



AB 1234 TRAINING Planning Commissioners Academy

March 4, 2020



Understanding Public Service Ethics Laws (AB 1234)

**Planning Commissioners Academy
March 4, 2020**





ILG Mission

Empower local government leaders and deliver real-world expertise to help them navigate complex issues, increase their capacity, and build trust in their communities.

www.ca-ilg.org



ILG is Connected to Key Local Gov Groups



ILG is the non-profit training and education affiliate of...



California Special
Districts Association
Districts Stronger Together

What Does ILG Do?

Promoting good government at the local level

Program Areas

Leadership & Governance

Sustainable Communities

Public Engagement

Youth & Civics Education



Services

Education & Training

Technical Assistance

Capacity Building

Convening

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Agenda

I. Transparency Laws

- a. Brown Act
- b. Public Records Act

got ethics?

II. Personal Financial Interests & Fair Processes

- a. Conflicts-of-Interest Rules: Political Reform Act
- b. Due Process Considerations
- c. Common law conflicts: Personal Interests and Bias
- d. Contractual Conflicts of Interest: Government Code section 1090

III. Legal Limitations on Perks and Advantages of Office

Goals

1. **Familiarize** you with **laws** that govern your service and when to **ask questions**
2. Encourage you to **think beyond legal restrictions (outside the box)**
3. **Satisfy** your AB 1234 requirement



I: Transparency Laws



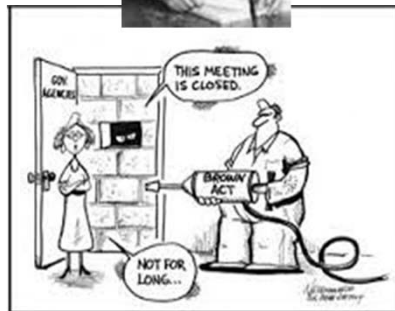
The Brown Act

“Public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people’s business. ***It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.***”

Gov. Code § 54950



The Brown Act



- All ***meetings*** of the ***legislative body*** of a ***local agency*** must be ***open and public***
- ***All persons must be permitted to attend any meeting***

The Brown Act

Basic Rule: Meetings of legislative body are covered by the Brown Act.

- What is legislative body?
 - includes standing committees or commissions
 - advisory committee made up of less than quorum is not “legislative body”
- What is a **Meeting**?
 - any gathering of a **majority of the members** of a legislative body
 - at the **same time** and location
 - to **hear, discuss, deliberate** or **take action** upon any item which is within its subject matter jurisdiction

The Brown Act

Formal Meetings:

- Regular meetings – regular 72 hour notice required
- Special meetings – 24 hour notice required
- Emergency meetings – can be as little as 1 hour notice to media

The Brown Act

Teleconferencing:

- Agenda must be posted at all locations, with teleconference locations specifically identified
- All teleconference locations must be open to public with public participation at each location
- Must be quorum participating from locations within agency boundaries
- Roll call votes only



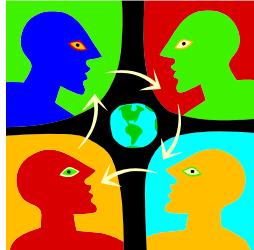
The Choice Is Yours



A Planning Commissioner wants to go on vacation but doesn't want to miss the upcoming meeting. Which locations can teleconferencing be used to allow the Commissioner to participate in the meeting?

- a) A cruise
- b) A hotel
- c) A gated resort

Improper “Informal” Meetings



Caution: “A majority of the members of a legislative body **shall not...use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action** on any item of business that is within the subject matter jurisdiction of the legislative body.

Gov. Code § 54952(b)(1)



The Choice Is Yours



Five of the City’s seven Planning Commissioners meet each other at the local coffee shop and begin discussing a large vacant parcel within the City and potential uses for the parcel once it is developed. Is this a “meeting” subject to the Brown Act?

- a) Yes
- b) No
- c) Only if they discuss how they would vote at a meeting

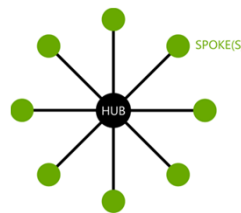
Improper “Serial” Meeting

- **Daisy Chain**: If Member A contacts Member B, and Member B contacts Member C, and so on, until a quorum has been involved, this type of “serial meeting” may result in a violation of the Brown Act.



