NOTICE OF INTENTION TO AMEND THE CONFLICT OF INTEREST CODE OF THE SAN DIEGO COUNTY EDUCATIONAL FACILITIES AUTHORITY NO. 2

NOTICE IS HEREBY GIVEN that the San Diego County Educational Facilities Authority No. 2 (the "Authority") intends to amend its Conflict of Interest Code (the "Code") pursuant to Government Code Section 87306.

The Code designates those employees, members, officers, and consultants who make or participate in making governmental decisions and must file disclosure statements. The proposed amendment removes officials specified in Government Code Section 87200 as required, designated the position of Consultant as required, deletes positions not required to be designated, revises disclosure categories and declares the Authority's Filing Officer in the incorporation page of the Code.

The Authority hereby establishes a 45-day comment period on the proposed amendment and will adopt the amendment immediately thereafter. Any interested person may submit written comments concerning the proposed amendment. Written comments must be submitted no later than January 12, 2009, to be considered by the Authority before it adopts the amended Code. Any interested person or his/her duly authorized representative may request a public hearing on the amendment no later than December 26, 2008.

The Authority has prepared a written explanation of the reasons for the amendment in the designations and disclosure responsibilities and has available all information upon which its proposal is based.

The proposed amended Code and Explanation may be reviewed at, and copies obtained from, Dana Perrin, Program Business Specialist, Educational Facility Solutions Group, San Diego County Office of Education, 6401 Linda Vista Road, Room 507, San Diego, CA 92111.

Any comments or inquiries should be directed to the attention of Dana Perrin, Program Business Specialist, Educational Facility Solutions Group, San Diego County Office of Education, 6401 Linda Vista Road, Room 507, San Diego, CA 92111; (858) 292-3883.

Approved and/or authorized by the Board of Supervisors of the County of San Diego
Date 11/19/08 Minute Order No. 12
THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors
Deputy Clerk

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LAW OFFICES OF
BEST BEST & KRIEGER LLP

COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS
2009 FEB 23 PM 3 12
THOMAS J. BASTUSZKA
CLERK OF THE BOARD
OF SUPERVISORS

CONFLICT OF INTEREST CODE OF THE SAN DIEGO COUNTY EDUCATIONAL FACILITIES AUTHORITY NO. 2

(Amended January 12, 2009)

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 2 California Code of Regulations Section 18730 which 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 Section 18730 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. This attached regulation and Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the San Diego County Educational Facilities Authority No. 2 (the "Authority").

All Officials and Designated Employees required to submit a statement of economic interests shall file their statements with the Secretary of the Authority as the Authority's Filing Officer. The Filing Officer shall make and retain a copy of all statements filed by all Officials who manage public investments, and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of San Diego. The Filing Officer shall retain the originals of the statements of all other Designated Employees. The Filing Officer will make all retained statements available for public inspection and reproduction (Gov. Code Section 81008).

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

SAN DIEGO COUNTY EDUCATIONAL FACILITIES AUTHORITY NO. 2

(Amended January 12, 2009)

EXHIBIT "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Authority Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to the Authority's Code, but are subject to the disclosure requirements of the Act. (Government Code Section 87200 et seq.). [Regs. § 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments[1]:

Board Directors and Alternates

Treasurer/San Marcos USD Assistant Superintendent, Business Services

Financial Consultant

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[1] Individuals holding one of the above-listed positions may contact the FPPC for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

DESIGNATED EMPLOYEES' TITLE OR FUNCTION	DISCLOSURE CATEGORIES ASSIGNED
Legal Counsel	1, 2
Consultant[2]	

[2] Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The Board of Directors 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 this 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 Board of Directors' 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 "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in business entities, and sources of income located in, that do business in or own real property within the jurisdiction of the Authority.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Authority.

Category 3: All investments and business positions in, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Authority.

Category 4: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan, or other financial institutions.

Category 5: All investments and business positions in, and sources of income from, business entities that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Authority.

