

Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

A Fact Sheet For

- ♦ Local Elected Officers and Candidates for Local Elective Offices
- ♦ Local Officials Specified in Government Code Section 87200
- ♦ Judicial Candidates
- ♦ Designated Employees of Local Government Agencies

**California Fair Political
Practices Commission**

Toll-free advice line: 1 (866) ASK-FPPC
Web site: www.fppc.ca.gov

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Introduction

The Political Reform Act¹ (the "Act") imposes limits on gifts, prohibits honoraria payments, and imposes limits and other restrictions on the receipt of travel payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200,² excluding judges;³
- Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency's conflict of interest code); and
- Candidates⁴ for any of these offices or positions and judicial candidates. (Sections 89502 and 89503.)

The Act also imposes limits and other restrictions on personal loans received by certain local officials.

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. You should not, however, rely on the fact sheet alone to ensure compliance with the Act. If you have any questions, contact the Fair Political Practices Commission at (866) 275-3772 or advice@fppc.ca.gov or visit our website at www.fppc.ca.gov. Commission advice letters are available on our website. You may also be subject to local restrictions on gifts, honoraria, or travel.

Ethics Training

Most local agency officials are required to complete an ethics training course. Contact your agency for course information. Also see the FPPC website for a link to local agency ethics training.

Enforcement

Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may result in monetary penalties of up to \$5,000 per violation. (Section 83116.)

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Local officials specified in Government Code Section 87200 include: members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, court commissioners and public officials who manage public investments.

³ The gift limits and honoraria ban in the Political Reform Act do not apply to a person in his or her capacity as judge. However, candidates for judicial offices are subject to the restrictions contained in the Political Reform Act. (Sections 89502 and 89503.)

⁴ For purposes of the gift limit and honoraria prohibition, you become a "candidate" when you file a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If you are an unsuccessful candidate, you will no longer be subject to the gift limit and honoraria prohibition when you have terminated your campaign filing obligations, or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)

Gifts

Limitations

If you are a local elected officer, a candidate for local elective office, a local official specified in Government Code Section 87200, or a judicial candidate, you may not accept gifts from any single source totaling more than \$420 in a calendar year. (Section 89503.)⁵

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept gifts from any single source totaling more than \$420 in a calendar year if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89503(c).)

What is a "Gift"?

A "gift" is any payment or other benefit provided to you that confers a personal benefit for which you do not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.) (See FPPC Regulation 18946 for valuation guidelines.)

Except as discussed below, you have "received" or "accepted" a gift when you know that you have actual possession of the gift or when you take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (Regulation 18941.)

In some cases, a gift to an official's family member* is considered a gift to the official. (See Regulation 18944, effective February 10, 2009.) This rule prevents donors from avoiding the restrictions on gifts to an official by giving gifts to the official's family members instead. Under the rule, when a donor gives a single gift, such as a painting for the home, to an official and family member, it is a gift to the official in its full amount. (Wedding gifts are treated differently, see below.)

Under certain circumstances, a gift made to a family member of an official is considered a gift to the official. (See Regulation 18943.) Anything given to a family member (spouse or child) is presumed to be a gift to the official if: (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift or; (2) if the donor is someone who lobbies the official's agency, is involved in an action before the official's agency in which the official may foreseeably participate, or engages in business with the agency in which the official will foreseeably participate.

*For purposes of this rule, an official's "family member" includes: the official's spouse; registered domestic partner; any minor child of the official who the official can claim as a dependent for federal tax purposes; and a child of the official who is aged 18 to 23 years of age, attends school, resides with the official when not attending school, and provides less than one-half of his or her own support.

⁵ The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 2011-2012, the gift limit is \$420. (Section 89503; Regulation 18940.2.) Gifts aggregating \$50 or more must be disclosed, and gifts aggregating \$420 or more may subject you to disqualification with respect to the source. (Section 87103(e).) Designated employees should consult the "disclosure category" portion of their agency's conflict of interest code to determine if a particular source of income or gift must be disclosed. Some conflict of interest codes require very limited disclosure of income and gifts. If your agency's conflict of interest code requires you to disclose income and gifts only from specified sources, gifts from sources that are not required to be disclosed on your FORM 700 are not subject to the \$420 gift limit.

Gift Exceptions

The Act and Commission regulations provide exceptions for certain types of gifts. (Section 82028; Regulations 18940-18946.5.) **The following payments are not gifts:**

1. Items that are returned (unused) to the donor, or for which you reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18941.)
2. Items that are donated (unused) to a non-profit, tax-exempt (501(c)(3)) organization in which the official, or a member of the official's immediate family, does not hold a position or a government agency within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18941.)
3. Gifts from your spouse (or former spouse), child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).) This exception includes great grandparents, great uncles and aunts, great nieces and nephews, and first-cousins once removed.
4. Gifts of hospitality including food, drink or occasional lodging that you receive in an individual's home when the individual or a member of his or her family is present and the individual is someone with whom the official has a relationship, connection, or association unrelated to the official's position and the hospitality is provided as part of that relationship. (Regulation 18942(a)(7) see conditions under Regulation 18642(a)(7)(A)(i-iii).)
5. Gifts exchanged between you and another individual on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. (Regulation 18942(a)(8).) In addition, a new provision now treats reciprocal exchanges that occur on an ongoing basis under the gift exchanged provision. For example, if two people get together regularly for lunches and rotate picking up the lunch tab so that each pays approximately half the time over the course of the filing period, no gift need be reported.
6. Informational material provided to assist you in the performance of your official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars.

"Informational material" may also include scale models, pictorial representations, maps, and other such items, provided that if the item's fair market value is more than \$420. You have the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections, including air flights over an area that is the subject of the information and designed specifically for public officials are considered informational material. However, this exception does not apply to meals or to transportation to the site unless the transportation is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)
7. A devise or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)
8. Campaign contributions, including rebates or discounts received in connection with campaign activities. (Section 82028(b)(4); Regulation 18942(a)(4).) However, campaign contributions must be reported in accordance with the campaign disclosure provisions of the Act and may be subject to other limitations imposed by the Act.
9. Personalized plaques and trophies with an individual value of less than \$250. (Section 82028(b)(6); Regulation 18942(a)(6).)

10. Admission for the official and one guest at an event where the official performs a ceremonial role, such as throwing out the first pitch at a Dodger's game, so long as the official's agency complies with the posting provisions set forth in Regulation 18944.1(d). (Regulation 18942 (a)(12).) The definition of ceremonial role is found in Regulation 18942.3.

11. A prize or award received in a bona fide contest or competition, or game of chance. This must be reported as income if over \$500 unless it is received in the California State Lottery. To qualify for this exception the contest or competition must have a broad base of contestants and the competition must be unrelated to the official's duties. (Regulation 18942 (a)(13).)

12. Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception. (Regulation 18942 (a)(14).)

13. Bereavement offerings, such as flowers at a funeral received in memory of a close family member. (Regulation 18942 (a)(15).)

14. Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society and would not normally be part of an economic transaction between like participants under similar circumstances. (Regulation 18942 (a)(16).)

15. Personal benefits commonly received from a dating partner. These gifts are not disclosable or limited but are subject to disqualification under the conflict of interest laws. (Regulation 18942(a)(17)(A).)

16. Acts of Human Compassion. Assistance, financial or otherwise, to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942 (a)(17)(A).)

Note: The exception does not apply if the individual providing the benefit to the official is involved in some manner with with business before the official. (See Regulation 18942(a)(17)(D)(i-iii).) For example, (i) a lobbyist, lobbying firm, lobbyist employer, or other person required to file reports under Chapter 6 of the Act and registered to lobby the official's agency; (ii) a person who has, or may reasonably foreseeably have, a contract, license, permit, or other entitlement for use pending before the official's agency, and for 12 months following the date a contract is signed or a final decision is rendered; (iii) a person, or an agent of a person, involved in a licensing or enforcement proceeding before a regulatory agency that employs the official and in which the official may reasonably foreseeably participate, or has participated, within 12 months of the time the gift is made.

17. Benefits received from a long-time personal friend where the gift is unrelated to the official's duties. The exception does not apply if the individual providing the benefit to the official is involved in some manner with with business before the official. (Regulation 18942(a)(17)(C), see note above about restrictions under Regulation 18942(a)(17)(D)(i-iii).)

18. Benefits received from an individual who is not a lobbyist registered to lobby the official's agency, where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable material financial effect on the individual who would otherwise be the source of the gift. (Regulation 18942(a)(18).)

19. Two tickets for admission, for your own use, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket must be received from the organization or committee holding the fundraiser. (Regulation 18946.4.)

20. Passes or tickets that provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that you do not use and do not give to another person. (Regulation 18946.1.)

21. Gifts provided to your government agency. This may include passes or tickets to facilities, goods, or services, travel payments, and other benefits. However, this exception does not apply to elected officials and officials specified in Government Code Section 87200 with regard to travel payments. In addition, certain conditions must be met before a gift received by an official through his or her agency would not be considered a gift to the official. An agency must disclose specified payments on its website. (Regulations 18944.1-18944.3.) Contact the FPPC for detailed information.

22. Generally, payments made by a third party to co-sponsor an event, or that is principally legislative, governmental or charitable in nature. In some cases, these payments may be considered "behested payments" also requiring disclosure.

23. Leave credits (e.g., sick leave or vacation credits) received under a bona fide catastrophic or emergency leave program established by your employer and available to all employees in the same job classification or position. Donations of cash are gifts and are subject to limits and disclosure. (Regulation 18942(a)(9).)

24. Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity (501(c)(3)) and must be available to the general public. (Regulation 18942(a)(10).)

25. Items awarded in an employee raffle, received by the agency from an agency employee who is not acting as an intermediary for another donor. This exception applies when an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds, or is otherwise an asset of the agency and not donated to the agency by a non-agency source. This exception does not apply to passes or tickets of the type described in Regulation 18944.1. (Regulation 18944.4.(a) and (b).)

26. Items received by an employee during an employee gift exchange, so long as the item received is provided by another employee of the agency and the gifts are not substantially disproportionate in value. (Regulation 18944.4(c).)

Source of Gift

Under most circumstances, it is clear who is the source of a gift, but if the circumstances indicate that the gift is being provided by an intermediary, you must determine both the donor and the intermediary in reporting the gift. Regulation 18945 provides the rules for determining the source of the gift.

Gifts from Multiple Sources

In determining the cumulative value of any reportable gifts, separate gifts from an individual and an entity that the individual controls or where the individual directs the payment of the gift must be aggregated as one source in complying with the reporting and limit requirements. For example, separate gifts from J.R. Ewing and Ewing Oil Company would be treated as if from one source if J.R. owns more than a 50 percent interest in the company unless the making of the gift was determined by someone else in the company. In that case, the gift from Ewing Oil would be aggregated with any gifts made by that individual.

Group gifts, where you received a single gift from multiple donors (such as a retirement gift from coworkers) need not be reported unless any one individual contributes more than \$50 to the total cost of the gift.

Valuation of Gifts

The general rule for determining the value of a gift is to apply the fair market value at the time the gift is received. Fair market value can be determined by finding any local or Internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1 through 18946.5 covering admission to ticketed and invitation-only events, wedding gifts, attendance at nonprofit and political fundraisers, and air travel.

Gifts Reported by the Official's Agency

The following exceptions are also applicable to gifts, but the official's agency may be required to report these items on a Form 801 or Form 802 instead of the official reporting the items on a statement of economic interests (Form 700).

Form 801: For an item to be considered a gift to the official's agency instead of a gift to the official, the payment (or item) must provide a **personal benefit** to a public official, such as a travel payment; and, in order for an agency to convert the payment into an agency gift, the payment may only be used for **official agency business and the agency must control the payment**. If the payment meets these requirements, the agency must report it on a Form 801 and the item is not reported on the individual's statement of economic interests (Form 700). (Regulation 18944.2)

Form 802: When an official's agency provides an entertainment or sporting ticket or pass to a public official in order for it not to be reported as a gift on the individual's statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official, the agency must determine, in its sole discretion, which official may use the ticket or pass. The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency. (Regulation 18944.1.)

Behested Payments

The following payments are not considered gifts, but the official may be required to report these items on a Form 803.

Form 803: Behested payments are payments made principally for legislative, governmental, or charitable purposes. These payments are not for personal or campaign purposes. For example, an elected official may ask a third party to contribute funds to a school in his or her district, or to a job fair or health fair. Generally, a donation will be made "at the behest" if it is requested, solicited, or suggested by the elected officer, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer. This includes payments behested on behalf of the official by his or her agent or employee. Behested payments totaling \$5,000 or more from a single source in a calendar year must be disclosed by the official on a Form 803, which is filed with the official's agency within 30 days of the date of the payment(s). (Section 82015.)

Reportable Gifts Not Subject to Limits

The following exceptions are also applicable to gifts, but you may be required to report these items on a statement of economic interests (Form 700) and they can subject you to disqualification:⁶

1. Certain payments for transportation, lodging, and subsistence are not subject to gift limits but may be reportable. Travel payments are discussed below. See Regulation 18946.6 to determine the value of gifts of air transportation.

2. Wedding gifts are not subject to the gift limit but are reportable. For purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse. (Regulation 18946.3.)

3. A prize or award received in a bona fide competition not related to your official status is not subject to the gift limit, but must be reported as income. Therefore, it is reportable if the value of the prize or award is \$500 or more. (Section 87207; Regulation 18946.5.)

⁶ Designated employees should consult the "disclosure category" portion of their agency's conflict-of-interest code to determine if a particular source of income or gifts must be disclosed.

Honoraria

The Prohibition

If you are a local elected officer, a candidate for local elective office, a local official specified in Government Code Section 87200, or a judicial candidate, you may not accept honoraria payments. (Section 89502.)

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept honoraria payments from any source if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89502(c).)

What is an "Honorarium"?

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Section 89501.)

A "speech given" means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An "article published" means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

"Attendance" means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

Exceptions

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501; Regulations 18930-18933.) **The payments described below are not prohibited and are not required to be disclosed on a statement of economic interests (Form 700):**

1. An honorarium that you return (unused) to the donor or the donor's agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)
 2. An honorarium that is delivered to your government agency within 30 days for donation to the agency's general fund or equivalent account for which you do not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)
 3. A payment that is not delivered to you but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:
 - You may not make the donation a condition for your speech, article, or attendance;
 - You may not claim the donation as a deduction for income tax purposes;
 - You may not be identified to the non-profit organization in connection with the donation; and
 - The donation may have no reasonably foreseeable financial effect on you or on any member of your immediate family. (Regulation 18932.5.)
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4. A payment received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment which would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

5. Items 6, 8, and 9 under "Exceptions to the Definition of 'Gift'" discussed earlier in this fact sheet. (Regulation 18932.4.)

Exceptions That May Be Reportable as Income or Gifts

The following payments are not considered "honoraria" but may be reportable and can subject you to disqualification.⁷

1. Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1-18931.2.) However, such payments are reportable income.

2. Income earned for your personal services if the services are provided in connection with a bona fide business, trade, or profession – such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting – and the services are customarily provided in connection with the business, trade, or profession.

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, you must meet certain criteria to establish that you are practicing a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching position) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932-18932.3.) Earned income is required to be reported. Contact the FPPC for detailed information.

3. Certain payments for transportation, lodging, and subsistence are not considered honoraria but may be reportable and subject to the gift limit. (Sections 89501(c) and 89506.) Travel payments are discussed below.

⁷ Designated employees should consult the "disclosure category" portion of their agency's conflict of interest code to determine if a particular source of income or gifts must be disclosed.

Travel Payments

The Act and Commission regulations provide exceptions to the gift limit and honoraria prohibition for certain types of travel payments. (Section 89506; Regulations 18950-18950.4.)

The term "travel payment" includes payments, advances, or reimbursements for travel, including actual transportation, parking and related lodging and subsistence. (Section 89506(a).)

Exceptions

The following types of travel payments are not subject to any limit and are not reportable on a statement of economic interests (Form 700):

1. Free admission to an event at which you make a speech, participate on a panel, or make a substantive formal presentation, transportation, and necessary lodging, food, or beverages⁸, and nominal non-cash benefits provided to you in connection with the event so long as:
 - a. The speech is for official agency business and the official is representing his or her government agency in the course and scope of his or her official duties; and
 - b. The payment is a lawful expenditure made only by a federal, state, or local government agency for purposes related to conducting that agency's official business.

The exception does not apply to state or local elected officers and officials specified in Section 87200. (Regulation 18950.3(b), effective March/April 2010).

2. Travel payments provided to you by your government agency or by any state, local, or federal government agency which would be considered income and not a gift (i.e., payments for which you provide equal or greater consideration). (Section 89506(d)(2); Regulation 18950.1(d).)

3. Reimbursements for travel expenses provided to you by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which you provide equal or greater consideration. (Section 82030(b)(2).)

