

Government Board and Commission Members

FACT SHEET

Serving with Integrity

Conflict of Interest

Under the State Political Reform Act, a conflict of interest may exist when a person **influences a decision** that will materially affect an **economic interest** connected to you or your immediate family. If you think you have a financial conflict of interest, follow the 8-step analysis:

1. Are you a "public official" within the meaning of the rules?
2. Are you making, participating in making, or influencing a governmental decision?
3. What are your economic interests? That is, what are the possible sources of a financial conflict of interest?
4. Are your economic interests directly or indirectly involved in the governmental decision?
5. What kinds of financial impacts on your economic interests are considered important enough to trigger a conflict of interest?
6. 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?
7. If you have a conflict of interest, does the "public generally" exception apply?
8. Even if you have a disqualifying conflict of interest, is your participation legally required?

For more information, see the FPPC's webpage: <http://www.fppc.ca.gov/index.php?id=37>.

Form 700 – Statements of Economic Interest

Form 700 = required of all Oakland board and commission members, elected officials, and designated City employees who have certain decision-making authority (available at www.fppc.ca.gov). Must report gifts of \$50 or more, cannot accept gifts of more than \$440 from single source in calendar year.

Restrictions on Receiving or Soliciting Campaign Contributions

California law disqualifies certain appointed board or commission members who are running, who have run, or who are fundraising for, elective office from participating in decisions affecting his or her campaign contributors.

Other Ethics Laws

1. **Self-Dealing in Contracts.** Government Code section 1090 prohibits your board from entering into a contract in which you, as a fellow board member, have a financial interest.
2. **Use of Public Funds for Personal or Campaign Purposes.** Government Code section 8314 and Penal Code section 424 prohibit a public official from using public resources for personal or campaign purposes.
3. **Serving in Incompatible Positions.** Gov Code section 1099 = forbids public officials from engaging in employment or activities that are incompatible with their public duties.
4. **Commission By-Laws or Governing Authorities.** Some boards and commissions are governed by their own rules and restrictions.
5. **Personal Bias.** Common law has formed around particular cases where a decision maker was found to be improperly biased, such as personal interest in an outcome (ie. a councilmember who voted on a property decision that would affect the ocean view of his own residence), or personal knowledge of outside information (ie. in quasi-judicial boards). Seek advice if you have questions about bias.

Open Meetings

Ralph M. Brown Act = California law that applies to all local public bodies in order to ensure that City business meetings are conducted in public. The Act covers the following:

- What constitutes a public meeting
- What kinds of public meetings there are
- How meetings are announced (or noticed) to the public
- How meetings are conducted

1. What constitutes a public meeting?

- A. Any congregation of a majority of the members of a local body at the same time and location... to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the local body
- B. A meeting can occur if a staff or member of a public body calls, faxes, or e-mails other members to develop a consensus regarding an item of business, even if the members never communicate to each other directly

2. What kinds of public meetings can occur?

- A. Regular
- B. Special (shorter notice requirements)

3. Providing Notice for a Public Meeting

- A. Under the Brown Act, a meeting agenda must be posted and distributed within certain time limits before a public meeting occurs, usually at least 72 hours before the meeting in a location that is freely accessible to the public 24 hours a day.
- B. Agenda Requirements
 - i. Date, time, and location
 - ii. Brief general description
 - iii. If an item is not listed on the agenda for a regular meeting, there may be no action or discussion about it at the meeting

*Board and commission members are encouraged to contact city staff prior to the meeting if they have any questions or need clarification about any item on the agenda.

4. Conduct of Public Meetings

- A. A quorum (majority member attendance) is necessary before a local body can take any formal action.
- B. Public must have an opportunity to provide public comment before action is taken.
- C. All local bodies must take and keep minutes of its meetings as an official record of the actions taken.

Public Records

The California Public Records Act requires all government documents to be made available for copying or inspection, with certain specific exceptions. This includes emails between City staff and board members. Be aware that all email and other communications and documents related to City or local government business are considered public records which must be shared with the public upon request.

The **Oakland Sunshine Ordinance** provides greater restrictions regarding open meetings and public records. See the Oakland Public Ethics Commission *Handbook for Board and Commission Members* for more detail.