LEGISLATIVE VERSION
(SHOWS CHANGES MADE)

CONFLICT OF INTEREST CODE OF THE SAN DIEGO COUNTY EDUCATIONAL FACILITIES AUTHORITY NO. 2

(Amended January 12, 2009)

The Political Reform Act ~~of 1974,~~ (Government Code Section 81000, et seq.) ~~(the "Act")~~ requires ~~every~~ state and local government ~~agency~~ agencies to adopt and promulgate ~~a Conflict of Interest Codes~~ conflict of interest codes. The ~~California~~ Fair Political Practices Commission ~~("FPPC")~~ has adopted ~~California Administrative Code, Title 2 ("FPPC Regulations"),~~ 2 California Code of Regulations Section 18730 ~~of~~ which contains the terms of a standard ~~model~~ conflict of interest code~~,~~ which can be incorporated by ~~a local government agency as that agency's Conflict of Interest Code, and which will thereafter be deemed incorporated in conformity with amendments in the Act and FPPC Regulations; and~~ reference in an agency's code. After public notice and hearing Section 18730 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. This attached regulation and Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the San Diego County Educational Facilities Authority No. 2 (the "Authority").[1]

All Officials and Designated Employees required to submit a statement of economic interests shall file their statements with the Secretary of the Authority as the

[1] Incorporation language from original adopting Resolution No. 05-03/04.

Authority's Filing Officer. The Filing Officer shall make and retain a copy of all statements filed by all Officials who manage public investments, and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of San Diego. The Filing Officer shall retain the originals of the statements of all other Designated Employees. The Filing Officer will make all retained statements available for public inspection and reproduction (Gov. Code Section 81008).[2]

[2] Underlined language is significant in declaring Filing Officer/Official.

~~ATTACHMENT "1"~~APPENDIX

CONFLICT OF INTEREST CODE

OF THE

SAN DIEGO COUNTY EDUCATIONAL FACILITIES AUTHORITY NO. 2

(Amended January 12, 2009)

EXHIBIT "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Authority Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to the Authority's Code, but are subject to the disclosure requirements of the Act. (Government Code Section 87200 et seq.). [Regs. § 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments[3]:

Board Directors and Alternates

Treasurer/San Marcos USD Assistant Superintendent, Business Services

Financial Consultant

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3 Individuals holding one of the above-listed positions may contact the FPPC for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The FPPC makes the final determination whether a position is covered by § 87200.

DESIGNATED ~~PERSONS~~ POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

DESIGNATED EMPLOYEES' TITLE OR FUNCTION	DISCLOSURE CATEGORIES ASSIGNED
~~a. Directors, Alternate Directors~~	
~~b. Treasurer~~	
~~c. Secretary~~	
~~d.~~ Legal Counsel	1, 2
Consultant[4]	

[4] Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

The Board of Directors 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 this 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 Board of Directors' 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 "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in business entities, and sources of income located in, that do business in or own real property within the jurisdiction of the Authority.

Category 2: All **interests in real property** which is **located** ~~within the jurisdiction other than a principal residence~~ in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Authority.

Category 3: All investments and business positions in, and sources of income from, business entities that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Authority.

Category 4: All investments and business positions in, and sources of income from, business entities that are banking, savings and loan, or other financial institutions.

Category ~~2~~ 5: All **investments** ~~or~~ and **business positions in** ~~or~~, and sources of **income** ~~(including loans, gifts and travel payments)~~ **from**, **business entities** ~~which manufacture, distribute, lease, retail, or sell materials, machinery, parts or equipment to the~~ that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the **Authority.** ~~Investments or business positions in business entities are reportable only to the extent such entities do business with the Authority, have done business with the Authority during the two years prior to the time that a Reporting Statement is required to be filed by this Code, or plan to do business with the Authority. Income is not reportable where the income is received from a course which is not doing business with the Authority, not planning to do business with the Authority, or has not done business with the Authority during the two years prior to the time that a Reporting Statement is required to be filed under this Code.~~

~~Category 3: Investments or business positions in or income (including loans, gifts and travel payments) from business entities which are contractors, architects, engineers, appraisers of special consultants engaged in the performance or work or services utilized by the Authority. Investments or business positions in business entities are reportable only to the extent such entities do business with the Authority, have done business with the Authority during the two years prior to the time that a Reporting Statement is required to be filed by this Code, or plan to do business with the~~