4. Travel payments provided to you directly in connection with campaign activities. However, these payments must be reported in accordance with the campaign disclosure provisions of the Act. (Regulations 18950.1(c); 18950.4.)

5. Any payment for travel that is excluded from the definition of "gift" as described earlier in this fact sheet.

Reportable Payments Not Subject to Limit

The following travel payments are not subject to the gift limit but may be reportable on a statement of economic interests (Form 700):

1. Travel that is reasonably necessary in connection with a bona fide business, trade, or profession, and which satisfies the criteria for federal income tax deductions for business expenses specified in Sections 162 and 274 of the Internal Revenue Code. (Section 89506(d)(3); Regulation 18950.1(e).) For reporting purposes, these travel payments would be considered part of the salary, wages, and other income received from the business entity and would be reported on Schedule A-2 or C of Form 700.

⁸ Lodging, food, or beverages are "necessary" only when provided on the day immediately preceding, the day(s) of, and the day immediately following the speech, panel, seminar, or similar service.

2. Travel within the United States that is reasonably related to a legislative or governmental purpose – or to an issue of state, national, or international public policy – in connection with an event at which you give a speech, participate in a panel or seminar or provide a similar service. Lodging and subsistence expenses in this case are limited to the day immediately preceding, the day of, and the day immediately following the speech, panel, or other similar service. (Section 89506(a)(1); Regulation 18950.1(a)(2).

Note that this exception is different than travel payments described earlier. Under the circumstances described in this paragraph, transportation within the United States is not subject to the gift limit but is reportable and can subject a public official to disqualification.

As discussed earlier, most local government employees are not required to report travel payments paid by a governmental agency in the course of employment. (Regulation 18950.3, effective March/April 2010)

3. Travel not in connection with giving a speech, participating in a panel, or seminar or providing a similar service but which is reasonably related to a legislative or governmental purpose – or to an issue of state, national, or international public policy – and which is provided by:

- A government, governmental agency, foreign government, or government authority;
- A bona fide public or private educational institution defined in Section 203 of the California Revenue and Taxation Code;
- A non-profit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or
- A foreign organization that substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(Section 89506(a)(2); Regulation 18950.1(b).)

Loans

Personal loans received by elected and appointed officials are subject to limits and other restrictions and, in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

Limitations on Loans from Agency Officials, Consultants, and Contractors

If you are an elected official or an official specified in Section 87200 (see footnote 2 on page 1), you may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of your government agency or an agency over which your agency exercises direction and control. (Section 87460(a) and (b).)

In addition, you may not receive a personal loan that exceeds \$250 at any given time from any individual or entity that has a contract with your government agency or an agency over which your agency exercises direction and control. This limitation does not apply to loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to official status. (Section 87460(c) and (d).)

Loan Terms Applicable Only to Elected Officials

In addition to the limitations above, if you are an elected official, you may not receive a personal loan of \$500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

The following loans are not subject to these limits and documentation requirements:

1. Loans received by an elected officer's or candidate's campaign committee.
2. Loans received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless he or she is acting as an agent or intermediary for another person not covered by this exemption.
3. Loans made, or offered in writing, prior to January 1, 1998. (Sections 87460 and 87461.)

Loans as Gifts

Under the following circumstances, a personal loan received by **any** public official (elected and other officials specified in Section 87200, as well as any other local government official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:
 - The date the loan was made;
 - The date the last payment of \$100 or more was made on the loan; or
 - The date upon which the official has made payments aggregating to less than \$250 during the previous 12 months. (Section 87462.)

The following loans will not become gifts to an official:

1. A loan made to an elected officer's or candidate's campaign committee. This loan would, however, be a campaign contribution. Consult the FPPC campaign manual for local candidates (Manual 2) for more details.
2. A loan described above on which the creditor has taken reasonable action to collect the balance due.
3. A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
4. A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.
5. A loan that would not be considered a gift as outlined earlier in this fact sheet (e.g., loans from certain family members). (Section 87462.)

2012's NEW CHANGES TO THE GIFT RULES

On January 1, 2012, the new gift regulations became effective. While most of the regulations were amended solely for clarity and organization, there are several substantive changes included in the revised gift regulations. The following summary provides an explanation of those changes. For further information or for specific questions, please contact the FPPC advice line at 866/ASK-FPPC (866/275-3772).

Return or Donation of Gift within 30 days (Regulation 18941(c)(2)) — Officials who make a charitable donation of a gift provided to them so that they may legally avoid receipt may no longer donate that gift to any charity in which the official, or the official's immediate family, holds a position. Only charitable donations of gifts made to 501(c)(3) organizations that are unconnected to the official or the official's immediate family will qualify for this exception. Gifts donated to organization in which the official or an immediate family member holds a position will be treated as a gift to the official despite the donation.

Gift Exceptions (Regulation 18942) — Several amendments were made to the exceptions to gifts as discussed below:

Subdivision (a)(3), Family Members — The list of family members provided by statute (§ 82028(b)(3)) from whom one does not have to report gifts has been clarified with respect to certain relatives. Grandparents include great-grandparents, aunts, uncles, nieces, and nephews include great/grand aunts, uncles and nieces and nephews. Additionally, former in-laws are included in the exception, but spouses of former in-laws are not unless the spouse is a former in-law.

Subdivision (a)(7) Home Hospitality — The home hospitality exception is no longer an unlimited exception when it comes to who is providing the hospitality. The exception is not applicable unless the individual who provides the hospitality is someone "with whom the official has a relationship, connection, or association unrelated to the official's position." Lobbyists (who are otherwise subject to a ten dollar per month gift limit) and other individuals who do business or are regulated by an agency can no longer get around the gift restrictions by using the home hospitality exception, unless the host *has an independent relationship with the official and the hospitality is in connection with that relationship*. (e.g. a block party at your neighbor's house, a birthday party that your daughter is invited to attend at her classmate's home, a Passover meal at a long time associate's home.) With these restrictions now in place, the home hospitality exception covers more than just the host's primary home. Home hospitality can be extended at a vacation home or even a motor home or boat. Before these changes, an official could go sailing off Catalina on a lobbyist's yacht but couldn't go fishing on a co-worker's boat, now it's the other way around. (See Home Hospitality definition in Regulation 18942.2.)

Subdivision (a)(8)(b) Reciprocal Exchanges — This new provision recognizes the reality that people get together with certain friends on an ongoing basis for meals, rounds of golf, movies, shows, sporting events etc., where they typically take turns paying for the benefit, so that over time the payments equal out. Under the old rule, officials were required to report any benefit that they received, even though they may have paid an equal amount at the last get together. Under that rule, an official would have to report the total value of the benefits he/she received during the reporting period, even though that amount was completely offset by the benefits the official provided in the exchange. The new rule recognizes these types of exchanges and only requires reporting of the amount received in excess of the amount provided. The rule does not apply to any single payment over the gift limit and does not apply to benefits provided by lobbyists.

Subdivision (a)(12) Ceremonial Role — The ceremonial role exception has now been defined (see Regulation 18942.3). The ceremonial role must be conducted at the request of the holder of the event, and the ceremony must be part of the event itself so that the focus of the event is, for a period of time, on the ceremony being performed. Local jurisdictions are allowed a certain amount of discretion to determine what types of actions are allowable under the ceremonial role exception.

Subdivision (a)(13) Bona Fide Competition — This exception has been moved from former Regulation 18946.4 and minor language changes have been made to clarify that the exception applies to raffles. (See gift manual for explanation as to when the exception is applicable to a raffle drawing.) The winning prize must be reported unless it is money received from the California State Lottery.

Subdivision (a)(14) Wedding Attendance — This new exception recognizes that normal benefits received attending a wedding are not the sorts of gifts that are intended to influence an official. People do not generally get married and have a wedding reception as a reason to get around the gift restrictions. Meals and entertainment received at a wedding are only potentially reportable to the extent that they exceed the benefits extended to the other guests attending the wedding.

Subdivision (a)(15) Bereavement Offerings — Another new exception has been added to allow the receipt of items, such as flowers at a funeral, without gift reporting consequences. Again, this exception recognizes that there are some areas of common personal behavior that have no correlation with attempts to influence public officials in the performance of their duties and do not relate to the concerns addressed by the Act. Typical bereavement offerings are not reportable as gifts.

Subdivision (a)(16) Acts of Neighborliness — This exception is a codification of long established Commission opinions allowing the exception. The Commission

has limited this exception to the normal types of acts that would be performed by a kindly neighbor or a Good Samaritan assisting someone in need. It no longer may be applied to air transportation as suggested by the *Stone* Opinion (see *Stone* Opinion, 3 FPPC Ops. 52.)

Subdivision (a)(17)(A) Bona Fide Dating Relationship — This exception is a codification of a 27-year-old rule established through Commission advice letters that provides that benefits received within the context of a bona fide dating relationship are not subject to the Act's reporting requirements. In establishing the bona fide dating relationship exception, the Commission held that these relationships are similar to family or spousal relationships in which personal gifts are frequently exchanged and disclosure of such gifts would not further the purposes of the Act. (See *Shea* Advice Letter, No. A-84-085.) One important restriction has now been added. Public officials now have an economic interest in their dating partner and may not participate in decision affecting the financial interests of that partner. To this extent, the advice letters addressing the bona fide dating relationship are rescinded. (See *Shea* Advice Letter, supra, *Spencer* Advice Letter, No. A-07-005.)

Subdivision (a)(17)(B) Acts of Human Compassion — Another new exception has been added to address compassionate offerings of private assistance to individuals who, through unexpected circumstances, find themselves in need of such contributions in order to manage or cope with their misfortune. Examples of such situations included family medical expenses due to an illness or injury, long-time loss of employment, or loss of housing. Assistance from private individuals to meet such needs are not subject to the Act's requirements so long as such assistance is not provided by someone who lobbies the official's agency or who does business with or is regulated by the official's agency if the official is involved. (See subparagraph (D)(i-iii).)

Subdivision (a)(17)(C) Best Friends Forever — Gifts from long term personal friends where the friendship is not related to the official's position are also not subject to the Act's provisions, so long as the friend is not someone who lobbies the official's agency or who does business with or is regulated by the official's agency if the official is involved. (See subparagraph (D)(i-iii).)

Subdivision (a)(18) Unrelated Gifts — This final exception applies to gifts based on some other personal or business relationship unrelated to the official's position where the gift is not made by a lobbyist and the official's duties are limited in respect to the actions he or she may take such that there is no evidence whatsoever that the official may engage in any type of official activity that may provide a financial benefit to the donor. This language simply mirrors the reporting requirement established under the Act's conflict of interest reporting requirements.

Regulation 18942.1 Definition of Informational Material — The definition of informational material has been clarified with respect to when certain transportation is considered informational material. While expenses related to travel to or from an informational event are prohibited by statute, certain “transportation” is allowable if it serves as the means through which the information is conveyed and is essential to the conveyance of the information. Examples of such “transportation” include aerial tours that serve as the best means to inform officials of certain relevant conditions, and rides to remote, limited public access facilities, or rides within a restricted inspection site.

Regulation 18942.2 Definition of Home Hospitality — This definition has been added to clarify what constitutes “home hospitality.” As discussed above, the application no longer depends on the host’s ownership interest in a property, and lobbyists are no longer able to use the exception unless there is an independent basis for the hospitality and it is related to that purpose.

Regulation 18942.3 Definition of Ceremonial Role — This definition has been added to identify the parameters of the long standing ceremonial role exception for admission to events. The role must be performed at the request of the event holder and must be part of the event itself.

Regulation 18943 Gifts to Family Members — The rule restricting gifts to family members has been renumbered from Regulation 18944. The ambiguities created with respect to determining what constitutes “a commitment, obligation, or expense of the type normally paid by a family for the ordinary care and support of one of its members” have been removed. The regulation has also been strengthened to cover more than just 87200 filers. Additionally, it now creates a rebuttable presumption that a gift made to a family member of an official is a gift to the official if there is no established relationship between the donor and the family member that would suggest a reason for the gift, or if the gift is made by a lobbyist of the official’s agency, or by someone who is, or has been within the previous 12 months, involved in an action in which the official will foreseeably participate, or a person who contracts with or engages in a business that regularly seeks contracts with or comes before the agency and the official could foreseeably participate in that decision.

(Note: Previous Regulation 18944.2 was not considered for amendment at this time. It has been renumbered to Regulation 18944, but no changes have been made. The proposed amendments to this regulation will be considered at a future Commission meeting in conjunction with the travel regulations and the meaning of “personal benefit.”)

Regulation 18944.1 Tickets to Officials of an Agency — This regulation applies to tickets provided by an agency to its own officials. Minor changes have

been made to clarify that the conditional requirements to avoid gift reporting by an official do not apply to college and school district officials attending performances (football games, concerts, plays, etc.) by students in their districts. New language has also been added eliminating reporting requirements for rank and file employees who normally receive such tickets as rewards for job performance or job retention. This provision was added because the previous requirements were applied broadly enough to identify individuals who would not be required to report the gift on a Form 700.

One final important change is the new requirement that the Form 802 reporting of the distribution of the tickets be submitted to the Commission for posting on its website. This will make the information easily available in one location. In the past, these posting have been difficult to find in many cases, which had worked to defeat the whole purpose of the regulation.

Regulation 18944.2 Agency Raffles and Exchange of Presents — This regulation was renumbered from 18944.4. Only minor clarifying changes were made.

Regulation 18945 Source of Gifts — This regulation was reworded without making any substantive changes; other than subdivision (c) now makes it clear that the person hosting the event is the source of the gift when determining the pro rata share of the cost of an event that is widely attended by individuals who are not government officials.

Regulation 18945.1 Aggregation of Gifts — The new language modifies the treatment of gifts from an individual and an entity in which the individual has a greater than 50 percent interest. The new rule creates a rebuttable presumption that the gifts are to be aggregated unless someone else, in fact, directed and controlled the payment.

Regulation 18945.3 Intermediary of a Gift — This regulation has been repealed. The rules for intermediaries are already stated in the Government Code. (See Sections 87210 and 97203.)

Regulation 18945.2 Group Gifts — Renumbered from 18945.4 (Gifts From Multiple Donors) the new language now eliminates the requirement that a group gift over \$50 be reported from the "group." The gift need only be reported if one or more individuals contributed \$50 or more to the purchase of the gift.

Regulation 18946 Valuation of Gifts — This basic gift valuation rule was simplified without any substantive changes, other than to clarify that the rule only applies to tickets to future events and not to unused tickets that may have a collector's value. Those tickets are valued at the fair market value of the ticket.

Regulation 18946.1 Valuation of Tickets — There were no substantive changes to this regulation. The language merely clarifies the valuation procedure.

Regulation 18946.2 Valuation of Invitation-Only Events — The valuation of admission to invitation-only events was modified. The previous rule determined the value by the pro rata share of the cost of the event. The new valuation is determined by the pro rata share of the food, catering services, and entertainment provided at the event. Also included in subdivision (d) is a change to the valuation of a “drop-in” visit at such an event. The nominal value of minimal appetizers and drinks consumed by an official is not reportable. However, lobbyist, lobbyist employers, and lobbying firms must report the expense as the pro rata share of the food, catering services, and entertainment provided at the event.

Regulation 18946.3 Valuation of Wedding Gifts — Wedding gifts are now valued at one-half the gift value for each spouse. There is no longer a need to determine if the gift was more appropriate for one spouse as opposed to the other.

Regulation 18946.4 Valuation of Attendance at Non-Profit and Political Fundraisers — This regulation now is back to providing a valuation method for all tickets provided to non-profit and political fundraisers, rather than just a single ticket. Additionally, a 501(c)(3) or political committee may provide two tickets to an official for his or her attendance, along with a guest, at the event and the tickets will have no value. Additional tickets are valued under the stated valuation method and not at the full face value as previously required.

Regulation 18946.5 Valuation of Air Travel — Flights on charter flights are now valued at the official's pro-rata share of the cost of the flight determined by the rental charge of the flight divided by the number of passengers aboard.

2011/2012
Statement of
Economic Interests



Form 700

A Public Document

Also available on the FPPC website:

- ***Form 700 in Excel format***
- ***Reference Pamphlet for Form 700***

California Fair Political Practices Commission

428 J Street, Suite 620 • Sacramento, CA 95814
Toll-free advice line: 1 (866) ASK-FPPC • 1 (866) 275-3772
Telephone: (916) 322-5660 • Website: www.fppc.ca.gov

December 2011

What's New

Reporting Investments – Exchange traded funds and similar financial investments that resemble mutual funds are not reportable for most individuals. The term "investment" no longer includes certain exchange traded funds, closed-end funds, or funds held in an Internal Revenue Code qualified plan. These non-reportable investment funds (1) must be bona fide investment funds that pool money from more than 100 investors, (2) must hold securities of more than 15 issuers, and (3) cannot have a stated policy of concentrating their holdings in the same industry or business ("sector funds"). In addition, the filer may not influence or control the decision to purchase or sell the specific fund on behalf of his or her agency during the reporting period or influence or control the selection of any specific investment purchased or sold by the fund. (Regulation 18237)

Reportable investments, such as stock, held in a brokerage account or other type of managed account continue to be reportable regardless of whether you have control over those investments.