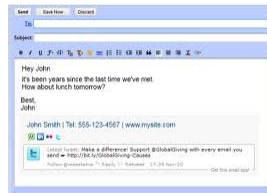
Improper “Serial” Meeting

- **Hub and spoke**: An intermediary contacts at least a quorum of the members to develop a collective concurrence on action to be taken by the legislative body.



Improper “Technology” Meetings

- **Use of e-mail or other technology/media by a majority of a legislative body to discuss, deliberate, or take action on items within the body’s jurisdiction violates the Brown Act.**



Recommendations for E-mail

- **Avoid sending e-mails to the whole body.**
 - If necessary, provide information only.
 - Do not solicit a response.
- **Be careful replying to e-mails.**
 - Do not communicate your position or make a commitment on a pending matter.
 - Do not direct a reply to a majority of the legislative body.
- **Think carefully before sending any e-mail.**
 - Remember, your e-mail can be forwarded by others to a majority of the legislative body.

E-mail Meetings



- Take caution, e-mail spreads like wildfire.



The Choice Is Yours



You are unsure how to vote at an upcoming meeting and request information from the Planning Director. Should you:

- a) Copy the email to the entire Planning Commission
- b) Hit "Reply All" when the Planning Director responds to you and the entire Planning Commission indicating how you are going to vote
- c) Only email the Planning Director

Emergency Meetings

- The legislative body determines a *work stoppage, crippling disaster, or other activity severely impairs public health or safety.*
- The legislative body determines that a “*dire*” emergency exists, such as mass destruction, terrorist act or threat *that poses immediate and significant peril.*
- The special meeting provisions apply to emergency meetings, except for the 24-hour notice.

Gov. Code § 54956.5 (a) and (d)



Brown Act Violations



- Request to Cure/Action Invalidated
- Civil Action to prevent future violations
- Costs and Attorneys' Fees
- Criminal Charges
 - Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, ***is guilty of a misdemeanor.***

Gov. Code § § 54959, 54960, 54960.1

Individual Meetings - OK

- A City employee or official may:
 - engage in “**separate conversations or communications**” outside of a meeting
 - in order to “**answer questions or provide information**”
 - so long as that person “**does not communicate to members of the legislative body the comments or positions of any other member or members.**”



Gov. Code § 54952.2(b)(2).

Non-Meetings

- Attendance by a majority of members at:
 - A **conference** that is related to the business of the agency that is **open to the public**;*Provided that* a majority of the members do not discuss amongst themselves business “of a specific nature” that is within the subject matter jurisdiction of the agency.
- Gov. Code § 54952.2 (c)(2)



Non-Meetings

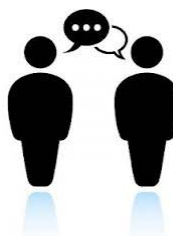
- Attendance by a majority of members at:
 - An **open and noticed meeting of a standing committee** of that body,
Provided that the members of the legislative body who are not members of the standing committee **attend only as observers.**
- Gov. Code § 54952.2(c)(6)



Non-Meetings

- Individual contacts or conversations between a member and any other person (provided that person is not serving as an intermediary between other members of the legislative body).

Gov. Code § 54952.2(c)(1)



Non-Agendized Items

- Action or discussion on any item not appearing on the posted agenda is generally prohibited.
- Legislative body may only:
 - Briefly respond to public statements or questions;
 - Ask a question for clarification;
 - Make a brief announcement;
 - Make a brief report on his or her activities;
 - Provide a reference to staff or other sources for factual information; or
 - Request staff to place the matter on a future agenda and report back to the legislative body in a subsequent meeting.

Gov. Code § 54954.2(a)(2)



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Cautionary Tale

Judge Rules L.A Planners Hid Environment Reports, Violated Brown Act

By Peter B. Matuszak
Daily Journal Staff Writer

LOS ANGELES — Open government advocates won a victory last week when a judge ruled that the city's practice of using internal city codes to disguise key environmental matters before the Planning Commission was illegal.

