funds have a lot less leeway. Although MCTC is a non profit corp., not an agency, it is considered a “legislative body” under brown act/public records act and its board members are in effect public officials overseeing public funds. Therefore, it is my strong recommendation that the Board adopt a conflict of interest policy that meets the higher standard and address the issues facing public officials in general. The public policy should address issues regarding acceptance of gifts/honoraria, etc. and should require public disclosure of conflicts and prohibition of a contract in which there is a conflict.”

OPTION 2): Adopt the Draft Conflict of Interest Code drafted by J.O. -

J.O. has drafted and submitted a new Conflict of Interest Code which is:

The newly drafted Conflict of Interest Code is “in the form required, essentially incorporating the Political Reform Act. The main issue for the Board to consider is which employees should be required to file Forms 700 -- the criteria being their involvement in the decision making process. Certainly the ED is relied on by the Board on many of the needs and should be required to file a Form 700. If there are other positions which are involved in the financial decision making process they should be added”.

J.O. does not “recommend a more detailed policy because the law changes (i.e. gift limits changes the value of money fluctuates) and the purpose is to abide by the state statute.”

Points for Board Discussion Regarding this Draft Code:

a) Is this Code acceptable in its current form? NOTE: J.O. has in essence copied the format of that Code adopted by the BOS and currently used by the County of Mendocino.

b) On page 1, paragraph 2 it states that MCTC shall “forward the original of these statements to the Clerk of the Board of Supervisors of the County of Mendocino”. Is that acceptable to the MCTC Board?

c) APPENDIX A, the Board needs to determine/complete the list of positions which should be under this Code and file the 700 Form.

d) Should the Board decide to accept and approve this Code, does it need to take action regarding rescinding the previously Board approved Policy?

OPTION 3): J.O. recommends that a synopsis be prepared of the most recent Political Reform Act which would:

Provide a condensed version of the 140 page Political Reform Act, which is the basis for this Conflict of Interest Code. It would include a “synopsis of the necessity of disclosures, form 700; withdrawal, material interests, not accepting gifts over certain amount, disclosing gifts, etc.”

NOTE:

CONFLICT OF INTEREST CODE - To date, J.O. has incurred a cost of \$190.00 for 1.9 hours of work on reviewing necessary documents, and drafting the submitted new Conflict of Interest Code;

TO PREPARE A SYNOPSIS OF THE POLITICAL REFORM ACT - J.O. estimates that it would about 2 to 3 hours at a cost of \$100.00 per hour or \$200.00 to \$300.00 total.