DELTA PROTECTION COMMISSION
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Agenda Item #8
November 5, 1999

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Ethics Training
(For Commission Information Only)

Background:

The State Legislature has adopted new legislation that requires members of the Delta Protection Commission to participate in ethics training (see attached memo from Dan Siegel). The ethics training course has been developed by the Attorney General's Office and the Fair Political Practices Commission addresses:

- Conflicts and the Political Reform Act.
- Gift Limitations.
- The Ban on Honoraria.
- Contractual Conflicts.
- State Contract Conflicts.
- The Code of Ethics.
- The Ban on Free Transportation.
- The Prohibition on Incompatible Activities.
- The Incompatibility of Office Doctrine.
- The Prohibition on the Misuse of Public Funds.
- Other Laws.
- The Rules that Deal with Post-State Employment Activities.

Who Must Participate in the Training?

All Commissioners and the Executive Director must participate in the ethics training.

When Must Training be Completed?

All Commissioners who were on the Commission as of January 1, 1999 must complete their training by December 31, 1999. The training must be repeated every two years.

How Do I Participate in the Training?

There are two ways to participate: on the Internet—participate in a two-hour training program, or watch a two-hour training video. Upon completion of either, sign the enclosed form and submit the original to the Commission office; keep a copy for your files.

The Internet course is available at caag.state.ca.us (go to "Other Programs and Services" on the Attorney General's Home Pare; go to "Ethics Training Course" and click to start the course), or go to www.fppc.ca.goc (which contains a hot-link to the Attorney General's homepage).

The video can be ordered from staff; please call by November 29, 1999 to place an order. The video will be mailed to you.

What If I have Already Participated in the Training?

Commissioners who have already participated in the training for another assignment, or for their job, may sign the enclosed form and submit the original form to the Commission office; keep a copy for your files. You do not have to repeat the training program.

State of California

Memorandum

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To : Margit Aramburu
Executive Director
Delta Protection Commission

Date : October 14, 1999

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From : Daniel L. Siegel
Supervising Deputy Attorney General
Land Law Section
Office of the Attorney General - Sacramento

Subject : Ethics Training

As you requested, this memorandum, the substance of which was prepared by Carla Caruso, describes the requirements of Government Code section 11146, et seq., effective January 1, 1999, which mandates ethics training for persons holding specified positions at state agencies. Briefly discussed below are the statutory requirements regarding the individuals required to receive training, agency responsibilities for offering training and record keeping, and course content. Also included is a discussion of the training materials prepared by this office and the Fair Political Practices Commission, which have been made available to agencies to facilitate the meeting of statutory requirements.

Training Requirements

The basic statutory requirement is that each "state agency" offer at least semi-annually to its "filers" an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Government Code §11146.1). "State agency" is defined as every state office, department, division, bureau, board and commission, but specifically excludes the Legislature. (Government Code §11146(a) and 82049.) "Filers" are individuals who meet both of the following criteria: (1) hold any of the listed positions within the agency: an elective office, a position that is exempt from civil service, a career executive assignment, the position of executive director or its equivalent, or the position of general counsel or its equivalent; and (2) are required to file a statement of economic interests under Government Code section 87200 or Government Code section 87300. (Government Code §11146(b)(1) and (2).)

Under this definition, for instance, governing board members of various state conservancies would be required to take the ethics training, as these individuals hold positions that are exempt from civil service, and are required to file statements of economic interest. Similarly, executive officers and chief counsel would be among those required to take the ethics training.

The statute requires that individuals holding a position with the agency on January 1, 1999, take the ethics training no later than December 31, 1999, and at least once during

each consecutive two year period thereafter. (Government Code §11146.3(a).) The statute additionally requires that individuals who become "filer[s]" with the agency after January 1, 1999, take the training within six months, and at least once during each two consecutive two years thereafter. (Government Code §11146.3(b).) Our office has interpreted this latter provision to require that all current "filers" take the course no later that December 31, 1999, and at least once during each two consecutive two years thereafter.
Individuals who receive equivalent ethics training through another state agency or the Legislature during the periods specified above need not retake the ethics training. (Government Code §11146.4(a).)

The agencies are required to retain records of the course attendees, each attendees' job title, and the dates of their attendance for each orientation course. (Government Code §11146.2.) Our office interprets the recording provision to mean that each agency has the burden to ensure that those required to have taken the course, have actually done so. Agencies are fulfilling this obligation by requiring signed certificates, setting forth the requisite information, from those taking the course.

Training Materials and Course Content

The statute mandates that agencies consult with the Attorney General's Office and the Fair Political Practices Commission ("FPPC") with regard to course content before conducting each ethics training course. (Government Code §11146.4(c).) This office and the FPPC have together developed a core course of training materials, that provide consistency in the training offered, and ease the training burden on agencies. It is important to note that any given agency is responsible for providing training as to specific ethics provisions that apply to it, but are not included in the core course.

It is each agency's responsibility to establish procedure and monitoring requirements: An individual must comply with the agency procedure and monitoring requirements in order for any training taken to fulfill the ethics training requirement. It is critical to note that monitoring is strictly an agency procedure, not a responsibility of the Attorney General's office.

These core training materials have been made available to agencies in two formats: a video presentation (copies of which have already been provided to the agencies by the Department of Personnel Administration) and an interactive Internet course. The Internet course provides an opportunity to interact by providing fact-based questions applying the information presented. It also provides for flexibility with regard to when the course may be taken (consistent, of course, with agency procedure and monitoring requirements as

discussed above). The Internet course is on-line at three web sites: the Attorney General's web site at http://caag.state.ca.us; the Fair Political Practices Commission's web site at http://www.fppc.ca.gov; and the Department of Personnel Administration's web site at http://www.dpa.ca.gov. These course materials each make clear that they do not count toward fulfilling the ethics requirement unless they are undertaken in accordance with agency procedures.

Our office has sent an informational letter to state agencies and departments generally informing them of these provisions. The letter indicates that questions concerning ethics training should be directed to Deputy Attorney General Ted Prim at (916) 324-5481, and Bob Tribe, FPPC Executive Director, at (916) 322-5091.

Please do not hesitate to let me know if you would like any additional information or assistance regarding this matter.

Certification of Ethics Training Required by Section 11146 of the Government Code

I have the following position with the Delta Protection Commission:

- ☐ Commissioner
- ☐ Other (*please specify*) _____

I certify that I have participated in an appropriate orientation course, as required by Section 11146.1 of the Government Code, on the relevant ethics statutes and regulations that govern the official conduct of state officials. I participated in this training in the manner indicated below.

On _____, I viewed the ethics orientation video prepared for state officials by the Attorney General's Office and the Fair Political Practices Commission; or

on _____, I completed the on-line ethics orientation on the Internet prepared by the Attorney General's Office and the Fair Political Practices Commission; or

on _____, I completed an alternative state-approved ethics orientation in the following manner:

_____

_____.

*Signature:*_____ *Date:*_____

The Commission shall retain this certification for a minimum of 5 years after the date that the above individual completed the ethics orientation. *See* Government Code section 11146.2