Los Angeles County Superior Court Judge David Yaffe ruled in favor of public interest attorney Robert Silverstein on Oct. 6, finding that the city had repeatedly violated the Brown Act, the state's open government law, by not clearly disclosing when commissioners would be deciding whether to approve environmental reports for new developments mandated by the California Environmental Quality Act.

"The evidence before the court, which is uncontradicted, shows that the City Planning Commission of the City of Los Angeles repeatedly posted agendas of its meetings during the year 2007 that clearly disclosed each action that it intended to take or discuss at a meeting except actions to be taken or considered under the California Environmental Quality Act," Yaffe wrote. *La Mirada Avenue Neighborhood Assoc. v. Los Angeles*, BS108652 (L.A. Super. Ct., filed March 30, 2007).

The judge pointed out that all other items on at least six Planning Commission agendas were spelled out in simple

understandable terms but that environmental matters to be taken up under CEQA were only mentioned in, "a cryptic reference like the following 'CEQA: ENV-2006-7729-EIR'."

"Such cryptic references are meaningless to most members of the public ... Such descriptions not only violate the Ralph M. Brown Act, but they also violate the fundamental purposes of CEQA," he wrote.

The ruling will force the city to change how it informs the public about pending environmental and land use decisions. The order enjoined the Planning Commission from taking any actions under CEQA that are not "described with clarity, particularity and detail," understandable to the general public.

The ruling will not stop any current projects, including the Paseo Plaza, which the suit was originally filed against. The preservationists who opposed the mixed-use project have settled their grievances with the developer, who agreed to pay into a fund that will be used to fix potential traffic problems. The plan calls for 437 residential units and 377,990 square feet of commercial space to be built near the corner of Santa Monica Boulevard and Western Avenue.

Despite the agreements, Silverstein continued to pursue See Page 4 — L.A.



ROBERT SILVERSTEIN / Daily Journal

"It has now become a lawsuit to vindicate the public's right to a transparent government," said attorney Robert Silverstein.



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The Choice Is Yours



During public comments on non-agendized items you may:

- a) Have a 5-minute conversation with a member of the public about a particular issue
- b) Make a motion to take immediate action on the non-agendized item
- c) Discuss your views on an upcoming development project
- d) None of the above

Closed Sessions

Closed Sessions:

- Closed sessions are an **exception** to the rule that agency meetings must be open and public.
- Only topics authorized under the Brown Act may be discussed in closed session.
- The most common closed session topics are:
Litigation (Existing or Potential), Real Estate Negotiations, Personnel Matters, and Labor Negotiations.

Gov. Code § 54954.3

Closed Sessions

- The disclosure of confidential information is prohibited unless the legislative body authorizes the disclosure of the information.
- **“Confidential information”** means communication made in closed session that is specifically related to the basis for the closed session meeting.

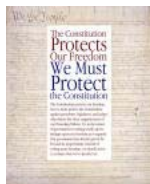
Gov. Code § 54963(a) and (b)



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Access to Public Records

- Access to public records is a constitutional right.



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Public Records

- “Public Record” means:

- Any writing,
- Containing information relating to the conduct of the public’s business,
- Prepared, owned, used or retained by any state or local agency,
- Regardless of physical form or characteristic.



Gov. Code § 6252(e)

Public Records



Exceptions include:

- Preliminary drafts not ordinarily retained,
- Pending litigation,
- Personnel, medical, or similar files,
- Attorney-client privileged, and
- Catch-all (public interest balancing test).

Personal Devices/Public Records

City of San Jose v. Superior Court

- City employees' or officials' communications about official agency business may be subject to disclosure as "public records" retained by the agency under the CPRA, even if the employees used personal e-mail or text message accounts in their preparation or transmission



Public Records

- Local officials have some discretion in terms of what records may be retained.
- Important to follow records retention schedules & policies.



II: Personal Financial Interests & Fair Processes



Purpose of Conflict Rules

- Public officials owe paramount loyalty to the public.
- Personal or private financial interests should not be allowed to enter into the decision making process.