Who must file:

- Elected and appointed officials and candidates listed in Government Code Section 87200
- Employees and appointed officials filing pursuant to a conflict-of-interest code ("code filers"). **Obtain your disclosure categories, which describe the interests you must report, from your agency;** they are not part of the Form 700
- Candidates running for local elective offices that are designated in a conflict-of-interest code (e.g., county sheriffs, city clerks, school board trustees, and water board members)
- Members of newly created boards and commissions not yet covered under a conflict-of-interest code
- Employees in newly created positions of existing agencies

See Reference Pamphlet, page 3, at www.fppc.ca.gov or obtain from your filing officer.

Where to file:

87200 Filers

State offices	⇒ Your agency
Judicial offices	⇒ The clerk of your court
Retired Judges	⇒ Directly with FPPC
County offices	⇒ Your county filing official (e.g. Clerk of the Board of Supervisors)
City offices	⇒ Your city clerk
Multi-County offices	⇒ Your agency

Code Filers — State and Local Officials and Employees Designated in a Conflict-of-Interest Code:

File with your agency, board, or commission unless otherwise specified in your agency's conflict-of-interest code (e.g., Legislative staff files directly with FPPC). In most cases, the agency, board, or commission will retain the statements.

Members of Boards and Commissions of Newly Created Agencies: File with your newly created agency or with your agency's code reviewing body.

Employees in Newly Created Positions of Existing Agencies:

File with your agency or with your agency's code reviewing body. See Reference Pamphlet, page 3.

Candidates: File with your local elections office.

How to file:

The Form 700 is available at www.fppc.ca.gov. Form 700 schedules are also available in Excel format. All statements must have an original "wet" signature or be duly authorized by your filing officer to file electronically under Government Code Section 87500.1. Instructions, examples, FAQs, and a reference pamphlet are available to help answer your questions.

When to file:

Annual Statements

⇒ March 1, 2012

- Elected State Officers
- Judges and Court Commissioners
- State Board and Commission Members listed in Government Code Section 87200

⇒ April 2, 2012

- Most other filers

Individuals filing under conflict-of-interest codes in city and county jurisdictions should verify the annual filing date with their local filing officers.

Statements postmarked by the filing deadline are considered filed on time.

Assuming Office and Leaving Office Statements

Most filers file within 30 days of assuming or leaving office or within 30 days of the effective date of a newly adopted or amended conflict-of-interest code.

Exception:

If you assumed office between October 1, 2011, and December 31, 2011, and filed an assuming office statement, you are not required to file an annual statement until March 1, 2013, or April 2, 2013, whichever is applicable. The annual statement will cover the day after you assumed office through December 31, 2012. See Reference Pamphlet, pages 6 and 7, for additional exceptions.

Candidate Statements

File no later than the final filing date for the declaration of candidacy or nomination documents.

Amendments

Statements may be amended at any time. You are only required to amend the schedule that needs to be revised. It is not necessary to amend the entire filed form. Obtain amendment schedules at www.fppc.ca.gov.

There is no provision for filing deadline extensions.

Statements of 30 pages or less may be faxed by the deadline as long as the originally signed paper version is sent by first class mail to the filing official within 24 hours.

Introduction

The Political Reform Act (Gov. Code Sections 81000-91014) requires most state and local government officials and employees to publicly disclose their personal assets and income. They also must disqualify themselves from participating in decisions that may affect their personal economic interests. The Fair Political Practices Commission (FPPC) is the state agency responsible for issuing the attached Statement of Economic Interests, Form 700, and for interpreting the law's provisions.

Gift Prohibition

Gifts received by most state and local officials, employees, and candidates are subject to a limit. For 2011-2012, the gift limit remains at \$420 from a single source during a calendar year. This gift limit is effective until December 31, 2012.

In addition, state officials, state candidates, and certain state employees are subject to a \$10 limit per calendar month on gifts from lobbyists and lobbying firms registered with the Secretary of State. See Reference Pamphlet, page 10.

State and local officials and employees should check with their agency to determine if other restrictions apply.

Disqualification

Public officials are, under certain circumstances, required to disqualify themselves from making, participating in, or attempting to influence governmental decisions that will affect their economic interests. This may include interests they are not required to disclose (i.e., a personal residence is often not reportable, but may be disqualifying). Specific disqualification requirements apply to 87200 filers (e.g., city councilmembers, members of boards of supervisors, planning commissioners, etc.). These officials must identify orally the economic interest that creates a conflict of interest and leave the room before a discussion or vote takes place at a public meeting. For more information, consult Government Code Section 87105, Regulation 18702.5, and the Overview of the Conflict of Interest Laws at www.fppc.ca.gov.

Honorarium Ban

Most state and local officials, employees, and candidates are prohibited from accepting an honorarium for any speech given, article published, or attendance at a conference, convention, meeting, or like gathering. See Reference Pamphlet, page 10.

Loan Restrictions

Certain state and local officials are subject to restrictions on loans. See Reference Pamphlet, page 14.

Post-Governmental Employment

There are restrictions on representing clients or employers before former agencies. The provisions apply to elected state officials, most state employees, local elected officials, county chief administrative officers, city managers, including the chief administrator of a city, and general managers or chief administrators of local special districts and JPAs. The FPPC website has fact sheets explaining the provisions.

Late Filing

The filing officer who retains originally-signed statements of economic interests may impose on an individual a fine for any statement that is filed late. The fine is \$10 per day up to a maximum of \$100. Late filing penalties may be reduced or waived under certain circumstances.

Persons who fail to timely file their Form 700 may be referred to the FPPC's Enforcement Division (and, in some cases, to the Attorney General or district attorney) for investigation and possible prosecution. In addition to the late filing penalties, a fine of up to \$5,000 per violation may be imposed.

For assistance concerning reporting, prohibitions, and restrictions under the Act:

- Call the FPPC toll-free at (866) 275-3772.
- See the booklet entitled "Your Duty to File: A Basic Overview of State Economic Disclosure Law and Reporting Requirements for Public Officials" available at www.fppc.ca.gov.

Form 700 Public Access

Statements of Economic Interests are public documents. The filing officer must permit any member of the public to inspect and receive a copy of any statement.

- Statements must be available as soon as possible during the agency's regular business hours, but in any event not later than the second business day after the statement is received. Access to the Form 700 is not subject to the Public Records Act procedures.
- No conditions may be placed on persons seeking access to the forms.
- No information or identification may be required from persons seeking access.
- Reproduction fees of no more than 10 cents per page may be charged.

Instructions — Cover Page

Enter your name, mailing address, and daytime telephone number in the spaces provided. **Because the Form 700 is a public document**, you may list your business/office address instead of your home address.

Part 1. Office, Agency, or Court

- Enter the name of the office sought or held, or the agency or court. Consultants must enter the public agency name rather than their private firm's name. (Examples: State Assembly; Board of Supervisors; Office of the Mayor; Department of Finance; Hope County Superior Court)
- Indicate the name of your division, board, or district, if applicable. (Examples: Division of Waste Management; Board of Accountancy; District 45)
- Enter your position title. (Examples: Director; Chief Counsel; City Council Member; Staff Services Analyst)
- If you hold multiple positions (i.e., a city council member who also is a member of a county board or commission), you may be required to file statements with each agency. To simplify your filing obligations, you may complete an expanded statement.

To do this, enter the name of the other agency(ies) with which you are required to file and your position title(s) in the space provided. Attach an additional sheet if necessary. Complete one statement covering the disclosure requirements for all positions. Each copy must contain an original signature. Therefore, before signing the statement, make a copy for each agency. Sign each copy with an original signature and file with each agency.

Example:

Scott Baker is a city council member for the City of Lincoln and a board member for the Camp Far West Irrigation District – a multi-county agency that covers Placer and Yuba counties. Scott will complete one Form 700 using full disclosure (as required for the city position) and covering interests in both Placer and Yuba counties (as required for the multi-county position) and list both positions on the Cover Page. Before signing the statement, Scott will make a copy and sign both statements. One statement will be filed with City of Lincoln and the other will be filed with Camp Far West Irrigation District. Both will contain an original signature.

Remember that if you assume or leave a position after a filing deadline, you must complete a separate statement. For example, a city council member who assumes a position with a county special district after the April 2 annual filing deadline must file a separate assuming office statement. In subsequent years, the city council member may expand his or her annual filing to include both positions.

Part 2. Jurisdiction of Office

- Check the box indicating the jurisdiction of your agency and, if applicable, identify the jurisdiction. Judges, judicial candidates, and court commissioners have statewide jurisdiction. All other filers should review the Reference Pamphlet, page 13, to determine their jurisdiction.

- If your agency is a multi-county office, list each county in which your agency has jurisdiction.
- If your agency is not a state office, court, county office, city office, or multi-county office (e.g., school districts, special districts and JPAs), check the "other" box and enter the county or city in which the agency has jurisdiction.

Example:

This filer is a member of a water district board with jurisdiction in portions of Yuba and Sutter Counties.

1. Office, Agency, or Court	
Agency Name South Sutter Water District	
Division, Board, Department, District, if applicable	Your Position Board Member
▶ If filing for multiple positions, list below or on an attachment.	
Agency: _____	Position: _____
2. Jurisdiction of Office (Check at least one box)	
<input type="checkbox"/> State	<input type="checkbox"/> Judge or Court Commissioner (Statewide Jurisdiction)
<input type="checkbox"/> Multi-County _____	<input type="checkbox"/> County of _____
<input type="checkbox"/> City of _____	<input checked="" type="checkbox"/> Other: Portions of Yuba & Sutter Counties

Part 3. Type of Statement

Check at least one box. The period covered by a statement is determined by the type of statement you are filing. If you are completing a 2011 annual statement, **do not** change the pre-printed dates to reflect 2012. Your annual statement is used for reporting the previous year's economic interests. Economic interests for your annual filing covering January 1, 2011, through December 31, 2011, will be disclosed on your statement filed in 2012. See Reference Pamphlet, page 4.

Combining Statements: Certain types of statements may be combined. For example, if you leave office after January 1, but before the deadline for filing your annual statement, you may combine your annual and leaving office statements. File by the earliest deadline. Consult your filing officer or the FPPC.

Part 4. Schedule Summary

- Enter the total number of completed pages including the cover page and either:

Check the box for each schedule you use to disclose interests;

- or -

if you have nothing to disclose on any schedule, check the "No reportable interests" box. Please **do not** attach any blank schedules.

Part 5. Verification

Complete the verification by signing the statement and entering the date signed. **When you sign your statement, you are stating, under penalty of perjury, that it is true and correct.** Only the filer has authority to sign the statement. An unsigned statement is not considered filed and you may be subject to late filing penalties.



STATEMENT OF ECONOMIC INTERESTS
COVER PAGE

Date Received
Official Use Only

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) (MIDDLE)

1. Office, Agency, or Court

Agency Name

Division, Board, Department, District, if applicable

Your Position

If filing for multiple positions, list below or on an attachment.

Agency:

Position:

2. Jurisdiction of Office (Check at least one box)

- State, Multi-County, City of, Judge or Court Commissioner (Statewide Jurisdiction), County of, Other

3. Type of Statement (Check at least one box)

- Annual: The period covered is January 1, 2011, through December 31, 2011. Leaving Office: Date Left. Assuming Office: Date assumed. Candidate: Election Year. Office sought, if different than Part 1.

4. Schedule Summary

Check applicable schedules or "None."

Total number of pages including this cover page:

- Schedule A-1 - Investments, Schedule A-2 - Investments, Schedule B - Real Property, Schedule C - Income, Loans, & Business Positions, Schedule D - Income - Gifts, Schedule E - Income - Gifts - Travel Payments, None - No reportable interests on any schedule

5. Verification

MAILING ADDRESS STREET CITY STATE ZIP CODE (Business or Agency Address Recommended - Public Document)

DAYTIME TELEPHONE NUMBER E-MAIL ADDRESS (OPTIONAL)

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed (month, day, year)

Signature (File the originally signed statement with your filing official.)

Which Schedule Do I Use?

Common Reportable Interests

- Schedule A-1: Stocks, including those held in an IRA or a 401K
- Schedule A-2: Business entities (including certain independent contracting), sole proprietorships, partnerships, LLCs, corporations, and trusts
- Schedule B: Rental property in the jurisdiction
- Schedule C: Non-governmental salaries of public official and spouse/registered domestic partner
- Schedule D: Gifts from non-family members (such as tickets to sporting or entertainment events)
- Schedule E: Travel payments from third parties (not your employer)

Common Non-Reportable Interests

- Schedule A-1/A-2: Insurance policies, government bonds, diversified mutual funds, certain funds similar to diversified mutual funds (such as exchange traded funds) and investments held in certain retirement accounts. See Reference Pamphlet, page 12 for detailed information. (Regulation 18237)
- Schedule A-1/A-2: Savings and checking accounts and annuities
- Schedule B: A residence used exclusively as a personal residence (such as a home or vacation cabin)
- Schedule C: Governmental salary (such as a school district)
- Schedule D: Gifts from family members
- Schedule E: Travel paid by your government agency

Remember:

- ✓ Mark the "No reportable interests" box on Part 4 of the Schedule Summary on the Cover Page if you determine you have nothing to disclose and file the cover page only. **Make sure you carefully read all instructions to ensure proper reporting.**
- ✓ The Form 700 is a public document.
- ✓ **Most individuals must consult their agency's conflict-of-interest code for reportable interests.**
- ✓ Most individuals file the Form 700 with their agencies.

Questions and Answers

General

- Q. What is the reporting period for disclosing interests on an assuming office statement or a candidate statement?
- A. On an assuming office statement, disclose all reportable investments, interests in real property, and business positions held on the date you assumed office. In addition, you must disclose income (including loans, gifts and travel payments) received during the 12 months prior to the date you assumed office.
- On a candidate statement, disclose all reportable investments, interests in real property, and business positions held on the date you file your declaration of candidacy. You must also disclose income (including loans, gifts and travel payments) received during the 12 months prior to the date you file your declaration of candidacy.
- Q. I hold two other board positions in addition to my position with the county. Must I file three statements of economic interests?
- A. Yes, three are required. However, you may complete one statement listing the county and the two boards on the cover page or an attachment as the agencies for which you will be filing. Report your economic interests using the largest jurisdiction and highest disclosure requirements assigned to you by the three agencies. Make two copies of the entire statement **before signing it**, sign each copy with an original signature, and distribute one original to the county and to each of the two boards. **Remember to complete separate statements for positions that you leave or assume during the year.**
- Q. I am a department head who recently began acting as city manager. Should I file as the city manager?
- A. Yes. File an assuming office statement as city manager. Persons serving as "acting," "interim," or "alternate" must file as if they hold the position because they are or may be performing the duties of the position.
- Q. As a designated employee, I left one state agency to work for another state agency. Must I file a leaving office statement?
- A. Yes. You may also need to file an assuming office statement for the new agency.

Investment Disclosure

- Q. I have an investment interest in shares of stock in a company that does not have an office in my jurisdiction. Must I still disclose my investment interest in this company?
- A. Probably. The definition of "doing business in the jurisdiction" is not limited to whether the business has an office or physical location in your jurisdiction. See Reference Pamphlet, page 13.
- Q. My spouse and I have a living trust. The trust holds rental property in my jurisdiction, our primary residence, and investments in diversified mutual funds. I have full disclosure. How is this trust disclosed?
- A. Disclose the name of the trust, the rental property and its income on Schedule A-2. Your primary residence and investments in diversified mutual funds registered with the SEC are not reportable.
- Q. I am required to report all investments. I hold many stocks through an account managed by a brokerage firm. Must I disclose these stocks even though I did not decide which stocks to purchase?
- A. Yes. Disclose on Schedule A-1 or A-2 any stock worth \$2,000 or more in a business entity located in or doing business in your jurisdiction.
- Q. I own stock in IBM and must report this investment on Schedule A-1. I initially purchased this stock in the early 1990s; however, I am constantly buying and selling shares. Must I note these dates in the "Acquired" and "Disposed" fields?
- A. No. You must only report dates in the "Acquired" or "Disposed" fields when, during the reporting period, you initially purchase a reportable investment worth \$2,000 or more or when you dispose of the entire investment. You are not required to track the partial trading of an investment.
- Q. On last year's filing I reported stock in Encoe valued at \$2,000 - \$10,000. Late last year the value of this stock fell below and remains at less than \$2,000. How should this be reported on this year's statement?
- A. You are not required to report an investment if the value was less than \$2,000 during the **entire** reporting period. However, because a disposed date is not

Questions and Answers Continued

required for stocks that fall below \$2,000, you may want to report the stock and note in the "comments" section that the value fell below \$2,000. This would be for informational purposes only; it is not a requirement.