~~Authority. Income is not reportable where the income is received from a source which is not doing business with the Authority, not planning to do business with the Authority, or has not done business with the Authority during the two years prior to the time that a Reporting Statement is required to be filed under this Code.~~

November 20, 2008

SAN DIEGO COUNTY EDUCATIONAL FACILITIES AUTHORITY NO. 2

EXPLANATION OF DESIGNATION OF OFFICIALS AND THE ASSIGNMENT OF DISCLOSURE RESPONSIBILITIES

Pursuant to Government Code Sections 87306 and 87307 the San Diego County Educational Facilities Authority No. 2 (the "Authority") has amended its Conflict of Interest Code (the "Code"). The Code must designate those employees, members, officers, and consultants who make or participate in the making of decisions which may foreseeably have a material effect on a financial interest and are therefore, subject to the disclosure and disqualification requirements of the Code.

The Code must also set forth Disclosure Categories to be assigned to the designated positions requiring individuals holding each position to disclose personal interests that may be affected by the exercise of the individual's duties.

Below is an explanation of the specific amendments to the designations and their disclosure requirements, and the Disclosure Categories.

"OFFICIALS WHO MANAGE PUBLIC INVESTMENTS"

The Authority has delineated those primary officials determined to fall under the definition of "Officials Who Manage Public Investments" as required by the Fair Political Practices Commission (the "FPPC"). The Code does not establish disclosure requirements for these officials as specified in Gov. Code Section 87200. Therefore, these positions have been removed from the list of Designated Positions and declared separately as officials who manage public investments and subject to the conflict-of-interest provisions of the Political Reform Act and have full disclosure responsibilities that cannot be narrowed.

The positions meeting the definition of "Officials Who Manage Public Investments" have full disclosure requirements and are as follows:

Members and Alternates, Board of Directors: The Board is the primary body responsible for "formulating or approving investment policies," a pivotal component of the management of public funds. [§18701(b)].

Treasurer: The Treasurer (San Marcos USD Assistant Superintendent, Business Services) is the primary officer delegated with the responsibility to manage and invest

monies not required for immediate necessities of the Authority, meeting the definition of "officials who manage public investments."

"DESIGNATED POSITIONS"

The Authority's list of Designated Positions specifically enumerates all positions within the Authority which make or participate in the making of Authority decisions which may foreseeably have a material effect on that employee's financial interests.

Disclosure Categories are assigned to Designated Positions on a narrow basis in relation to their official duties with the Authority to prevent requiring over-disclosure.

Positions that, by virtue of their positions, are involved in all facets of Authority operations are assigned broader disclosure requriements while positions having narrower involvement and/or responsibilities with the Authority have are assigned more limited disclosure requirements based on the duties of the position.

Currently, the Authority has very few positions creating its structure.

Legal Counsel – Categories 1, 2
This position is involved in a broad range of Authority decisions too numerous and varied to narrow. Therefore, this position has full disclosure requirements.

~~Secretary –~~ Positions that are strictly ministerial or clerical are not to be designated in a code. Therefore, this position has been removed.

Consultant
This is a generic designated position which with specific footnote language provided by the FPPC indicating that Consultants have full disclosure responsibilities unless specifically narrowed or waived by the Authority, in writing, based on the Consultant's contract duties and placed on file with the Authority's Filing Officer.

EXPLANATION OF DISCLOSURE CATEGORIES

Disclosure Categories identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

The Authority cannot require a Designated Employee to over-disclose. Disclosure Categories must be designed and assigned **depending on the duties and**

responsibilities of the position held. Therefore, five Disclosure Categories have been designed to be assigned to various designated positions and Consultants. This list of Disclosure Categories provides flexibility in the application of the Categories to different positions and Consultants but are narrow enough so as not to require over-disclosure by a Designated Employee.

ASSIGNMENT OF DISCLOSURE CATEGORIES:

Category 1 requires the disclosure of reportable investments, business positions, and sources of income in the jurisdiction of the Authority.

Category 2 requires the disclosure of reportable interests in all real property (not including personal residence) located in the jurisdiction of the Authority (or within 2 miles thereof).