Sources of Conflicts of Interest

- **Remember:** conflicts of interest are not limited to financial conflicts
- **Perceptions matter**

Farcus

by David Waisglass
Gordon Coulthart



"What conflict of interest?!
I work here in my spare time."

Statutory Conflicts of Interest Rules

- **Political Reform Act**
 - Government Code § 87100, *et seq.*
 - Regulations of the Fair Political Practices Commission (FPPC)
California Code of Regulations, title 2, division 6, section 18109, *et seq.*
- **Contractual Conflicts**
 - Government Code § 1090



Disclosure of Financial Interests

- Statements of Economic Interests “Form 700”
- Purpose:
 - alert officials of personal interests that might be affected
 - inform the public about potential conflicts

CALIFORNIA FORM 700 STATEMENT OF ECONOMIC INTERESTS
COVER PAGE

1. Office, Agency, or Court
 Agency Name: (Do not use acronym) _____
 Division, Board, Department, District, if applicable _____
 Your Position _____
 * If filing for multiple positions, list below or on an attachment. (Do not use acronym)
 Agency _____ Position _____

2. Jurisdiction of Office (check at least one box)
☐ State ☐ Judge or Court Commissioner (Statewide Jurisdiction)
☐ Multi-County _____ County of _____
☐ City of _____ ☐ Other _____

3. Type of Statement (check at least one box)
☐ Annual: The period covered is January 1, 2017, through December 31, 2017.
☐ Leaving Office: Date Left (Month/Day/Year) _____
☐ Assuming Office: Date assumed _____
☐ Candidates: Date of Election _____ and office sought, if different than Part 1, _____

4. Schedule Summary (must complete) * Total number of pages including this cover page: _____
☐ Schedule A-1 - Investments - schedule attached
☐ Schedule A-2 - Investments - schedule attached
☐ Schedule B - Real Property - schedule attached
☐ Schedule C - Income, Loans, & Business Positions - schedule attached
☐ Schedule D - Income - Gifts - schedule attached
☐ Schedule E - Income - Gifts - Travel Payments - schedule attached
☒ None - No reportable interests on any schedule

5. Verification
 I have read all instructions regarding this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attachments 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 _____ Signature _____

[Clear Page](#) [Print](#)

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The Who, What, When and Where of Disclosure

- **Who?** All “designated” officials under Government Code 87200.
- **What?** Interests in real property, investments, business positions, sources of income and gifts.
- **When?** Upon assuming office, annually (by 4/2), and upon leaving office.
- **Where?** File with local agency.

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Form 700 Reporting

FPPC Enforcement Decision:

Tami B., as a **Board Member of a water district**, failed to timely file three annual statements in a row for 2012, 2013, and 2014.

Fine: \$1200



Can I Participate?

Political Reform Act



General Rule of Disqualification

- A public official may not:
 - make/participate in the making/or influence
 - a governmental decision
 - that will have a reasonably foreseeable material financial effect and material financial effect on
 - the official's or his or her immediate family's financial interests
 - that is distinguishable from the effect on the public generally
- Must consider financial interests of "immediate family," which includes spouse and dependent children

Conflicts of Interest: Financial Interests

Four Step Test to Identify Financial Conflict:

1. Is it reasonably foreseeable that the decision will have a financial effect on the official's economic interests?
2. Will the effect be material?
3. Is the effect indistinguishable from the effect on the public generally?
4. Is the official "making, participating in making, or attempting to influence" the decision?



Recognizing the Need to Seek Advice

- The conflict rules and regulations are complex.
- **Recognizing** potential conflicts is essential.
- **Talk early on** with the City Attorney and consider seeking advice from the FPPC when economic interests may be affected (positively or negatively) by a decision.



Potential Economic Interests

- **Business Entity:**
Any business entity, as defined in Section 82005, in which the public official has a direct or indirect investment worth at least \$2,000 or in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

Potential Economic Interests

- **Real Property:**

Any real property in which the public official has a direct or indirect interest of at least \$2,000.



Potential Economic Interests

- **What's an "Indirect investment"?**
- "any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially at least a 10-percent interest."