Income Disclosure

Q. I reported a business entity on Schedule A-2. Clients of my business are located in several states. Must I report all clients from whom my pro rata share of income is \$10,000 or more on Schedule A-2, Part 3?

A. No, only the clients doing business on a regular basis in your jurisdiction must be disclosed.

Q. I believe I am not required to disclose the names of clients from whom my pro rata share of income is \$10,000 or more on Schedule A-2 because of their right to privacy. Is there an exception for reporting clients' names?

A. Regulation 18740 provides a procedure for requesting an exemption to allow a client's name not to be disclosed if disclosure of the name would violate a legally recognized privilege under California law. This regulation may be obtained from our website at www.fppc.ca.gov. See Reference Pamphlet, page 14.

Q. I am sole owner of a private law practice that is not reportable based on my limited disclosure category. However, some of the sources of income to my law practice are from reportable sources. Do I have to disclose this income?

A. Yes; even though the law practice is not reportable, reportable sources of income to the law practice of \$10,000 or more must be disclosed. This information would be disclosed on Schedule C with a note in the "comments" section indicating that the business entity is not a reportable investment. The note would be for informational purposes only; it is not a requirement.

Q. I am the sole owner of my business. Where do I disclose my income - on Schedule A-2 or Schedule C?

A. Sources of income to a business in which you have an ownership interest of 10% or greater are disclosed on Schedule A-2. See Reference Pamphlet, page 8, for the definition of "business entity."

Q. How do I disclose my spouse's or registered domestic partner's salary?

A. Report the name of the employer as a source of income on Schedule C.

Q. I am a doctor. For purposes of reporting \$10,000 sources of income on Schedule A-2, Part 3, are the patients or their insurance carriers considered sources of income?

A. If your patients exercise sufficient control by selecting you instead of other doctors, then your patients, rather than their insurance carriers, are sources of income to you. See Reference Pamphlet, page 14 for additional information.

Real Property Disclosure

Q. During this reporting period we switched our principal place of residence into a rental. I have full disclosure and the property is located in my agency's jurisdiction, so it is now reportable. Because I have not reported this property before, do I need to show an "acquired" date?

A. No, you are not required to show an "acquired" date because you previously owned the property. However, you may want to note in the "comments" section that the property was not previously reported because it was used exclusively as your residence. This would be for informational purposes only; it is not a requirement.

Gift Disclosure

Q. If I received a gift of two tickets to a concert valued at \$100 each, but gave the tickets to a friend because I could not attend the concert, do I have any reporting obligations?

A. Yes. Since you accepted the gift and exercised discretion and control of the use of the tickets, you must disclose the gift on Schedule D.

Q. Mary and Joe Benson, a married couple, want to give a piece of artwork to a close friend who is a county supervisor. Is each spouse considered a separate source for purposes of the gift limit and disclosure?

A. Yes, each spouse may make a gift valued at \$420 during 2011-2012. Therefore, the Bensons may give the supervisor artwork valued at no more than \$840. The supervisor must identify Joe and Mary Benson as the sources of the gift.

Questions and Answers Continued

Q. I am a Form 700 filer with full disclosure. Our agency holds a holiday raffle to raise funds for a local charity. I bought \$10 worth of raffle tickets and won a gift basket valued at \$120. The gift basket was donated by Doug Brewer, a citizen in our city. At the same event, I bought raffle tickets for, and won a quilt valued at \$70. The quilt was donated by a coworker. Are these reportable gifts?

A. Because the gift basket was donated by an outside source (not an agency employee), you have received a reportable gift valued at \$110 (the value of the basket less the consideration paid). The source of the gift is Doug Brewer and the agency is disclosed as the intermediary. Because the quilt was donated by an employee of your agency, it is not a reportable gift.

Q. My agency is responsible for disbursing grants. An applicant (501(c)(3) organization) met with agency employees to present its application. At this meeting, the applicant provided food and beverages. Would the food and beverages be considered gifts to the employees? These employees are designated in our agency's conflict-of-interest code and the applicant is a reportable source of income under the code.

A. Yes. If the value of the food and beverages consumed by any one filer, plus any other gifts received from the same source during the reporting period total \$50 or more, the food and beverages would be reported using the fair market value and would be subject to the gift limit.

Instructions – Schedules A-1 and A-2 Investments

"Investment" means a financial interest in any business entity that is located in, doing business in, planning to do business in, or that has done business during the previous two years in your agency's jurisdiction in which you, your spouse or registered domestic partner, or your dependent children had a direct, indirect, or beneficial interest totaling \$2,000 or more at any time during the reporting period. See Reference Pamphlet, page 13.

Reportable investments include:

- Stocks, bonds, warrants, and options, including those held in margin or brokerage accounts and managed investment funds (See Reference Pamphlet, page 13.)
- Sole proprietorships
- Your own business or your spouse's or registered domestic partner's business (See Reference Pamphlet, page 8, for the definition of "business entity.")
- Your spouse's or registered domestic partner's investments that are legally separate property
- Partnerships (e.g., a law firm or family farm)
- Investments in reportable business entities held in a retirement account (See Reference Pamphlet, page 15.)
- If you, your spouse or registered domestic partner, and dependent children together had a 10% or greater ownership interest in a business entity or trust (including a living trust), you must disclose investments held by the business entity or trust. See Reference Pamphlet, page 15, for more information on disclosing trusts.
- Business trusts

You are not required to disclose:

- Insurance policies, government bonds, diversified mutual funds, certain funds similar to diversified mutual funds (such as exchange traded funds) and investments held in certain retirement accounts. See Reference Pamphlet, page 12 for detailed information. (Regulation 18237)
- Bank accounts, savings accounts, money market accounts and certificates of deposits
- Insurance policies
- Annuities
- Commodities
- Shares in a credit union
- Government bonds (including municipal bonds)

Reminders

- Do you know your agency's jurisdiction?
- Did you hold investments at any time during the period covered by this statement?
- Code filers – your disclosure categories may only require disclosure of specific investments.

- Retirement accounts invested in non-reportable interests (e.g., insurance policies, diversified mutual funds, or government bonds) (See Reference Pamphlet, page 15.)
- Government defined-benefit pension plans (such as CalPERS and CalSTRS plans)
- Interests held in a blind trust (See Reference Pamphlet, page 16.)

Use Schedule A-1 to report ownership of less than 10% (e.g., stock). Schedule C (Income) may also be required if the investment is not a stock or corporate bond. See second example below.

Use Schedule A-2 to report ownership of 10% or greater (e.g., a sole proprietorship).

To Complete Schedule A-1:

Do not attach brokerage or financial statements.

- Disclose the name of the business entity.
- Provide a general description of the business activity of the entity (e.g., pharmaceuticals, computers, automobile manufacturing, or communications).
- Check the box indicating the highest fair market value of your investment during the reporting period. If you are filing a candidate or an assuming office statement, indicate the fair market value on the filing date or the date you took office, respectively.
- Identify the nature of your investment (e.g., stocks, warrants, options, or bonds).
- An acquired or disposed of date is only required if you initially acquired or entirely disposed of the investment interest during the reporting period. The date of a stock dividend reinvestment or partial disposal is not required. Generally, these dates will not apply if you are filing a candidate or an assuming office statement.

Examples:

John Smith holds a state agency position. His conflict-of-interest code requires full disclosure of investments. John must disclose his stock holdings of \$2,000 or more in any company that does business in California, as well as those stocks held by his spouse or registered domestic partner and dependent children.

Susan Jones is a city council member. She has a 4% interest, worth \$5,000, in a limited partnership located in the city. Susan must disclose the partnership on Schedule A-1 and income of \$500 or more received from the partnership on Schedule C.

Instructions – Schedule A-2

Investments, Income, and Assets of Business Entities/Trusts

Use Schedule A-2 to report investments in a business entity or trust (including a living trust) in which you, your spouse or registered domestic partner, and your dependent children together had a 10% or greater interest, totaling \$2,000 or more, during the reporting period and which is located in, doing business in, planning to do business in, or which has done business during the previous two years in your agency's jurisdiction. See Reference Pamphlet, page 13. A trust located outside your agency's jurisdiction is reportable if it holds assets that are located in or doing business in the jurisdiction. Do not report a trust that contains non-reportable interests. For example, a trust containing only your personal residence not used in whole or in part as a business, your savings account, and some municipal bonds, is not reportable.

Also report on Schedule A-2 investments and real property held by that entity or trust if your pro rata share of the investment or real property interest was \$2,000 or more during the reporting period.

To Complete Schedule A-2:

Part 1. Disclose the name and address of the business entity or trust. If you are reporting an interest in a business entity, check "Business Entity" and complete the box as follows:

- Provide a general description of the business activity of the entity.
- Check the box indicating the highest fair market value of your investment during the reporting period.
- If you initially acquired or entirely disposed of this interest during the reporting period, enter the date acquired or disposed.
- Identify the nature of your investment.
- Disclose the job title or business position you held with the entity, if any (i.e., if you were a director, officer, partner, trustee, employee, or held any position of management). A business position held by your spouse is not reportable.

Part 2. Check the box indicating **your pro rata** share of the **gross** income received by the business entity or trust. This amount includes your pro rata share of the **gross** income from the business entity or trust, as well as your community property interest in your spouse's or registered domestic partner's share. Gross income is the total amount of income before deducting expenses, losses, or taxes.

Part 3. Disclose the name of each source of income that is located in, doing business in, planning to do business in, or that has done business during the previous two years in your agency's jurisdiction, as follows:

- Disclose each source of income and outstanding loan **to the business entity or trust** identified in Part 1 if your pro rata share of the **gross** income (including your community property interest in your spouse's or registered

domestic partner's share) to the business entity or trust from that source was \$10,000 or more during the reporting period. See Reference Pamphlet, page 11, for examples. Income from governmental sources may be reportable if not considered salary. See Regulation 18232. Loans from commercial lending institutions made in the lender's regular course of business on terms available to members of the public without regard to your official status are not reportable.

- Disclose each individual or entity that was a source of commission income of \$10,000 or more during the reporting period through the business entity identified in Part 1. See Reference Pamphlet, page 8, for an explanation of commission income.

You may be required to disclose sources of income located outside your jurisdiction. For example, you may have a client who resides outside your jurisdiction who does business on a regular basis with you. Such a client, if a reportable source of \$10,000 or more, must be disclosed.

Leave Part 3 blank if you do not have any reportable \$10,000 sources of income to disclose. Adding phrases such as "various clients" or "not disclosing sources pursuant to attorney-client privilege" may trigger a request for an amendment to your statement. See Reference Pamphlet, page 14, for details about requesting an exemption from disclosing privileged information.

Part 4. Report any investments or interests in real property held by the entity or trust identified in Part 1 if your pro rata share of the interest held was \$2,000 or more during the reporting period. Attach additional schedules or use FPPC's Form 700 Excel spreadsheet if needed.

- Check the applicable box identifying the interest held as real property or an investment.
- If investment, provide the name and description of the business entity.
- If real property, report the precise location (e.g., an assessor's parcel number or address).
- Check the box indicating the highest fair market value of your interest in the real property or investment during the reporting period. (Report the fair market value of the portion of your residence claimed as a tax deduction if you are utilizing your residence for business purposes.)
- Identify the nature of your interest.
- Enter the date acquired or disposed only if you initially acquired or entirely disposed of your interest in the property or investment during the reporting period.

SCHEDULE A-2
Investments, Income, and Assets
of Business Entities/Trusts
(Ownership Interest is 10% or Greater)

CALIFORNIA FORM 700
FAIR POLITICAL PRACTICES COMMISSION

Name _____

1. BUSINESS ENTITY OR TRUST

Name _____

Address (Business Address Acceptable) _____

Check one
 Trust, go to 2 Business Entity, complete the box, then go to 2

GENERAL DESCRIPTION OF BUSINESS ACTIVITY _____

FAIR MARKET VALUE IF APPLICABLE, LIST DATE:

\$0 - \$1,999 _____/_____/11 _____/_____/11

\$2,000 - \$10,000 _____/_____/11 _____/_____/11

\$10,001 - \$100,000 _____/_____/11 _____/_____/11

\$100,001 - \$1,000,000 _____/_____/11 _____/_____/11

Over \$1,000,000 _____/_____/11 _____/_____/11

NATURE OF INVESTMENT

Sole Proprietorship Partnership _____ Other _____

YOUR BUSINESS POSITION _____

2. IDENTIFY THE GROSS INCOME RECEIVED (INCLUDE YOUR PRO RATA SHARE OF THE GROSS INCOME TO THE ENTITY/TRUST)

\$0 - \$499 \$10,001 - \$100,000

\$500 - \$1,000 OVER \$100,000

\$1,001 - \$10,000

3. LIST THE NAME OF EACH REPORTABLE SINGLE SOURCE OF INCOME OF \$10,000 OR MORE (Attach a separate sheet if necessary)

4. INVESTMENTS AND INTERESTS IN REAL PROPERTY HELD BY THE BUSINESS ENTITY OR TRUST

Check one box:

INVESTMENT REAL PROPERTY

Name of Business Entity, if Investment, or Assessor's Parcel Number or Street Address of Real Property _____

Description of Business Activity or City or Other Precise Location of Real Property _____

FAIR MARKET VALUE IF APPLICABLE, LIST DATE:

\$2,000 - \$10,000 _____/_____/11 _____/_____/11

\$10,001 - \$100,000 _____/_____/11 _____/_____/11

\$100,001 - \$1,000,000 _____/_____/11 _____/_____/11

Over \$1,000,000 _____/_____/11 _____/_____/11

NATURE OF INTEREST

Property Ownership/Deed of Trust Stock Partnership

Leasehold _____ Yrs. remaining Other _____

Check box if additional schedules reporting investments or real property are attached

Comments: _____

1. BUSINESS ENTITY OR TRUST

Name _____

Address (Business Address Acceptable) _____

Check one
 Trust, go to 2 Business Entity, complete the box, then go to 2

GENERAL DESCRIPTION OF BUSINESS ACTIVITY _____

FAIR MARKET VALUE IF APPLICABLE, LIST DATE:

\$0 - \$1,999 _____/_____/11 _____/_____/11

\$2,000 - \$10,000 _____/_____/11 _____/_____/11

\$10,001 - \$100,000 _____/_____/11 _____/_____/11

\$100,001 - \$1,000,000 _____/_____/11 _____/_____/11

Over \$1,000,000 _____/_____/11 _____/_____/11

NATURE OF INVESTMENT

Sole Proprietorship Partnership _____ Other _____

YOUR BUSINESS POSITION _____

2. IDENTIFY THE GROSS INCOME RECEIVED (INCLUDE YOUR PRO RATA SHARE OF THE GROSS INCOME TO THE ENTITY/TRUST)

\$0 - \$499 \$10,001 - \$100,000

\$500 - \$1,000 OVER \$100,000

\$1,001 - \$10,000

3. LIST THE NAME OF EACH REPORTABLE SINGLE SOURCE OF INCOME OF \$10,000 OR MORE (Attach a separate sheet if necessary)

4. INVESTMENTS AND INTERESTS IN REAL PROPERTY HELD BY THE BUSINESS ENTITY OR TRUST

Check one box:

INVESTMENT REAL PROPERTY

Name of Business Entity, if Investment, or Assessor's Parcel Number or Street Address of Real Property _____

Description of Business Activity or City or Other Precise Location of Real Property _____

FAIR MARKET VALUE IF APPLICABLE, LIST DATE:

\$2,000 - \$10,000 _____/_____/11 _____/_____/11

\$10,001 - \$100,000 _____/_____/11 _____/_____/11

\$100,001 - \$1,000,000 _____/_____/11 _____/_____/11

Over \$1,000,000 _____/_____/11 _____/_____/11

NATURE OF INTEREST

Property Ownership/Deed of Trust Stock Partnership

Leasehold _____ Yrs. remaining Other _____

Check box if additional schedules reporting investments or real property are attached

Instructions – Schedule B Interests in Real Property

Report interests in real property located in your agency's jurisdiction in which you, your spouse or registered domestic partner, or your dependent children had a direct, indirect, or beneficial interest totaling \$2,000 or more any time during the reporting period. See Reference Pamphlet, page 13.

Interests in real property include:

- An ownership interest (including a beneficial ownership interest)
- A deed of trust, easement, or option to acquire property
- A leasehold interest (See Reference Pamphlet, page 14.)
- A mining lease
- An interest in real property held in a retirement account (See Reference Pamphlet, page 15.)
- An interest in real property held by a business entity or trust in which you, your spouse or registered domestic partner, and your dependent children together had a 10% or greater ownership interest (Report on Schedule A-2.)
- Your spouse's or registered domestic partner's interests in real property that are legally held separately by him or her

You are not required to report:

- A residence, such as a home or vacation cabin, used exclusively as a personal residence (However, a residence for which you claim a business deduction may be reportable. If reportable, report the fair market value of the portion claimed as a tax deduction.)