The assignment of Categories 1 and 2 means the Designated Employee has full disclosure requirements. These Categories are usually assigned to General Counsel, and other very broad decision-makers whose responsibilities are too broad to be narrowed and warrant full disclosure. These are also the Categories provided Consultants, as defined, if not narrowed in writing as described.

Category 3 is limited to interests in entities engaged in land development, construction and sale/acquisition of real property and are to be assigned to positions such as those dealing with such matters. This is much more limited than either Category 1 or 5.

Category 4 is limited to interests in various financial institutions and are assigned to those involved in decisions involving such institutions and bond issues. This is much more limited than either Category 1 or 5.

Category 5 is limited to interests in entities that provide services, supplies, etc. of the type used by the Authority. This Category is reserved for positions that are involved in the Authority on a broad basis touching a variety of departments and are therefore, unable to be narrowed to one department, unit, or division. Positions assigned this Category are usually involved in broad areas of administration and fiscal services.

Regulations of the Fair Political Practices Commission

TITLE 2, DIVISION 6, CALIFORNIA CODE OF REGULATIONS

18750.1. Procedures for the Promulgation and Adoption of Conflict of Interest Codes

for Local Government Agencies with Jurisdiction in More Than One County

(a) Unless otherwise modified, the term "agency" as used in this section shall refer to a local government agency with jurisdiction in more than one county. The term "Commission" as used in this section shall refer to the Fair Political Practices Commission.

(b) An agency proposing a conflict of interest code or an amendment to an existing code, other than a nonsubstantive amendment, shall follow the procedures described in this section. An agency proposing a nonsubstantive amendment shall follow the procedures described in 2 Cal. Code of Regs. Section 18752.

(c) Every agency which proposes to adopt a conflict of interest code or to amend its existing code shall:

(1) Conduct a public hearing or establish a written comment period.

(2) Prepare an initial proposed code or an initial proposed amendment.

(3) Prepare a notice of intention to adopt a conflict of interest code, or to amend an existing code. This notice shall:

(A) Describe the proposed code or amendment in general terms and if the proposed action includes amendments to an existing code, include a concise, clear summary of the provisions of the existing code, if any, which will be affected by the proposed amendments, and a summary of how those provisions will be affected by the proposed amendments;

(B) State that copies of the proposed code or amendment are available to interested persons and indicate where the copies may be obtained;

(C) Specify the location where written comments concerning the proposed code or amendments may be submitted;

(D) Specify the date by which comments submitted in writing relating to the proposed code or amendments must be received in order for them to be considered by the agency before it adopts or amends the code;

(E) State the time and place of any public hearing that is scheduled on the proposed code or amendment; or if a public hearing on the proposed code or amendment is not scheduled, include a statement that any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing;

(F) State the name and telephone number of an agency officer to whom inquiries concerning the

proposed code or amendment may be directed;

(G) State that the agency has prepared a written explanation of the reasons for the designations and the disclosure responsibilities, and has available all of the information upon which its proposal is based.

(4) File a copy of the notice with the Commission at least 45 days before the public hearing or close of the comment period.

(5) Provide notice pursuant to the requirements of Government Code Section 87311, including providing a copy of the notice to each employee of the agency affected by the proposed code or amendment at least 45 days before the hearing or close of the comment period by serving the employees individually with a copy of the written notice, by posting the notice on employee bulletin boards, or by publishing the notice in an employee newsletter.

(6) Make the exact terms of the proposed code or amendment available for inspection and copying to interested persons for at least 45 days prior to the public hearing or the close of the comment period.

(7) Accept written comments from interested persons through the conclusion of the public hearing or the close of the comment period.

(d) If the procedures set forth in subsection (c) have been followed, a proposed code or amendment, which has been changed or modified from that which was made available to the public, may, without further notice or hearing, be adopted if the code or amendment adopted is substantially similar to the initially proposed code or amendment and all employees affected by the proposed code or amendment as adopted by the agency had adequate notice.