Potential Economic Interests

- **Source of Income:**

Any source of income, including commission income and incentive income, amounting to a total of at least \$500, provided or promised to, and received by the public official within 12 months before the decision is made.

Potential Economic Interests

- **Source of Gift:**

Any gift amounting to a total of at least \$500, provided or promised to, and received by the public official within 12 months before the decision is made.

Conflicts of Interest: Financial Interests

- Don't become another headline:



Paul Weisman (11x)
MAINTAINING INNOCENCE: Joni Gray admitted no wrongdoing to the state watchdog agency that docked her but paid the fine it was asking "in order to put this issue behind me."

Joni Gray's Gotta Pay
Former Supervisor Fined For Conflict of Interest



Potential Economic Interests

FPPC Enforcement Decisions:

Richard F., Dorris City Councilmember, violated conflict of interest laws by **voting to obtain a \$491,520 state grant to extend a water and sewer line to an area of the city where he owned real property and operated an inn and restaurant.**

Fine: \$4,000



Potential Economic Interests

FPPC Enforcement Decisions:

Gregory C. is a member of the **San Diego County Board of Supervisors and California Coastal Commission**. In 2015, his **spouse purchased 500 shares of SeaWorld**, and he was unaware that she made the purchase of SeaWorld stock. SeaWorld had an application before the Coastal Commission, and a member sought to add a condition banning captive breeding of orcas. **Gregory was the lone dissenting vote.**

Fine: \$3,000



Exceptions to Potential Economic Interest Conflicts

- Two exceptions to potential financial conflicts:
 - The “**public generally**” (Section 18703)
 - The “**legally required participation**” (Sections 87101, 18705)

Public Generally Exception

- Decisions that affect a **broad range of persons or interests** may be exempted: 25% of (i) all businesses, (ii) all real property, or (iii) all individuals.

Example: Sewer rate decisions



Legally Required Participation Exception

- May apply if a conflict disqualifies so many officials that there is no longer a quorum to make a decision.



Note: Does not apply: (1) quorum could later be met; (2) to break a tie vote.

What Happens If Disqualified?

- If disqualified:
 - Identify the applicable interest (with specificity).
 - Step down from the dais and leave the room (unless on consent calendar).
 - Refrain from any discussion or participation.



Exception: You can participate as a member of public from the audience on matters affecting personal economic interests.



The Choice Is Yours



The FPPC determined that you have a conflict of interest and that you must recuse yourself from a land use decision. Accordingly, you do not vote on any items regarding the matter. One day, you decide there is an issue that is directly related to the matter and you decide to ask staff a question about the issue. While you are aware that you are conflicted from participating in the decision, staff is not aware of your conflict of interest.

True or False: This is acceptable under the Political Reform Act.

Due Process Considerations

- Quasi-judicial or "administrative" hearings are subject to the fair process requirements of CCP § 1094.5(b); and
- If a vested property or liberty interest is implicated, the hearings are subject to due process requirements of the 14th Amendment to the United States Constitution.



Due Process Considerations

The 14th Amendment Requires:

- Proper notice
- Right to present case
- Fair unbiased decision makers



These due process requirements do not apply to purely legislative actions.

Common Law Conflict: Personal Interests or Bias

- Personal interests or biases (positive or negative) about the facts or the parties may cast doubt on your ability to make a fair decision.
- Need to exercise power with at least the appearance of **disinterested** skill, zeal, and diligence.



Public Interest vs. Personal Interest

City of Fairfield v. Superior Court (1975) 14 Cal.3d 768:

“A councilman has not only a right but an obligation to discuss issues of vital concern with his constituents and to state his views on matters of public importance. . . . **Campaign statements...do not disqualify the candidate from voting on matters which come before him after his election.**”

Nasha v. City of Los Angeles (2004) 125 Cal.App.4th 470:

Plaintiff was seeking to develop five lots in Los Angeles. While the matter was pending before the Planning Commission, one of the Commissioners authored an article attacking the Plaintiff's project. The Planning Commission voted to deny the project and, in the lawsuit filed by the Plaintiff against the City of Los Angeles, the Court found that **the Planning Commission's decision should be set aside due to an unacceptable probability of actual bias on the part of the Commissioner who authored the article.**



The Choice Is Yours



The best time to discuss a potential conflict with Counsel is:

- a) At a meeting because it is convenient and will save money
- b) After the action/decision so you know all the facts
- c) As soon as you think you might have a conflict

Contractual Conflicts of Interest Government Code § 1090

Prohibition on
“Self Dealing”



Contractual Conflicts of Interest

Government Code § 1090

- Section 1090 prohibits **officials** and **employees** from having **financial interests in contracts made by them in their official capacities** or any board of which they are members.