Please note: A non-reportable residence can still be grounds for a conflict of interest and may be disqualifying.

- Interests in real property held through a blind trust (See Reference Pamphlet, page 16, for exceptions.)

To Complete Schedule B:

- Report the precise location (e.g., an assessor's parcel number or address) of the real property.
- Check the box indicating the fair market value of your interest in the property (regardless of what you owe on the property).
- Enter the date acquired or disposed only if you initially acquired or entirely disposed of your interest in the property during the reporting period.
- Identify the nature of your interest. If it is a leasehold, disclose the number of years remaining on the lease.

Reminders

- Income and loans already reported on Schedule B are not also required to be reported on Schedule C.
- Code filers – do your disclosure categories require disclosure of real property?

- If you received rental income, check the box indicating the gross amount you received.
- If you had a 10% or greater interest in real property and received rental income, list the name of the source(s) if your pro rata share of the gross income from any single tenant was \$10,000 or more during the reporting period. If you received a total of \$10,000 or more from two or more tenants acting in concert (in most cases, this will apply to married couples), disclose the name of each tenant. Otherwise, leave this section blank.
- Loans from a private lender that total \$500 or more and are secured by real property may be reportable. **Loans from commercial lending institutions made in the lender's regular course of business on terms available to members of the public without regard to your official status are not reportable.**

When reporting a loan:

- Provide the name and address of the lender.
- Describe the lender's business activity.
- Disclose the interest rate and term of the loan. For variable interest rate loans, disclose the conditions of the loan (e.g., Prime + 2) or the average interest rate paid during the reporting period. The term of a loan is the total number of months or years given for repayment of the loan at the time the loan was established.
- Check the box indicating the highest balance of the loan during the reporting period.
- Identify a guarantor, if applicable.

If you have more than one reportable loan on a single piece of real property, report the additional loan(s) on Schedule C.

Example:

Joe Nelson is a city planning commissioner. Joe received rental income of \$12,000 during the reporting period from a single tenant who rented property Joe owned in the city's jurisdiction. If Joe had received the \$12,000 from two or more tenants, the tenants' names would not be required as long as no single tenant paid \$10,000 or more. A married couple would be considered a single tenant.

ASSESSOR'S PARCEL NUMBER OR STREET ADDRESS	
4600 24th Street	
CITY	
Sacramento, CA 95814	
FAIR MARKET VALUE	IF APPLICABLE, LIST DATE:
<input type="checkbox"/> \$2,000 - \$10,000	
<input type="checkbox"/> \$10,001 - \$100,000	/ / 11
<input checked="" type="checkbox"/> \$100,001 - \$1,000,000	ACQUIRED DISPOSED
<input type="checkbox"/> Over \$1,000,000	
NATURE OF INTEREST	
<input checked="" type="checkbox"/> Ownership/Deed of Trust	<input type="checkbox"/> Easement
<input type="checkbox"/> Leasehold	<input type="checkbox"/> Other
IF RENTAL PROPERTY, GROSS INCOME RECEIVED	
<input type="checkbox"/> \$0 - \$499	<input type="checkbox"/> \$500 - \$1,000
<input checked="" type="checkbox"/> \$10,001 - \$100,000	<input type="checkbox"/> OVER \$100,000
SOURCES OF RENTAL INCOME: If you own a 10% or greater interest, list the name of each tenant that is a single source of income of \$10,000 or more.	
Henry Wells	
NAME OF LENDER:	
Sophia Petrollo	
ADDRESS (Business Address Acceptable)	
2121 Blue Sky Parkway, Sacramento	
BUSINESS ACTIVITY, IF ANY, OF LENDER	
Restaurant Owner	
INTEREST RATE	TERM (Months/Years)
8 % <input type="checkbox"/> None	15 Years
HIGHEST BALANCE DURING REPORTING PERIOD	
<input type="checkbox"/> \$500 - \$1,000	<input type="checkbox"/> \$1,001 - \$10,000
<input checked="" type="checkbox"/> \$10,001 - \$100,000	<input type="checkbox"/> OVER \$100,000
<input type="checkbox"/> Guarantor, if applicable	

Instructions – Schedule C Income, Loans, & Business Positions (Income Other Than Gifts and Travel Payments)

Report the source and amount of gross income of \$500 or more you received during the reporting period. Gross income is the total amount of income before deducting expenses, losses, or taxes and includes loans other than loans from a commercial lending institution. See Reference Pamphlet, page 11. Also report your job title with each reportable business entity, even if you received no income during the reporting period. You must also report the source of income to your spouse or registered domestic partner if your community property share was \$500 or more during the reporting period.

A source of income must be reported only if the source is located in, doing business in, planning to do business in, or has done business during the previous two years in your agency's jurisdiction. See Reference Pamphlet, page 13, for more information about doing business in the jurisdiction. Reportable sources of income may be further limited by your disclosure category located in your agency's conflict-of-interest code.

Commonly reportable income and loans include:

- Salary/wages, per diem, and reimbursement for expenses including travel payments provided by your employer
- Community property interest (50%) in your spouse's or registered domestic partner's income - **report the employer's name and all other required information**
- Income from investment interests, such as partnerships, reported on Schedule A-1
- Commission income not required to be reported on Schedule A-2 (See Reference Pamphlet, page 8.)
- Gross income from any sale, including the sale of a house or car (Report your pro rata share of the total sale price.)
- Rental income not required to be reported on Schedule B
- Prizes or awards not disclosed as gifts
- Payments received on loans you made to others, including loan repayments from a campaign committee (including a candidate's own campaign committee)
- An honorarium received prior to becoming a public official (See Reference Pamphlet, page 10, concerning your ability to receive future honoraria.)
- Incentive compensation (See Reference Pamphlet, page 12.)

Reminders

- Code filers – your disclosure categories may not require disclosure of all sources of income.
- If you or your spouse or registered domestic partner are self-employed, report the business entity on Schedule A-2.
- Do not disclose on Schedule C income, loans, or business positions already reported on Schedules A-2 or B.

You are not required to report:

- Salary, reimbursement for expenses or per diem, or social security, disability, or other similar benefit payments received by you or your spouse or registered domestic partner from a federal, state, or local government agency.

See Reference Pamphlet, page 11, for more exceptions to income reporting.

To Complete Schedule C:

Part 1. Income Received/Business Position Disclosure

- Disclose the name and address of each source of income or each business entity with which you held a business position.
- Provide a general description of the business activity if the source is a business entity.
- Check the box indicating the amount of gross income received.
- Identify the consideration for which the income was received.
- For income from commission sales, check the box indicating the gross income received and list the name of each source of commission income of \$10,000 or more. See Reference Pamphlet, page 8. **Note: If you receive commission income on a regular basis or have an ownership interest of 10% or more, you must disclose the business entity and the income on Schedule A-2.**
- For income from rental property that is not required to be listed on Schedule B, enter "Rental Income" under "Name of Source," check the box indicating the gross income received, and, if you had a 10% or greater interest in the rental property, list the name of each tenant if your pro rata share of the gross income from that tenant was \$10,000 or more during the reporting period.
- Disclose the job title or business position, if any, that you held with the business entity, even if you did not receive income during the reporting period.

Part 2. Loans Received or Outstanding During the Reporting Period

- Provide the name and address of the lender.
- Provide a general description of the business activity if the lender is a business entity.
- Check the box indicating the highest balance of the loan during the reporting period.
- Disclose the interest rate and the term of the loan.
 - For variable interest rate loans, disclose the conditions of the loan (e.g., Prime + 2) or the average interest rate paid during the reporting period.
 - The term of the loan is the total number of months or years given for repayment of the loan at the time the loan was entered into.
- Identify the security, if any, for the loan.

SCHEDULE C
Income, Loans, & Business
Positions
 (Other than Gifts and Travel Payments)

CALIFORNIA FORM 700
 FAIR POLITICAL PRACTICES COMMISSION

Name _____

1. INCOME RECEIVED

NAME OF SOURCE OF INCOME _____

ADDRESS (Business Address Acceptable) _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

YOUR BUSINESS POSITION _____

GROSS INCOME RECEIVED

\$500 - \$1,000 \$1,001 - \$10,000

\$10,001 - \$100,000 OVER \$100,000

CONSIDERATION FOR WHICH INCOME WAS RECEIVED

Salary Spouse's or registered domestic partner's income

Loan repayment Partnership

Sale of _____
(Real property, car, boat, etc.)

Commission or Rental Income, list each source of \$10,000 or more

Other _____
(Describe)

1. INCOME RECEIVED

NAME OF SOURCE OF INCOME _____

ADDRESS (Business Address Acceptable) _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

YOUR BUSINESS POSITION _____

GROSS INCOME RECEIVED

\$500 - \$1,000 \$1,001 - \$10,000

\$10,001 - \$100,000 OVER \$100,000

CONSIDERATION FOR WHICH INCOME WAS RECEIVED

Salary Spouse's or registered domestic partner's income

Loan repayment Partnership

Sale of _____
(Real property, car, boat, etc.)

Commission or Rental Income, list each source of \$10,000 or more

Other _____
(Describe)

2. LOANS RECEIVED OR OUTSTANDING DURING THE REPORTING PERIOD

* You are not required to report loans from commercial lending institutions, or any indebtedness created as part of a retail installment or credit card transaction, made in the lender's regular course of business on terms available to members of the public without regard to your official status. Personal loans and loans received not in a lender's regular course of business must be disclosed as follows:

NAME OF LENDER* _____

ADDRESS (Business Address Acceptable) _____

BUSINESS ACTIVITY, IF ANY, OF LENDER _____

HIGHEST BALANCE DURING REPORTING PERIOD

\$500 - \$1,000

\$1,001 - \$10,000

\$10,001 - \$100,000

OVER \$100,000

INTEREST RATE _____% None

TERM (Months/Years) _____

SECURITY FOR LOAN

None Personal residence

Real Property _____
Street address

City

Guarantor _____

Other _____
(Describe)

Comments: _____

Instructions – Schedule D Income – Gifts

Beginning January 1, 2012, certain gifts you receive may not be reportable. In other cases, gift rules changed and are stricter. See the FPPC Gift Fact Sheets for more information.

A gift is anything of value for which you have not provided equal or greater consideration to the donor. A gift is reportable if its fair market value is \$50 or more. In addition, multiple gifts totaling \$50 or more received during the reporting period from a single source must be reported. **Gifts are reportable regardless of where the donor is located. Additional restrictions may apply to lobbyists.**

It is the acceptance of a gift, not the ultimate use to which it is put, that imposes your reporting obligation. Except as noted below, you must report a gift even if you never used it or if you gave it away to another person.

If the exact amount of a gift is unknown, you must make a good faith estimate of the item's fair market value. Listing the value of a gift as "over \$50" or "value unknown" is not adequate disclosure. In addition, if you received a gift through an intermediary, you must disclose the name, address, and business activity of both the donor and the intermediary.

Commonly reportable gifts include:

- Tickets/passes to sporting or entertainment events
- Tickets/passes to amusement parks
- Parking passes
- Food, beverages, and accommodations, including those provided in direct connection with your attendance at a convention, conference, meeting, social event, meal, or like gathering
- Rebates/discounts not made in the regular course of business to members of the public without regard to official status
- Wedding gifts (See Reference Pamphlet, page 16)
- An honorarium received prior to assuming office (You may report an honorarium as income on Schedule C, rather than as a gift on Schedule D, if you provided services of equal or greater value than the payment received. See Reference Pamphlet, page 10, regarding your ability to receive future honoraria.)
- Transportation and lodging (See Schedule E.)
- Forgiveness of a loan received by you

Reminders

- Gifts from a single source are subject to a \$420 limit. See Reference Pamphlet, page 10.
- Code filers – you only need to report gifts from reportable sources.

You are not required to disclose:

- Gifts that were not used and that, within 30 days after receipt, were returned to the donor or delivered to a charitable organization without being claimed by you as a charitable contribution for tax purposes
- Gifts from your spouse or registered domestic partner, child, parent, grandparent, grandchild, brother, sister, aunt, uncle, niece, nephew, or first cousin (Included in this exception are gifts from your spouse's or domestic partner's children, parents, brothers, sisters, and the spouse or registered domestic partner of the individuals listed above. The exception does not apply if the donor was acting as an agent or intermediary for a reportable source who was the true donor.)
- Gifts of similar value exchanged between you and an individual, other than a lobbyist, on holidays, birthdays, or similar occasions
- Gifts of informational material provided to assist you in the performance of your official duties (e.g., books, pamphlets, reports, calendars, periodicals, or educational seminars)
- A monetary bequest or inheritance (However, inherited investments or real property may be reportable on other schedules.)
- Personalized plaques or trophies with an individual value of less than \$250
- Campaign contributions
- Gifts given to members of your immediate family unless you enjoy direct benefit of the gift, use the gift, or exercise discretion or control over the use or disposition of the gift (See Commission Regulation 18943.)
- The cost of food, beverages, and necessary accommodations provided directly in connection with an event at which you gave a speech, participated in a panel or seminar, or provided a similar service but only if the cost is paid for by a federal, state, or local government agency. **This exception does not apply to a state or local elected officer, as defined in Section 82020, or an official specified in Section 87200.**

To Complete Schedule D:

- Disclose the full name (not an acronym), address, and, if a business entity, the business activity of the source.
- Provide the date (month, day, and year) of receipt, and disclose the fair market value and description of the gift.

SCHEDULE D
Income – Gifts

Name _____

▶ NAME OF SOURCE _____

ADDRESS (*Business Address Acceptable*) _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE _____

ADDRESS (*Business Address Acceptable*) _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE _____

ADDRESS (*Business Address Acceptable*) _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE _____

ADDRESS (*Business Address Acceptable*) _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE _____

ADDRESS (*Business Address Acceptable*) _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

▶ NAME OF SOURCE _____

ADDRESS (*Business Address Acceptable*) _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____
___/___/___	\$ _____	_____

Comments: _____

Instructions – Schedule E Travel Payments, Advances, and Reimbursements

Travel payments reportable on Schedule E include advances and reimbursements for travel and related expenses, including lodging and meals.

Gifts of travel may be subject to the gift limit. In addition, certain travel payments are reportable gifts, but are not subject to the gift limit. To avoid possible misinterpretation or the perception that you have received a gift in excess of the gift limit, you may wish to provide a specific description of the purpose of your travel. See the FPPC fact sheet entitled "Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans" at www.fppc.ca.gov.

You are not required to disclose:

- Travel payments received from any state, local, or federal government agency for which you provided services equal or greater in value than the payments received
- Travel payments received from your employer in the normal course of your employment that are included in the income reported on Schedule C
- Payments for admission to an event at which you make a speech, participate on a panel, or make a substantive formal presentation, transportation, and necessary lodging, food, or beverages, and nominal non-cash benefits provided to you in connection with the event so long as both the following apply:
 - The speech is for official agency business and you are representing your government agency in the course and scope of your official duties.
 - The payment is a lawful expenditure made only by a federal, state, or local government agency for purposes related to conducting that agency's official business.

Note: This exception does not apply to a state or local elected officer, as defined in Section 82020, or an official specified in Section 87200.

- A travel payment that was received from a non-profit entity exempt from taxation under Internal Revenue Code Section 501(c)(3) for which you provided equal or greater consideration

To Complete Schedule E:

- Disclose the full name (not an acronym) and address of the source of the travel payment.
- Identify the business activity if the source is a business entity.
- Check the box to identify the payment as a gift or income, report the amount, and disclose the date(s).

-- **Travel payments are gifts** if you did not provide services that were equal to or greater in value than the payments received. You must disclose gifts totaling \$50 or more from a single source during the period covered by the statement. Gifts of travel are reportable without regard to where the donor is located.

When reporting travel payments that are gifts, you must provide a description of the gift and the date(s) received.

-- **Travel payments are income** if you provided services that were equal to or greater in value than the payments received. You must disclose income totaling \$500 or more from a single source during the period covered by the statement. You have the burden of proving the payments are income rather than gifts.

When reporting travel payments as income, you must describe the services you provided in exchange for the payment. You are not required to disclose the date(s) for travel payments that are income.

Example:

City council member Rick Chandler is the chairman of a trade association and the association pays for Rick's travel to attend its meetings. Because Rick is deemed to be providing equal or greater consideration for the travel payment by virtue of serving on the board, this payment may be reported as income. Payments for Rick to attend other events for which Rick is not providing services are likely considered gifts.

▶ NAME OF SOURCE	
Health Services Trade Association	
ADDRESS (Business Address Acceptable)	
1230 K Street, Ste. 610	
CITY AND STATE	
Sacramento, CA	
BUSINESS ACTIVITY, IF ANY, OF SOURCE	<input type="checkbox"/> 501 (c)(3)
Association of Healthcare Workers	
DATE(S):	AMT: \$ 588.00
<small>(If applicable)</small>	
TYPE OF PAYMENT: (must check one) <input type="checkbox"/> Gift <input checked="" type="checkbox"/> Income	
DESCRIPTION: Travel reimbursement for board meeting	

SCHEDULE E
Income – Gifts
Travel Payments, Advances,
and Reimbursements

Name _____

- You must mark either the gift or income box.
- Mark the 501(c)(3) box for a travel payment received from a nonprofit 501(c)(3) organization. These payments are not subject to the \$420 gift limit, but may result in a disqualifying conflict of interest.