(e) The agency shall submit three copies of the final proposed code or of the existing code with the final proposed amendment in strikeout/underline form to the Commission accompanied by one copy of the following:

(1) For a code or amendment:

(A) A declaration by the chief executive officer of the agency declaring that the Code specifically enumerates each of the positions within the agency which involve the making or participation in the making of decisions which may foreseeably have a material financial effect on any financial interest and the agency has satisfied the requirements of subsection (c) preliminary to formulation of the Code;

(B) A summary of any hearing held by the agency with appropriate identification of any areas of controversy and the manner of their resolution;

(C) Copies of all written submissions made to the agency regarding the proposed Code or amendment, unless the person making the written submission requests its omission;

(D) A written explanation of the reasons for the designations and the disclosure responsibilities of officers, employees, members or consultants of the agency. In the case of an amendment, provide a written justification for any changes including all changes in or additions to the designations or disclosure responsibilities;

(E) The names and addresses of all persons who participated in any public hearing of the agency on the proposed code or amendment and all persons who requested notice from the agency of the date of the Commission hearing on the adoption of the code or amendments;

(F) The most current organizational chart of the agency;

(G) Job descriptions for all designated employees or employees newly designated by the amendment.

(2) For a new conflict of interest code:

(A) A copy of a joint powers agreement or a copy of the statutory authority under which the agency was created with specific citations to the provisions setting forth the duties and responsibilities of the agency;

(B) A copy of the last annual or regular report prepared by the agency or submitted by the agency to the person or body to whom the agency reports or, if there is no report, copies of recent minutes of agency meetings;

(C) A brief description of the duties and the terms of all consultants working for the agency who are not designated employees.

(f) When an agency proposes a new conflict of interest code or an amendment to an existing code, the Executive Director shall either:

(1) Prepare a notice which specifies the establishment of a written comment period; includes a statement that any interested person, or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing; specifies the date by which comments submitted in writing must be received in order for them to be considered; includes a clear and concise summary of the proposed action; provides the name and telephone number of the agency officer to whom inquiries concerning the proposed action may be directed and that the text of the proposed code or amendment is available for inspection and copying at the agency and at the Commission offices. This notice shall be sent to the agency and to all persons who have requested notice at least 45 days before the close of the written comment period; or

(2) Return the proposed code or amendment to the agency with written recommendations for revision. Any agency which objects to the recommendations for revision may request a full hearing by the Commission pursuant to subsection (h) of this regulation.

(g) If no hearing is requested as set forth in subsection (f)(l) above, the Executive Director at the end of the 45-day written comment period shall either:

(1) Approve the code as submitted; or

(2) Return the proposed code or amendment to the agency for revision. Any agency which objects to the recommendations for revision may request a full hearing by the Commission pursuant to subsection (h) of this regulation.

(h) If a public hearing on this matter has been requested, the Commission shall afford any agency or interested person or his or her duly authorized representative, or both, the opportunity to present statements, arguments or contentions in writing on, or prior to, the date of the hearing. Oral testimony shall be encouraged; however, oral statements may be limited at the discretion of the Chairman. The Commission shall consider all relevant matters presented to it prior to and during the public hearing, or appearing on the record of such hearing prior to taking action on the proposed code or amendment.

(i) After a full hearing as provided herein above, the Commission shall:

(1) Approve the proposed code or amendment as submitted and return the code or amendments to the

agency;

(2) Revise the proposed code or amendment and approve it as revised; or

(3) Direct the Executive Director to return the proposed code or amendment to the agency for revision and resubmission within 60 days.

(j) If a code or amendment is approved, the Executive Director shall return a copy of the code or amendment to the agency with notification of approval.

(k) A conflict of interest code or amendment to a code shall become effective on the thirtieth day following the approval of the code or amendment.

(l) Each agency's code shall be maintained in the office of the chief executive officer of the agency, who shall make the code available for public inspection and reproduction during regular business hours commencing the effective date of the code. No conditions whatsoever shall be imposed upon persons desiring to inspect the conflict of interest code of the agency, nor shall any information or identification be required from such person. Copies shall be provided at a charge not to exceed ten cents ($.10) per page.

(m) The Commission shall maintain copies of each agency's code for public inspection and copying at its offices in Sacramento, California.

Note: Authority: Section 83112, Gov. Code

Reference: Sections 87300, 87303, and 87306, Gov. Code

History

(1) New section filed 5-18-87; effective upon filing.

(2) Amendment filed 4-21-92; effective thirtieth day thereafter.