Contractual Conflicts of Interest

- **Rule:** Public officials are absolutely prohibited from having a financial interest in a contract made by them or their board.
- **Government Code § 1090**
 - **Purpose:** Prohibits contractual self-dealing.



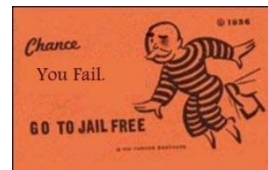
Contractual Conflicts of Interest:

- **Application of § 1090:**
 - “**Public officials**” - Virtually all agency board members, officers, and employees.
 - “**Financial interest**” - One penny is enough.
 - “**Absolutely prohibited**” – the individual’s conflict extends to entire board and his/her participation is presumed.
- **Exceptions** - may apply under a “rule of necessity,” or if the financial interest is minor or remotely involved.



Contractual Conflicts of Interest:

- **Consequences of § 1090 Violation:**
 - Contract is void and unenforceable.
 - Official must return any money, but agency keeps the benefits received.
 - Violation is a felony (if willful):
 - Fine,
 - Imprisonment, and
 - Lifetime bar from holding office in California.



Contractual Conflicts of Interest

- There are also exceptions for:
 - “**Remote interests**” (§ 1091)
(landlord or tenant
of contracting party)
 - “**Non-interests**” (§ 1091.5)
(non-compensated officer
of a non-profit)



 ***Still must abstain from voting***

Other Fairness And Process Laws

- Public Bidding Requirements:
 - Public Contract Code
 - Grant Requirements - Federal Regulations Regarding Procurement
- Nondiscrimination Requirements
- Embezzlement (Penal Code section 424)

Incompatible Offices

- Gov. Code Section 1099 – codifies common law prohibition.
- May not simultaneously hold two public offices if:
 - One office exercises a supervisory, auditing, or removal power over the other office
 - there is a significant clash of duties or loyalties between the offices
 - 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.”

Incompatible Offices

- Inapplicable:
 - Where specifically authorized by statute;
 - To a position of employment, including a civil service position;
 - To a governmental body that has only advisory powers; and
 - Where a member of a multimember body holds an office that may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over another office when the body has any of these powers over the other office or over a multimember body that includes that other office.

III: Legal Limitations on Personal Advantages & Perks



Expense Reimbursement



General Rule: *Actual* and *Necessary* Expenses

Reporting: Timely use of report forms (with receipts documenting the expenses); oral report at subsequent meeting (only for attendance at Brown Act “meetings”)

Penalty: Loss of reimbursement privilege; restitution; civil penalties and 3x value of misused resources; jail; ban from public office

Remember...

Your expense report forms are
PUBLIC RECORDS



Gifts

• What is a Gift?

- Anything of value you receive for which you do not provide monetary or other consideration of equal or greater value.
- May include discounts and rebates if not also given to the general public.



Report - \$50 or more in
a year/source

Limit - \$500/year/source
1/1/2019-12/31/2020



Gifts



Options when you receive a gift over \$50:

- Decide if you want to report it on your Form 700.
- If so, report it within 30 days of receipt.
- If not, then within 30 days:
 - Reimburse the donor for the fair market value,
 - Return the gift unused, or
 - Donate the gift to charity (no deductions).
- If the gift exceeds \$500, you have a duty to reject it.
 - Or “buy down” the value.

Disclosure of Gifts

- Must report gifts on your Form 700 if:
 - Total value of all gifts from that source during the calendar year is at least \$50.
 - Gift are reportable regardless of the location of the donor.