▶ NAME OF SOURCE _____

ADDRESS (Business Address Acceptable) _____

CITY AND STATE _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE 501 (c)(3) _____

DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
 (if gift)

TYPE OF PAYMENT: (must check one) Gift Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

▶ NAME OF SOURCE _____

ADDRESS (Business Address Acceptable) _____

CITY AND STATE _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE 501 (c)(3) _____

DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
 (if gift)

TYPE OF PAYMENT: (must check one) Gift Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

▶ NAME OF SOURCE _____

ADDRESS (Business Address Acceptable) _____

CITY AND STATE _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE 501 (c)(3) _____

DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
 (if gift)

TYPE OF PAYMENT: (must check one) Gift Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

▶ NAME OF SOURCE _____

ADDRESS (Business Address Acceptable) _____

CITY AND STATE _____

BUSINESS ACTIVITY, IF ANY, OF SOURCE 501 (c)(3) _____

DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
 (if gift)

TYPE OF PAYMENT: (must check one) Gift Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

Comments: _____



Can I Vote? Overview of the Conflicts Laws

"My home is near the proposed new shopping mall. Can I vote on the issue at next month's Planning Commission meeting?"

Many of you may have been confronted with such questions. This booklet is offered by the FPPC as a general overview of your obligations under the Political Reform Act's conflict-of-interest rules. Using non-technical terms, the booklet is aimed at helping you understand your obligations at the "big picture" level and to help guide you to more detailed resources.

Stripped of legal jargon:

- You have a conflict of interest with regard to a particular government decision if it is sufficiently likely that the outcome of the decision will have an important impact on your economic interests, **and**
- a significant portion of your jurisdiction does not also feel the important impact on their economic interests.

The voters who enacted the Political Reform Act by ballot measure in 1974 judged such circumstances to be enough to influence, or to appear to others to influence, your judgment with regard to that decision.

The most important thing you can do to comply with this law is to learn to recognize the economic interests from which a conflict of interest can arise. No one ever has a conflict of interest under the Act "on general principles" or because of personal bias regarding a person or subject. A conflict of interest can only arise from particular kinds of economic interests, which are explained in non-technical terms later in this booklet.

If you learn to understand these interests and to spot potential problems, the battle is mostly won because you can then seek help on the more technical details of the law from your agency's legal counsel or from the California Fair Political Practices Commission. **The Commission's toll-free advice line is 1-866-ASK-FPPC (1-866-275-3772).**

Under rules adopted by the FPPC, deciding whether you have a financial conflict of interest under the Political Reform Act is an eight-step process. If you methodically think through the steps whenever there may be a problem, you can avoid most, if not all, mistakes. These steps are spelled out and explained in general terms in this booklet.

If you learn nothing else from this booklet, remember these things:

- **This law applies only to financial conflicts of interest; that is, conflicts of interest arising from economic interests.**
- **Whether you have a conflict of interest that disqualifies you depends heavily on the facts of each governmental decision.**

- **The most important proactive step you can take to avoid conflict of interest problems is learning to recognize the economic interests from which conflicts of interest can arise.**

Here are the eight steps:

- **Step One:** Are you a "public official" within the meaning of the rules?
- **Step Two:** Are you making, participating in making, or influencing a governmental decision?
- **Step Three:** What are your economic interests? That is, what are the possible sources of a financial conflict of interest?
- **Step Four:** Are your economic interests directly or indirectly involved in the governmental decision?
- **Step Five:** What kinds of financial impacts on your economic interests are considered important enough to trigger a conflict of interest?
- **Step Six:** The important question: Is it substantially likely that the governmental decision will result in one or more of the materiality standards being met for one or more of your economic interests?
- **Step Seven:** If you have a conflict of interest, does the "public generally" exception apply?
- **Step Eight:** Even if you have a disqualifying conflict of interest, is your participation legally required?

Next, here is a non-technical explanation of each:

Public Official

Step One : Are you a "public official," within the meaning of the rules?

The Act's conflict-of-interest rules apply to "public officials" as defined in the law. This first step in the analysis is usually a formality - you are probably a public official covered by the rules. If you are an elected official or an employee of a state or local government agency who is designated in your agency's conflict-of-interest code, you are a "public official." If you file a Statement of Economic Interests (Form 700) each year, you are a "public official" under the Act (even if you are not required to file a Form 700, in some cases you may still be considered a public official because the definition covers more than specifically designated employees). The cases that are tougher to determine typically involve consultants, investment managers and advisers, and public-private partnerships. If you have any doubts, contact your agency's legal counsel or the FPPC.

Governmental Decision

Step Two : Are you making, participating in making, or influencing a governmental decision?

The second step in the process is deciding if you are engaging in the kind of conduct regulated by the conflict-of-interest rules. The Act's conflict-of-interest rules apply when you:

- **Make** a governmental decision (for example, by voting or making an appointment).
- **Participate** in making a governmental decision (for example, by giving advice or making recommendations to the decision-maker).
- **Influence** a governmental decision (for example, by communicating with the decision-maker).

A good rule of thumb for deciding whether your actions constitute making, participating in making, or influencing a governmental decision is to ask yourself if you are exercising *discretion or judgment* with regard to the decision. If the answer is "yes," then your conduct with regard to the decision is very probably covered.

When you have a conflict - Regulation 18702.5 (special rule for section 87200 public officials)

Government Code section 87105 and regulation 18702.5 outline a procedure that public officials specified in section 87200 must follow for disclosure of economic interests when they have a conflict of interest at a public meeting. The full text of this law and regulation may be viewed in the Regulations section of the FPPC's website at <http://www.fppc.ca.gov>.

Public officials specified in section 87200 of the Government Code, such as council members, planning commissioners, and boards of supervisors, must publicly identify in detail the economic interest that creates the conflict, step down from the dais **and must then leave the room**. This identification must be following the announcement of the agenda item to be discussed or voted upon, but before either the discussion or vote commences.

Additionally, the disqualified official may not be counted toward achieving a quorum while the item is being discussed.

The identification of the conflict and economic interest must be made orally and shall be made part of the public record.

Exceptions:

- If the decision is to take place during a closed session, the identification of the economic interest must be made during the public meeting prior to the closed session but is limited to a declaration that the official has a conflict of interest. The economic interest that is the basis for the conflict need not be disclosed. The official may not be present during consideration of the closed session item and may not obtain or review any non-public information regarding the decision.

- A public official is not required to leave the room for an agenda item on the consent calendar provided that the official recuses himself or herself and publicly discloses the economic interest as described above.
- A public official may speak as a member of the general public only when the economic interest that is the basis for the conflict is a personal economic interest, for example, his or her personal residence or wholly owned business. The official must leave the dais to speak from the same area as the members of the public and may listen to the public discussion of the matter.

Examples:

- The Arroyo City Council is considering widening the street in front of council member Smith's personal residence, which he solely owns. Council member Smith must disclose on the record that his home creates a conflict of interest preventing him from participating in the vote. He must leave the dais but can sit in the public area, speak on the matter as it applies to him and listen to the public discussion.
- Planning Commissioner Garcia is a greater than 10% partner in an engineering firm. The firm represents a client who is an applicant on a project pending before the planning commission. Commissioner Garcia must publicly disclose that the applicant is a source of income to her requiring her recusal. Commissioner Garcia must step down from the dais and leave the room. Since this is not a personal interest that is the basis for the conflict, she **may not** sit in the public area and listen to the discussion.
- Supervisor Robertson rents a home to a county employee. The county employee is the subject of a disciplinary matter in a closed session of the Board of Supervisors. During the open session prior to adjourning to closed session, Supervisor Robertson announces that he must recuse himself from participating in the closed session **but does not disclose that the reason for his recusal is a source of income nor does he name the county employee that is the source of income to him.** He may not attend the closed session or obtain any non-public information from the closed session.

Economic Interests

Step Three : What are your economic interests? That is, what are the possible sources of a financial conflict of interest?

From a practical point of view, this third step is the most important part of the law for you. The Act's conflict-of-interest provisions apply only to conflicts of interest arising from economic interests. There are six kinds of such economic interests from which conflicts of interest can arise:

- **Business Investment.** You have an economic interest in a business entity in which you, your spouse, your registered domestic partner, or your dependent children or anyone acting on your behalf has invested \$2,000 or more.

- **Business Employment or Management.** You have an economic interest in a business entity for which you are a director, officer, partner, trustee, employee, or hold any position of management.
- **Real Property.** You have an economic interest in real property in which you, your spouse, your registered domestic partner, or your dependent children or anyone acting on your behalf has invested \$2,000 or more, and also in certain leasehold interests.
- **Sources of Income.** You have an economic interest in anyone, whether an individual or an organization, from whom you have received (or from whom you have been promised) \$500 or more in income within 12 months prior to the decision about which you are concerned. When thinking about sources of income, keep in mind that you have a community property interest in your spouse's or registered domestic partner's income; a person from whom your spouse or registered domestic partner receives income may also be a source of a conflict of interest to you. Also keep in mind that if you, your spouse, your registered domestic partner or your dependent children own 10 percent or more of a business, you are considered to be receiving "pass-through" income from the business's clients. In other words, the business's clients may be considered sources of income to you.
- **Gifts.** You have an economic interest in anyone, whether an individual or an organization, who has given you gifts which total \$420 or more within 12 months prior to the decision about which you are concerned.
- **Personal Financial Effect.** You have an economic interest in your personal expenses, income, assets, or liabilities, as well as those of your immediate family. This is known as the "personal financial effects" rule. If these expenses, income, assets or liabilities are likely to go up or down by \$250 or more in a 12-month period as a result of the governmental decision, then the decision has a "personal financial effect" on you.

On the Statement of Economic Interests (Form 700) you file each year, you disclose many of the economic interests that could cause a conflict of interest for you. However, be aware that not all of the economic interests that may cause a conflict of interest are listed on the Form 700. A good example is your home. It is common for a personal residence to be the economic interest that triggers a conflict of interest even though you are not required to disclose your home on the Form 700.

Directly or Indirectly Involved?

Step Four : Are your economic interests directly or indirectly involved in the governmental decision?

An economic interest which is directly involved in " and therefore directly affected by " a governmental decision creates a bigger risk of a conflict of interest than does an economic interest which is only indirectly involved in the decision. As a result, the FPPC's conflict-of-interest regulations distinguish between economic interests that are directly involved and interests that are indirectly involved.

Once you have identified your economic interests, you must next decide if they are directly involved in the governmental decision about which you are concerned. The FPPC has established specific rules for determining whether each kind of economic interest is directly or indirectly involved in a governmental decision.

The details of these rules are beyond the scope of this guide. In general, however, an economic interest is directly involved if it is the subject of the governmental decision. For example, if the interest is real property, and the decision is about building a donut shop down the block from the property, then the interest is directly involved. If the interest is a business, and the decision is whether to grant a license for which the business has applied, the interest is directly involved.

These are just examples; you should contact your agency counsel, the FPPC and the specific regulations if you have questions as each case arises. Note also that the next step in the analysis "applying the right standard to determine whether an impact is material" depends in part on whether the interest is directly or indirectly involved. The regulations, Sections 18704 through 18704.5, and other helpful information can be found on the FPPC's web site, <http://www.fppc.ca.gov>.

Materiality (Importance)

Step Five : What kinds of financial impacts on your economic interests are considered important enough to trigger a conflict of interest?

At the heart of deciding whether you have a conflict of interest is a prediction: Is it sufficiently likely that the governmental decision will have a material financial effect on your economic interests? As used here, the word "material" is akin to the term "important." You will have a conflict of interest only if it is reasonably foreseeable that the governmental decision will have an important impact on your economic interests.

The FPPC has adopted rules for deciding what kinds of financial-effects are important enough to trigger a conflict of interest. These rules are called "materiality standards," that is, they are the standards that should be used for judging what kinds of financial impacts resulting from governmental decisions are considered material or important.

There are too many of these rules to review in detail in this booklet. Again, you can seek advice for your agency counsel or the FPPC. However, to understand the rules at a "big picture" level, remember these facts:

- If the economic interest is directly involved in the governmental decision, the standard or threshold for deeming a financial impact to be material is stricter (i.e. lower). This is because an economic interest that is directly involved in a governmental decision presents a bigger conflict-of-interest risk for the public official who holds the interest.
- On the other hand, if the economic interest is not directly involved, the materiality standard is more lenient because the indirectly involved interest presents a lesser danger of a conflict of interest.
- There are different sets of standards for the different types of economic interests. That is, there is one set of materiality standards for business entities, another set for real property interests, and so on.

- The rules vary by the size and situation of the economic interest. For example, a moment's thought will tell you that a \$20,000 impact resulting from a governmental decision may be crucial to a small business, but may be a drop in the bucket for a big corporation. For example, the materiality standards distinguish between large and small businesses, between real property which is close or far from property which is the subject of the decision.

Does a Conflict of Interest Result?

Step Six : Is it substantially likely that the governmental decision will result in one or more of the materiality standards being met for one or more of your economic interests?

As already mentioned in the introduction, the heart of the matter is deciding whether it is sufficiently likely that the outcome of the decision will have an important impact on your economic interests.

What does "sufficiently likely" mean? Put another way, how "likely" is "likely enough?" The Political Reform Act uses the words "reasonably foreseeable." The FPPC has interpreted these words to mean "substantially likely." Generally speaking, the likelihood need not be a certainty, but it must be more than merely possible.

A concrete way to think about this is to ask yourself the following question: Is it substantially likely that one of the materiality standards I identified in step five will be met as a result of the government decision? Step six calls for a factual determination, not necessarily a legal one. Also, an agency may sometimes segment (break down into separate decisions) a decision to allow participation by an official if certain conditions are met. Therefore, you should always look at your economic interest and how it fits into the entire factual picture surrounding the decision.

"Public Generally" Exception

Step Seven : If you have a conflict of interest, does the "public generally" exception apply?

Now that you have determined that you will have a conflict of interest for a particular decision, you should see if the exceptions in Step 7 and Step 8 permit you to participate anyway. Not all conflicts of interest prevent you from lawfully taking part in the government decision at hand. Even if you otherwise have a conflict of interest, you are not disqualified from the decision if the "public generally" exception applies.

This exception exists because you are less likely to be biased by a financial impact when a significant part of the community has economic interests that are substantially likely to feel essentially the same impact from a governmental decision that your economic interests are likely to feel. If you can show that a significant segment of your jurisdiction has an economic interest that feels a financial impact which is substantially similar to the impact on your economic interest, then the exception applies.

The "public generally" exception must be considered with care. You may not just assume that it applies. There are specific rules for identifying the specific segments of the general population with which you may compare your economic interest, and specific rules for deciding whether the financial impact is substantially similar. Again, contact your agency counsel, the FPPC and the specific rules for advice and details. The regulations outlining the steps to apply the "public generally" exception can be found on the FPPC website at <http://www.fppc.ca.gov> under regulations 18707-18707.10.

Are you required to participate?

Step Eight : Even if you have a disqualifying conflict of interest, is your participation legally required?

In certain rare circumstances, you may be called upon to take part in a decision despite the fact that you have a disqualifying conflict of interest. This "legally required participation" rule applies only in certain very specific circumstances in which your government agency would be paralyzed, unable to act. You are most strongly encouraged to seek advice from your agency legal counsel or the FPPC before you act under this rule.

Conclusion

Generally speaking, here are the keys to meeting your obligations under the Political Reform Act's conflict-of-interest laws:

- Know the purpose of the law, which is to prevent biases, actual and apparent, which result from the financial interests of the decision-makers.
- Learn to spot potential trouble early. Understand which of your economic interests could give rise to a conflict of interest.
- Understand the "big picture" of the rules. For example, know why the rules distinguish between directly and indirectly involved interests, and why the public generally exception exists.
- Realize the importance of the facts. Deciding whether you have a disqualifying conflict of interest depends just as much, if not more, on the facts of your particular situation as it does on the law.
- Don't try to memorize all of the specific conflict-of-interest rules. The rules are complex, and the penalties for violating them are significant. Learn to understand the "big picture." You'll then be able to look up or ask about the particular rules you need to apply to any given case.
- Don't be afraid to ask for advice. It is available from your agency's legal counsel and from the FPPC.

An important note'

You should not rely solely on this booklet to ensure compliance with the Political Reform Act, but should also consult the Act and Commission regulations. The Political Reform Act is set forth at Cal. Gov. Code ??81000-91014, and the Fair Political Practices Commission regulations are contained in Title 2, Division 6 of the California Code of Regulations. Both the Act and regulations are available on the FPPC's web site, <http://www.fppc.ca.gov>. Persons with obligations under the Act or their authorized representatives are also encouraged to call the FPPC toll-free advice line " 1-866-ASK-FPPC " as far in advance as possible.

How to Contact Us:

- **Mail:**
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

- **Website:**
www.fppc.ca.gov

- **Telephone:**

Toll-free advice line: 1-866-ASK-FPPC(1-866-275-3772)

Regular line: 1-916-322-5660

Enforcement hot-line: 1-800-561-1861

(revised 7-27-05)

Leaving Local Governmental Office or Employment: Revolving Door and other Post-Employment Issues for Local Officials

The Political Reform Act places two restrictions on the post-governmental activity of officials who leave local governmental service. These restrictions are a one-year ban applicable to high-level local officials (Section 87406.3) and a one-year ban applicable to officials and employees of air pollution control and air quality management districts (Section 87406.1). A third restriction, the ban on influencing prospective employment, prohibits current local officials from taking part in decisions that directly relate to a prospective employer. (Section 87407.)

Section 87406.3: The Local One-Year Ban

The *local one-year ban* prohibits specified officials, for one year after leaving local government office or employment, from representing any other person, for compensation, by appearing before or communicating with their former agency in an attempt to influence the agency's decisions in an administrative or legislative action, whether quasi-legislative or quasi-judicial, or any action involving a permit, license, contract, or transaction involving the sale or purchase of property or goods. (Section 87406.3; Regulations 18746.2 and 18746.3.)

Note that Section 87406.3(c) does not preclude a local governmental agency from adopting its own ordinance or policy restricting the activities of former agency officials so long as the ordinance or policy is more restrictive than Section 87406.3. Former local agency officials should consult their former agency regarding any locally imposed restrictions.

Are you covered by the one-year ban?

The following officials are subject to the one-year ban of Section 87406.3:

- Local elected officials.
- Chief administrative officers of counties.
- City managers or chief administrative officers of cities.
- General managers or chief administrators of special districts, including general managers or chief administrators of air pollution control districts or air quality management districts. (Section 87406.3; Regulation 18746.3(a).)

Local government agencies include any county, city, or district of any kind including a school district, or any other local or regional subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing. (Section 82041.)

Have you permanently left?

The local one-year ban applies when an official permanently leaves any particular office or employment subject to the ban. (Regulation 18746.3(b)(1).) An official has permanently left an office or employment on the date on which the official is no longer authorized to perform the duties the office or employment and stops performing those duties, even if the official is still receiving compensation for accrued leave credits. (Regulation 18146.4(b).)

Under the local one-year ban, an official has not permanently left an office or employment if the official takes a leave of absence or serves as an intermittent employee. However, an official taking a leave of absence or serving as an intermittent employee is subject to the Act's conflict-of-interest provisions. (Regulation 18746.4(b); also see Commission Fact Sheet, "Can I Vote? Overview of the Conflict of Interest Laws.")

Tom, a city council member, also holds a position on the county's Vector Control Board. At the conclusion of his term on the city council, Tom retains his position on the Vector Control Board. Six months later, a developer asks Tom to represent him before the city council. May Tom represent the developer? No, Tom has permanently left the local office, which is covered by the ban, and may not appear before the city council on the developer's behalf.

Are you making an appearance or communication within 12 months of leaving local governmental office or employment?

The one-year ban applies to appearances and communications made within 12 months of permanently leaving local office or employment. An appearance or communication includes all of the following:

- Conversing by telephone or in person.
- Corresponding with in writing or by electronic communication.
- Attending a meeting.
- Delivering or sending any communication. (Regulation 18746.2.)

Betty resigns from her city council member position and accepts a job with Acme Real Estate. Within the year, the city council proposes new flood protection requirements, which Acme does not believe are necessary. On behalf of Acme, Betty calls her friend, Council Member Jones, and informs Council Member Jones that Acme staunchly opposes the new flood protection requirements. Betty has made an appearance or communication prohibited under the one-year ban.

The local one-year ban does not apply to assisting or advising clients or employers who might appear before or communicate with the official's former agency so long as the former official is not identified in connection with the appearance or communication.

Are you being compensated?

An appearance or communication is prohibited only if the former official is compensated, or promised compensation. (Regulation 18746.3(b)(3).) "Compensation" is broadly defined to include "remuneration or payment of any kind." (Souza Advice Letter, No. A-06-114.) "Payment" is defined to mean a "payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible." (Section 82044.) Note, however, that a payment made for necessary travel, meals, and accommodations received directly in connection with voluntary services is not considered compensation.

Jackson, a former county supervisor, is currently working as a volunteer for the Spotted Owl Foundation. Hoping to prevent a controversial development project, the Foundation has asked Jackson to appear before the board of supervisors. May Jackson appear before the board if the Foundation pays for his airfare to the meeting? The one-year ban does not bar Jackson from appearing because payments for necessary travel in connection with voluntary services are not considered compensation.

Are you representing another person?

The local one-year ban applies if the former official makes an appearance or communication in representation of another person. Appearances or communications in representation of any of the following are not prohibited:

- Another local government agency or any other public agency. (Regulation 18746.3(c).)
- The former official's personal interests as defined in Regulation 18702.4(b)(1), unless the appearance or communication is made in a quasi-judicial proceeding in which the official participated while serving as a local government employee or officer. (Regulation 18746.3(b)(4).)

Kevin leaves his council member position on January 1 and accepts an engineering position with the county water district on January 15. On February 1, the city council proposes new flood protection requirements, and Kevin appears at the council's meeting on behalf of the water district to argue that the requirements are not adequate. Has Kevin violated the one-year ban? No, Kevin has not made a prohibited appearance or communication because Kevin is representing another public agency.

Are you making an appearance or communication for the purpose of influencing?

An appearance or communication is for the purpose of influencing if it is made for the principal purpose of supporting, promoting, influencing, modifying, opposing, delaying, or advancing the action or proceeding.

The local one-year ban prohibits an appearance or communication if it is made for the purpose of influencing any of the following:

- An administrative action, including any action relating to any rule, regulation, or regulatory proceeding including a ratemaking proceeding, whether quasi-legislative or quasi-judicial. (Section 87406.3(d)(1); Regulation 18746.3(b)(5)(A).)
 - Quasi-legislative proceedings include those proceedings involving the adoption of rules of general applicability, including but not limited to annexations of territory to a city or district, adoption or amendment of zoning ordinances, adoption of regulations, or granting of franchises. (Regulation 18746.3(b)(5)(B).)
 - Quasi-judicial proceedings include those proceedings that determine the rights of specific parties, or apply existing laws to specific situations, including but not limited to any proceedings to issue or revoke licenses, building permits, zoning variances, conditional use permits, parcel and subdivision maps, or coastal development permits. (Regulation 18746.3(b)(5)(C).)
- A legislative action, including any action relating to the drafting, introduction, modification, enactment, defeat, approval, or veto of any ordinance, amendment, resolution, report, nomination, or other matter by the legislative body of a local government agency or by any committee or subcommittee thereof, or by a member or employee of the legislative body of the local government agency acting in his or her official capacity. (Section 87406.3(d)(2); Regulation 18746.3(b)(5)(D).)
- Any action involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

The following conduct is not prohibited because it does not involve an attempt to influence a decision:

- Formal participation in a panel or conference for educational purposes or to disseminate research.
- Attendance at general informational meetings, seminars, or similar events.
- Making requests for information about any matter of public record.
- Communications with the press. (Regulation 18746.2.)

Is the appearance before or communication made to your former agency employer?

An official subject to the local one-year ban may not appear before or communicate with any officer or employee of either of the following:

- The local agency, or any committee, subcommittee, or present member of the local agency that the official worked for or represented prior to permanently leaving the particular office or employment that subjected the official to the ban. (Regulation 18746.3(b)(6)(A).)
- Any local agency that is subject to the direction and control of the agency that the official worked for or represented prior to permanently leaving the particular office or employment that subjected the official to the ban. This is known as the "pyramid concept." If a former official's local agency controls the budget, personnel, and other operations of another agency, the official is prohibited from appearing before or communicating with both agencies. (Regulation 18746.3(b)(6)(B).)

Section 87406.1: One-Year Ban for Air Pollution Control and Air Quality Management Districts

The ***one-year ban for air pollution control and air quality management districts*** prohibits former district board members, officers, and certain employees from representing any other person by appearing before or communicating with, their former district in an attempt to influence any regulatory action for a one-year period. A former district employee is subject to this ban if the former employee made or

participated in making decisions while employed by the district that may have foreseeably had a material financial effect on any financial interest. For purposes of Section 87406.1, "regulatory action" has been interpreted to include any rule, regulation, or other action in any ratemaking proceeding or any quasi-legislative proceeding before the district. (*Wood Advice Letter, No. A-95-167.*)

Former general managers and chief administrative officers of air pollution control and air quality management districts are subject to both Section 87406.1, the one-year ban for air pollution control and air quality management districts, and Section 87406.3, the one-year ban for local officials. Since the one-year ban of Section 87406.3 fully encompasses the one-year ban of 87406.1, a former general manager or chief administrative officer of an air pollution control or air quality management district who complies with Section 87406.3 and Regulation 18746.3 as detailed above has fully complied with Section 87406.1. Board members, officers, or employees of these districts, who are subject only to Section 87406.1, with questions relating to their obligations under this section should seek further Commission assistance.

Influencing Prospective Employment

The ***ban on influencing prospective employment*** prohibits any public official from making, participating in making, or influencing a governmental decision that directly relates to a prospective employer while negotiating or after reaching an employment arrangement. (Section 87407; Regulation 18747.) In short, this law expands the Act's conflict-of-interest rules and related disqualification obligations to situations where a decision will have a reasonably foreseeable material financial effect on the prospective employer even though the official does not yet have an economic interest in the employer.

Are you covered by this law?

The ban applies to *all* "public officials" including every member, officer, employee, or consultant of a local governmental agency. (See Section 82048.)

What activities trigger this prohibition?

The ban is triggered by negotiating or having an arrangement regarding prospective employment. While submitting a résumé or an application to a prospective employer does not trigger the ban, the following contacts will trigger the ban:

- An interview with an employer or his or her agent.
- Discussing an offer of employment with an employer or his or her agent.
- Accepting an offer of employment.

Brenda, a city council member and engineer by trade, is interested in finding a more lucrative position in the private sector and submits her resume to several large construction companies including Company X. Company X will be appearing before the city council for approval of its bid for work on a city project. May Brenda participate in the city council decision? Yes. Brenda has only submitted a resume which is not enough to disqualify Brenda from participating in the decision.

After receiving Brenda's resume but prior to the city council meeting, Company X calls Brenda to discuss job openings. Brenda is unsure whether she wants to work for this particular company so she schedules a lunch appointment with company managers to discuss the position. May Brenda participate in the city council decision? No. Brenda is interviewing with Company X and therefore negotiating prospective employment. Brenda may not participate in any governmental decision directly related to Company X.

When does a decision "directly relate" to a prospective employer?

Under the ban on influencing prospective employment, an official may not make, participate in making or influence decisions that "directly relate" to a prospective employer. A decision "directly relates" to a prospective employer if:

- The employer, either directly or by an agent, has initiated a proceeding in which a decision will be made by filing an application, claim, appeal, or similar request.

- The employer, either directly or by an agent, is a named party in, or is the subject of, the proceeding concerning the decision before the official or the official's agency. A person is the subject of a proceeding if a decision involves the issuance, renewal, approval, denial, or revocation of any license, permit, or other entitlement to, or contract with, the subject person.
- The employer will be financially affected by the decision, as defined in the Commission's conflict-of-interest regulations. (Regulations 18705.1 and 18705.3.) Officials should consult the conflict-of-interest regulations to determine the dollar threshold of the financial effect on the prospective employer that will trigger the official's disqualification from a decision.

How do you determine the financial effect on the prospective employer?

An official must try to obtain information regarding the financial effect of a decision from the prospective employer. An official must make a good faith determination of the potential financial effect of the decision on the prospective employer.

Do any exceptions apply?

The ban on influencing prospective employment does not apply if:

- The prospective employer is a state, local, or federal governmental agency.
- The official is legally required to make or participate in the making of the governmental decision.
- The governmental decision will affect the prospective employer in substantially the same manner as it will affect a "significant segment" of the public generally.

Campaign Contributions Conflicts

June 1999

Campaign Contributions May Cause Conflicts for Appointees and Commissioners

Section 84308

Government Code section 84308 disqualifies any "officer" of a public agency, who is running or has run for elective office, from participating in decisions affecting his or her campaign contributors. The law *disqualifies* the officer from participating in certain proceedings if the official has received campaign contributions of more than \$250 from a party, participant or their agents within the 12 months preceding the decision. It also requires *disclosure* on the record of the proceeding of all campaign contributions received from these persons during that period. In addition, section 84308 *prohibits* solicitation or receipt of campaign contributions in excess of \$250 during such proceedings, or for three months after the decision, from parties, participants or their agents.

Sarah Smith is a candidate for the Smalltown City Council. Smith is also on the Smalltown Planning Commission. John Builder has a permit request pending before the planning commission. Under section 84308, Smith is prohibited from soliciting or receiving any contribution of more than \$250 from Builder or Builder's agent. If Smith did receive a contribution of more than \$250 from Builder, Smith and Builder would be required to disclose the contribution in the record of the planning commission meeting. Smith would also have to disqualify herself from considering Builder's permit request unless she returns that portion of the campaign contribution in excess of \$250 within 30 days after learning of the contribution and Builder's pending permit.

Who is Covered?

Section 84308 covers all elected and appointed "officers" of an "agency" and their alternates, as well as candidates for elective public office. The term "officer" is very broadly defined under section 84308. It includes the governing board or commission of any public agency, as well as the head of an agency. One important exemption applies to members of the governor's cabinet, but *only* when they act in the capacity of secretary of an agency. (Reg. 18438.1.)⁽¹⁾

The scope of the statute is narrowed considerably, however, by the definition of the term "agency." Due to exemptions from the definition of agency (discussed below), the law applies most often to appointed members of local boards and commissions, such as planning commissions.

Section 84308 primarily regulates *agencies*, not individuals. As a result, a person who is a member of an exempted agency (such as an elected city council), is covered by the law when he or she acts as a voting member of *another* agency.

What Agencies Are Not Covered?

Section 84308 expressly exempts from its coverage the following agencies:

- the judicial branch
- the Legislature
- the Board of Equalization⁽²⁾
- constitutional officers
- local agencies whose members are elected by the voters (e.g., city councils and county boards of supervisors)

The exemption for these agencies extends to *committees* of the agencies, if only members of the governing body of the agency are on the committee. It also applies when the governing body, *in its entirety*, sits as the governing body of another agency (e.g., a board of supervisors designates itself as the redevelopment agency for the county). In these cases, the officers are *not appointed* to the other agency. However, as stated above, if a member of an exempt agency also serves as an appointed member of another, non-exempt agency, the prohibitions of section 84308 do apply.

Section 84308 applies to city councilmembers who also serve as members of the City of Brea Redevelopment Agency, unless the redevelopment agency is made up of the city council in its entirety without any other members. (Markman I-94-223.)

In determining whether a board or commission is exempt for purposes of Section 84308, the focus should be on the actual make-up of the board or commission. For instance, the governing board of a sanitation district that may consist of both elected and appointed members, but which, in fact, consists solely of members of the board of supervisors, is exempt under section 84308. (Dixon A-96-203.)

Prohibited Conduct

Section 84308 prohibits officers from soliciting, accepting or directing campaign contributions of more than \$250 from any party, participant or agent of a party or participant, while a proceeding is pending before the officer's agency and for three months following the date of that decision. This prohibition applies even where the contribution is directed to *another* candidate. Similarly, a party, a participant, or an agent cannot make a campaign contribution of more than \$250 to an officer during the course of the proceedings and for three months following the decision.

FPPC regulation 18438.6 defines when behavior becomes "soliciting, accepting or directing contributions." In short, for section 84308 to apply, contributions must be made to and accepted by an officer for his or her own candidacy or controlled committee.

An officer "solicits" a contribution only if he or she knows or has reason to know that the person being solicited is a party or participant (or an agent of either) and personally requests the contribution or knowingly allows his or her agent to do so. A prohibited solicitation under section 84308 does not include a request made in a mass mailing to the public, at a public gathering or in a published newspaper or other vehicle of mass media.

A person "directs" a contribution if he or she acts as the agent of another person or committee, other than his or her own controlled committee, in accepting a contribution on behalf of, or transmitting a contribution to, such other person or committee.

A planning commissioner is prohibited under section 84308 from soliciting, accepting or directing contributions for a candidate for the state office of Secretary of State, if the person making the contribution is a party, participant or an agent of a party or participant in a proceeding before the planning commission. (Calvert A-94-263.)