Tip: If the amount is unknown, you must make a good faith estimate of the item's fair market value.

Gift Restrictions

- Don't become another headline:

Villaraigosa Ethics Fine: Record Punishment Recommended After Mayor Accepts Free Tickets



By DON THOMPSON and MICHAEL R. BLOOD | 04/11/11 11:49 PM ET | AP

burke
BURKE, WILLIAMS & SCHEIDT, LLP



The Choice Is Yours



A local business owner offers to give you an iPhone X in appreciation of your excellent work. You must:

- a) Tell the Planning Director
- b) Give it to your children
- c) Determine the value before accepting
- d) Give it to charity and take a tax deduction
- e) Politely refuse the offer

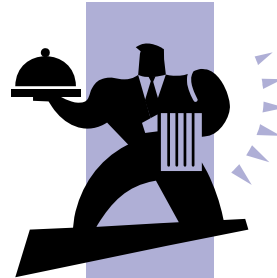
burke
BURKE, WILLIAMS & SCHEIDT, LLP

Gifts

- **Are Meals Gifts?**

Yes. A meal is a gift unless:

- provided at an individual's home (existing relationship)
- Provided as part of a reciprocal exchange
- paid for by a governmental agency



Gifts



FPPC Enforcement Decisions:

James L., as Mayor of Palmdale, failed to timely disclose gifts of two meals totaling \$253.39 on his Statement of Economic Interests. All gifts were from E.J. De La Rosa & Co., Inc.

Penalty: \$200.

SACRAMENTO — Spurred by an investigation by the Ventura County District Attorney's Office into the activities of Oxnard city officials, the Fair Political Practices Commission found 205 government officials across the state failed to properly report gifts from the same companies involved in the Oxnard case.

Gifts

Many exceptions to general gift limitations:

- Gifts from family members
- Food gifts for office
- Trophies/Plaques less than \$250



Gifts

FPPC Enforcement Decisions:

Judith V., former **mayor of the City of San Bernardino**, acceptance of membership dues from Arrowhead Country Club exceeded the 2004 gift limit of \$340 and the 2005 gift limit of \$360.

Fine: \$400

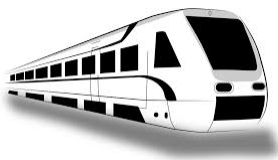


Prohibition on Gratuities or Rewards



It is a misdemeanor to receive any kind of gratuity or reward for performing one's duties.

Prohibited Travel Discounts



- Cal. Const. art. XII, § 7 (“A transportation company may not grant free passes or discounts to anyone holding an office in this state . . .”).
- FPPC Regs. § 18950.1(h)(2) prohibits acceptance by public officials

Honoraria

- Receipt of honoraria (e.g., any payment for a speech, article, attendance at a conference, event or similar gathering) is ***prohibited***.
- **Exception:** Speech or article in connection with private business.



Tip: You can **return** or **donate** the honoraria within 30 days of receipt.

Misuse of Public Resources



- **Rule:** No use of public funds or resources for personal, non-public purposes, including campaigns.
- “**Public Resources**” includes staff time, office equipment and supplies, but excludes incidental or minimal uses.



- **Penalties:** disqualification from office, jail, civil penalties up to \$1000/day plus 3x the value of the unlawful use.

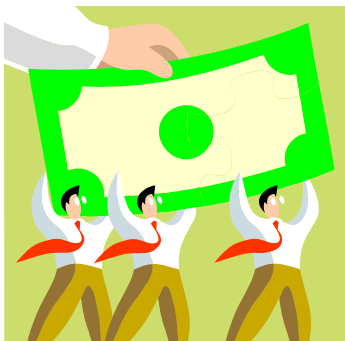
Tip: Ensure that expense or use is consistent with adopted agency policy or practice.

Rule Against Advocacy When Conducting Official Activities

- In your official capacity, you may present information in an even-handed manner.
- You cannot conduct advocacy activities in your official capacity.



Gifts of Public Funds



- Local agencies are prohibited from making a “gift” of public money or anything of value.
- Expenditures for **public purposes** are not considered gifts even if a private party incidentally benefits.