Disqualification

An officer will be disqualified from participating in a decision when, prior to making the decision, he or she learns that a party or participant in a proceeding (either individually or with or through an agent) has made a contribution of more than \$250 to the officer within the preceding 12 months. However, if the officer returns the contribution (or that portion of the contribution which is over \$250) within 30 days from the time he or she learns of the contribution and the proceeding, then disqualification is not required. (Regulation 18438.7 discusses an officer's knowledge of pending proceedings, parties and participants to the proceeding, and their contributions.)

A developer has filed for a conditional use permit from the city's land use agency. The developer gave a land use agency officer a \$750 campaign contribution two months before he filed for the permit. The campaign contribution did not violate section 84308 since it was given prior to the developer's request for a permit (which initiates a proceeding under section 84308). Both the officer and the developer are required to disclose the contribution and the officer must disqualify himself from considering the conditional use permit, unless the officer returns at least \$500 of the \$750 (reducing the amount to \$250) within 30 days of learning of both the contribution and the proceeding.

Disclosing Contributions

Prior to rendering any decision, each officer who received a campaign contribution of more than \$250 within the preceding 12 months from a party, participant or agent of a party or participant must disclose the fact on the record of the proceeding. If there is a public hearing, the officer should make the disclosure on the public record at the beginning of the hearing. However, if no public hearing is held, the disclosure should be included in the written record of the proceeding.

Likewise, a party or participant to a proceeding must disclose on the record of the proceeding any campaign contribution of more than \$250 made within the preceding 12 months by the party or participant, or his or her agent, to any officer of the agency. The FPPC has prepared sample disclosure forms for this purpose which you may call the agency to request.

Proceeding

A proceeding involves action to grant, deny, revoke, restrict or modify "licenses, permits, or other entitlements for use." (Reg. 18438.2.) Section 84308 defines the phrase "licenses, permits, or other entitlements for use" to mean proceedings on all business, profession, trade and land use licenses and permits, and other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts) and all franchises.

Examples of the types of decisions covered by the law include decisions on professional license revocations, conditional use permits, rezoning of real estate parcels, zoning variances, tentative subdivision and parcel maps, consulting contracts, cable television franchises, building and development permits, public street abandonments, and private development plans.

Decisions on general plans, general building or development standards or other rules of general application are not covered by section 84308. In addition, "proceedings" do not include purely ministerial decisions, in which no discretion is exercised.

The prohibitions of section 84308 apply to proceedings that are "pending" before the agency with which the officer is affiliated. A proceeding is pending when: (1) an application has been filed, the proceeding has been commenced, or the issue has otherwise been submitted to the jurisdiction of an agency for its determination or other action; and (2) the proceeding is of a type that the officers of the

agency are required by law to make a decision about or the matter has been submitted to those officers for their decision. (Reg. 18438.2(b).)

Once the staff of an agency has started reviewing a request for proposal ("RFP"), the contract proceeding has commenced and is pending before the agency. From that point forward (and until three months following the date a final decision is rendered), no officer of the agency may accept, solicit or direct a contribution in excess of \$250 from any participant who attempts to influence the review of the RFP. (Alperin A-96-083.)

Party

A party is any person (including a business entity) who files an application for, or is the subject of, a proceeding involving a license, permit or other entitlement for use.

When a closed corporation is a party (or participant) in a proceeding before a board, commission, or agency, the majority shareholder of the corporation is also treated as a party (or participant), and all prohibitions and disclosures required under section 84308 will apply to the majority shareholder. (§84308(d).)

Participant

A participant is any person who is not an actual party to the proceeding, but who:

(1) actively supports or opposes a particular decision (e.g., lobbies the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence the officers of the agency); and (2) has a financial interest in the outcome of the decision. A person does not lobby, testify or otherwise act to influence the officers or employees of an agency by communications made to the public, other than those made in the proceedings before the agency. (Reg. 18438.4(d).)

Paul Peters and Nancy North are neighbors. North has applied for a conditional use permit to allow her to conduct an auto repair business on her driveway. In opposing North's application before the planning commission, Peters testified that granting the permit would substantially reduce the fair market value of his property. He also presented a petition signed by 20 neighbors opposed to granting the permit. North is a party. Peters is not an actual party to the proceeding, but since he testified in opposition to North's request, and has a financial interest in the outcome of the proceeding, he is a participant. The neighbors who merely signed the petition are not participants.

Agent

An agent is an individual or firm who represents a party or a participant in a proceeding. If an agent is an employee or member of a law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents. Campaign contributions made by a party or participant are aggregated with those made by the party or participant's agent within the 12 months preceding the decision or the period of the agency relationship, whichever is shorter. (Reg. 18438.3.)

An attorney representing a party in a proceeding and that attorney's law firm are considered agents of the party. The law firm has a PAC that wishes to make contributions to an official who sits on the board before which the proceeding is occurring. If the law firm and the PAC are directed and controlled by a majority of the same persons, the contributions of the two entities will be aggregated for purposes of section 84308. If the combined contributions of the law firm and the PAC to the official would exceed \$250, the PAC's contribution would be prohibited. (Sutton A-95-156.)

A spouse is an agent for purposes of section 84308. If the spouse of an official solicits contributions of more than \$250 from a person the official knows or has reason to know is a party, a participant, or an agent of a party or participant, a prohibited solicitation will result. (Calvert A-94-263.)

A person is the "agent" of a party to, or a participant in, a proceeding only if he or she represents that person in connection with the proceeding. An attorney representing clients before the coastal commission is an agent of those clients. If the attorney's contributions made to a member of the coastal commission exceed \$250 within the prohibited time period, the official must disqualify himself from the proceeding. (Karas I-94-211.)

Fair Political Practices Commission 916. 322.5660

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1. Citations contained in this fact sheet refer to the Political Reform Act, Cal. Gov. Code §§81000-91015, to Fair Political Practices Commission regulations, contained in Title 2, Division 6 of the California Code of Regulations, and to FPPC advice letters, available on Westlaw (Ca-Eth) and Lexis (CaFair). You should not rely solely on this fact sheet to ensure compliance with the Political Reform Act, but should also consult the Act and Commission regulations.

2. Though the Board of Equalization is not covered by section 84308, it is subject to Government Code section 15626, a similar statute that prohibits Board of Equalization members from acting on adjudicatory proceedings if they have received a contribution of \$250 or more from a party or participant.



Holding Two Positions (updated 6/20/2009)

Nothing in the Political Reform Act¹ or its conflict-of-interest rules prevents a public official from seeking or holding a particular position, whether public or private. A conflict of interest may arise only after a person takes office and is dependent on that person's conduct subsequent to taking office. (*Eldridge v. Sierra View Hospital District*, 224 Cal. App. 3d 311 (1990).)

A conflict of interest does not prohibit a person from seeking or holding office. Rather, the conflict-of-interest provisions of the Act prohibit a public official from participating in a decision that will have a financial effect on his or her economic interests. This prohibition is applied on a decision-by-decision basis.

Public Officials May Not Make Decisions That Affect Them Financially

Under the Act, a public official may not participate in a decision if it is reasonably foreseeable that the decision will have a material financial effect on one of the official's economic interests or on the official him or herself. (Sections 87100 and 87103.)

Economic Interests. The official's economic interests include:

- **Business Entities.** Any business entity in which the public official has a direct or indirect investment worth \$2,000 or more. Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.
- **Real Property.** Any real property in which the public official has a direct or indirect interest worth \$2,000 or more.
- **Sources of Income.** Any individual, business, or other entity that has been a source of income aggregating \$500 or more to the public official within 12 months prior to the time when the decision is made. This excludes gifts and certain bank loans.
- **Gifts.** Any donor of gift(s) aggregating \$420 (**changed from \$390 on December 31, 2008**) or more to the public official within 12 months prior to the time when the decision is made.

Direct Effect on Official. The Act also provides that a conflict of interest may exist where a decision will result in a public official's personal expenses, income, assets, or liabilities, or those of his or her immediate family (spouse and dependent children), increasing or decreasing by \$250 or more in a 12-month period. (Regulations 18703.5 and 18705.5.)

For a conflict to exist, the effect of the decision on the official's economic interests must be considered material under Commission regulations. (Regulations 18705-18705.5.) And the effect of the decision on the official must be distinguishable from its effect on the public generally. (Regulations 18707-18707.9.)

For more information about conflicts of interest and governmental decisions, refer to the Commission's fact sheet *Can I Vote? Conflicts of Interest Overview*.

May I Hold Two Public Positions?

The Political Reform Act does not prohibit you from holding multiple public positions, either within a single agency or different agencies.² In addition, there are no provisions of the Act which preclude you from seeking more than one elective office in a single election, or from serving in more than one elective office at any one time. (See Incompatible Offices, below.) For example, a firefighter may be elected to a fire protection district, or a parks and recreation board member may also be elected to a water district.

Governmental Salary Does Not Create a Conflict. If you are employed by a federal, state, or local government agency, the salary you receive from that agency is excluded from the definition of income under the Act. (Section 82030(b)(2).) Therefore, the governmental income which you receive will not give rise to a conflict of interest under the Act. This exclusion applies to salary, reimbursement for expenses, or per diem that you receive from a government agency. However, the exclusion for governmental salary generally does not apply to individuals who work under contract for a government agency. (*Moore* Advice Letter, No. I-93-343.)

Will a teacher's salaried position with the Morongo Unified School District create a conflict of interest with respect to her decisions as a Twentynine Palms city council member? Her governmental salary from the district is excluded from the definition of income under the Act. Neither her salary from nor employment with the school district will create an economic interest in the district that could result in a conflict of interest. (*Meyer* Advice Letter, No. A-93-051.)

Is an individual who wants to run for the county board of supervisors prevented by the Act from seeking election because he is employed by the county office of education as director of a career center? It does not. His salary from the county office of education is excluded from the definition of income under the Act, and will not create a conflict of interest for him should he be elected. (*Simmons* Advice Letter, No. I-95-245.)

Be Careful About Votes Affecting Your Own Position. The Political Reform Act does not require you to disqualify yourself on decisions that affect the salary, per diem or reimbursement for expenses you and other employees in the same job classification or position receive from your agency. (Regulation 18705.5(b).) You cannot, however, vote to create a new position for yourself or to increase your position from part to full time. (Regulation 18703.5; *Koski* Advice Letter, No. I-96-289.)

In addition, Gov. Code Section 1090 provides that a public official may not make a contract in which he or she is financially interested. A board member may violate Section 1090 if he or she contracts with the board to provide services. For questions about Section 1090, contact your city attorney, county counsel or the Attorney General's office.

Incompatible Offices. Gov. Code Section 1099 codifies the common law prohibition against the holding of "incompatible offices." This doctrine restricts the ability of public officials to hold two different public offices simultaneously if the offices have overlapping and conflicting public duties. For this section to apply, each position must be a "public office." (Gov. Code Section 1099 (c).)³

Pursuant to Section 1099, a person may not simultaneously hold two public offices if:

1. either of the offices exercises a supervisory, auditing, or removal power over the other office or body,
2. there is a significant clash of duties or loyalties between the offices, or

3. there are public policy considerations that make it improper.

The consequence of holding an incompatible office is that the person is "deemed to have forfeited the first office upon acceding to the second." (Gov. Code Section 1099(b).)

Additionally, The California Constitution has provisions addressing the holding of two government positions.⁴

The doctrine of incompatible offices is outside the jurisdiction of the Fair Political Practices Commission, but the Attorney General's office has issued numerous opinions on the subject which are available on the Attorney General's web site: <http://caag.state.ca.us>. If you have a question about whether two public offices which you hold or seek to hold would be considered incompatible offices, contact your city attorney, county counsel, or the Attorney General's office.

Can the elected trustee of the South Bay high school district run for a seat on the Redondo Beach City Council, or does the Political Reform Act prohibit it? The Act does not prohibit him from holding two elected offices. However, he may want to check with the Attorney General's office to make sure that district trustee and council member are not "incompatible offices." (Downs Advice Letter, No. I-90-278.)

May I Hold a Public Position and Private Employment?

The Act does not prohibit you from holding a public position, and also being employed by a private business or firm. But you may not make a governmental decision that would affect your economic interests, such as the business or firm you work for, or in some cases, your clients, as discussed above.

Does the Act prohibit a council member from accepting employment with a brokerage firm, Merrill-Lynch, that does business in the jurisdiction and has contracted with the city in the past to issue bonds? The Act does not prohibit the council member from accepting employment with Merrill-Lynch. However, the conflict-of-interest provisions of the Act prohibit the council member from making, participating in making, or otherwise using his official position to influence a governmental decision that will materially affect any economic interest, including sources of income such as Merrill-Lynch and clients who will have paid the council member commission income. (Rede Advice Letter, No. I-93-023.)

Outside Employment and Activities -- Your Agency's Own Guidelines. State and local agencies are authorized to adopt "statements of incompatible activities" that govern their employees' conduct. State and local agencies can prohibit their employees from engaging in any outside employment, activities, or enterprises, which are inconsistent or in conflict with their duties as agency employees. (Gov. Code Sections 19990 and 1126 et seq.) This area of law is outside the jurisdiction of the Fair Political Practices Commission. You should check with your supervisor or agency counsel to see whether your agency has adopted a statement of incompatible activities. Make sure that nothing in these guidelines would prohibit you from performing the outside work or holding the additional position that you are interested in.

May a Fair Political Practices Commission employee open a campaign consulting business? No. The Commission's statement of incompatible activities prohibits Commission employees from being compensated to perform any political campaign activities. In addition, the statement of incompatible activities prohibits an employee from engaging in outside employment if that employment prevents

the employee from devoting his or her full time, attention, and efforts to performing regularly assigned Commission duties.

Professional Ethics. Many professions have their own codes of ethics. While particular outside employment or positions may not present a conflict of interest under the Political Reform Act, you may wish to review your profession's code of ethics to make sure that your activities do not create a professional ethics problem.

Your Spouse's Employment

The Act does not prohibit you from seeking a public position just because your spouse holds another public position or private employment. Under the Act, however, an official's income includes a community property interest in the income of his or her spouse. (Section 82030(a).) If your spouse has received income from a business or firm, you may have to disqualify yourself if a decision would have a material financial effect on that business. Check with your agency counsel or the FPPC to determine whether you have a conflict of interest with respect to the governmental decision. (Refer to the FPPC's fact sheet *Can I Vote? Conflicts of Interest Overview*.)

Can a city council member, whose spouse has been employed by a bank for several years, vote on the bank's petition for a variance? No, the council member must disqualify himself because the bank has been a source of community property income to him of \$500 or more in the preceding 12 months.

Would an individual who is interested in running for an elected position on the Castaic Lake Water Agency Board have a conflict of interest if she is elected to a position on the Castaic board since her husband is an elected director on the Newhall County Water District Board? No. The salary her husband receives from the Newhall board is excluded from the definition of income under the Act and will not create a conflict of interest for her if she is elected to the Castaic board. (*Dunn Advice Letter, No. A-96-211.*)

As a public official, you must disqualify yourself from a decision that will result in the hiring, firing, promotion, demotion, or disciplining of your spouse, or setting a salary for your spouse that is different from salaries paid to other employees in the same job classification. (Regulation 18705.5 (b).) However, you do not have to disqualify yourself from a decision that only affects the salary, per diem, or reimbursement for expenses you or your spouse receives from a state or local government agency, where these are the same as what other employees in the same job classification or position receive (Regulation 18705.5(b).)

Can a school board member vote on the district's budget if his spouse is a teacher in the district and the budget decisions might affect teacher salaries? In general, yes if his spouse's salary is exempt from the definition of income under the Act and the decision affects the salary of all teachers in the district, not just his spouse's. (Regulation 18705.5(b); see also Sylvia Advice Letter, No. I-02-176.)

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1. Citations contained in this fact sheet refer to the Political Reform Act, Cal. Gov. Code Sections 81000-91015, to Fair Political Practices Commission regulations, contained in Title 2, Division 6 of the California Code of Regulations, and to FPPC advice letters, available on Westlaw and Lexis. You should not rely solely on this fact sheet to ensure compliance with the Political Reform Act, but should also consult the Act and Commission regulations.

2. A state or local agency is generally prohibited from restricting the political activities of its officers or employees, subject to certain exceptions. (Gov. Code Section 3203.)

3. The legislature has indicated that this act is not "intended to expand or contract the common law rule prohibiting an individual from holding incompatible offices.... but it is intended that courts interpreting this act shall be guided by judicial and administrative precedent concerning incompatible public offices developed under common law. (Stats. 2005, ch. 254, §2)

4. See, Cal. Const. Art. VII §7. See also: *McCoy v. Board of Sup'rs of Los Angeles County*, 18 Cal. 2d 193 (1941) (Construing former Cal. Const., Art. IV §20); *People ex rel. Atty. Gen. v. Turner*, 20 Cal. 142 (1862); *Crawford v. Dunbar*, 52 Cal. 63 (1877); and *Lungreen v. Deukmejian*, 45 Cal. 3d 727 (1988).

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