The Choice Is Yours



Which of these is permitted:

- a) Wearing a campaign button on the dais
- b) Using your official email domain to send a message declaring your support for a candidate running for office
- c) Making copies of campaign flyers using the agency's machines

Mass Mailing Prohibition

A mailing is generally prohibited if each of the following criteria is met:

- 1) Delivery - A tangible item, such as a newsletter or brochure, is delivered, by any means, including by transmission of a fax, to a person's residence, place of employment or business, or post office box.
- 2) Item Features an Elected Officer- The item sent either features an elected officer affiliated with the agency.
- 3) Public Money is Used for Mailing- Any of the costs of distribution are paid for with public moneys, or if public funds are not used for the actual distribution, in excess of \$50 in public moneys is used to design, produce, or print the item.
- 4) Mass Mailing- More than 200 substantially similar items are sent in a calendar month, excluding any item sent in response to an unsolicited request.

Mass Mailing Prohibition

The Public Eye: Rocklin fined \$2,000 for newsletter containing prohibited photos

Richard Chang / *The Sacramento Bee*

Rocklin was fined \$2,000 by the California Fair Political Practices Commission last week for blanketing households with a newsletter that contained photos of City Council members, a violation of the Political Reform Act.

The State considers such activities a prohibited form of campaigning with taxpayer funds that gives incumbents an unfair advantage.

City officials said the inaugural newsletter, Inside Rocklin, was a well-intentioned effort to keep citizens informed and that they were unaware of the state rules.



MAYOR'S MESSAGE...

Welcome to the inaugural issue of Inside Rocklin. We hope this guide helps you enjoy the best that Rocklin has to offer. Whether you are a long-time resident or new to the area, I invite you to take a look and see what's happening in Rocklin. Rocklin is a thriving city of 60,000 residents consisting of a vibrant and historical downtown, friendly neighborhoods, unique shopping and dining businesses that offer diverse employment. Rocklin residents and visitors alike enjoy numerous hometown community events, scenic parks and scenic open spaces. Public safety is our top priority. We are fortunate to have a highly ranked fire department, and an accredited police department is part responsible for keeping our crime rate among the lowest in the region. Rocklin is also a center for educational excellence, proudly home to the #1 ranked unified school district in the region—Rocklin Unified, Sierra College and William Jessup University round out higher education choices. Something extra special that makes Rocklin a great

place to live, visit or work stems from our caring community. People get involved—and stay involved—by volunteering countless hours and support in a variety of important ways. And most notable, Rocklin people are nice. It's what sets Rocklin apart and maintains a small-town feel in a mid-size city.

Hang on to this guide, refer to it often to find out what's going on and how you can stay connected to your wonderful community. You can also find the latest information and updates on the City's website at rocklin.ca.gov, or "like" us on Facebook (City of Rocklin, California Government). Explore and enjoy all that Rocklin has to offer.



Scott Yull
Mayor, City of Rocklin



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FPPC Enforcement Actions

Amador Water Agency

Mass Mailer

Fine: \$3,000

FPPC No. 15/1355

Amador Water Agency ("AWA") produced and mailed 7,269 copies of the August 12, 2015 AWA letter at public expense. The letter individually named each member of the AWA Board of Directors, and was sent in concert with the AWA Board of Directors. AWA produced and sent the August 12, 2015 letter.



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Restrictions on Loans

- Officials cannot receive loans:
 - from anyone within the official's agency or with whom the agency contracts; or
 - greater than \$500 (except in writing and with clear terms)

PERSONAL
LOANS



Exceptions: Loans received by the official's campaign committee; normal bank and credit indebtedness; and loans from family members.

Final Questions to Ask



- What would inspire public confidence?
- What decisions best serve the interests of the community as a whole?

Public Perception

- Even if you are confident about the “right thing to do” – Don’t forget about public perception.
- The public needs to believe that “the right thing has been done.”



Resources

- FPPC: 1-866-ASK-FPPC and on the web at www.fppc.ca.gov
- Attorney General: www.ca.ag.gov
- League of California Cities: www.cacities.org
- Institute for Local Government: www.ca.ilg.org

You made it!!!

