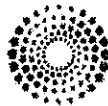

Barclays Official
**CALIFORNIA
CODE OF
REGULATIONS**

Title 2. Administration

Division 6. Fair Political Practices Commission

Vol. 3



THOMSON REUTERS™

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
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Division 6. Fair Political Practices Commission

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(b) Acts as the representative of the donor, if the donor is not present at the occasion of a gift. This does not include accompanying the recipient to an event where the donor will be present.

(c) Invites or sends an invitation to an intended recipient regarding the occasion of a gift.

(d) Solicits responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a gift.

(e) Is designated as the representative of the donor to receive responses from an intended recipient concerning his or her attendance or nonattendance at the occasion of a gift.

(f) Acts as an intermediary in connection with the reimbursement of a recipient's expenses.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 86203, Government Code.

HISTORY

1. New section filed 1-8-86; effective thirtieth day thereafter (Register 86, No. 2).

§ 18625. Loans from Lobbyist or Lobbying Firm; Placing Official Under Personal Obligation.

(a) For purposes of Government Code Section 86205(a), placing an elected state officer, legislative official, agency official, or state candidate under personal obligation includes arranging or making a loan whether secured or unsecured, to the elected state officer, legislative official, agency official or state candidate, either directly or through an agent.

(b) A lobbyist or lobbying firm "arranges" a loan when the lobbyist or lobbying firm:

(1) Refers the elected state officer, legislative official, agency official, or state candidate, who is to be the recipient of the loan, to an individual for the purpose of facilitating the making of the loan and has any contact with any individual to facilitate the making of the loan; or,

(2) Cosigns, guarantees, furnishes security for, or endorses the loan for the elected state officer, legislative official, agency official, or state candidate.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 86205, Government Code.

HISTORY

1. New section filed 10-19-89, operative 1-18-89 (Register 89, No. 42).

§ 18626. Contributions from Lobbyists. [Repealed]

NOTE: Authority cited: Sections 83112, Government Code. Reference: Sections 82039, 82039.5, 85313(c), 85704, 86104(d) and 86105(e), Government Code.

HISTORY

1. New section filed 8-4-97; operative 8-4-97 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only (Register 97, No. 32).

2. Change without regulatory effect adding explanatory Note filed 7-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 29).

3. Repealer filed 5-4-2001; operative 6-3-2001 (Register 2001, No. 18).

4. Change without regulatory effect amending NOTE filed 8-31-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 35).

§ 18630. Home Hospitality (86203). [Repealed]

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 86203, Government Code.

HISTORY

1. New section filed 11-4-75; operative 12-4-75 (Register 75, No. 45).

2. Amendment of section heading and subsections (a)-(f) filed 10-13-78; operative 1-1-79 (Register 78, No. 41).

3. Amendment of subsection (a) filed 5-28-86 as an emergency; operative 5-28-86 (Register 86, No. 22). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-25-86.

4. Certificate of Compliance filed 9-15-86 (Register 86, No. 38).

5. Repealer filed 3-19-2010; operative 4-18-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 12).

§ 18640. Activity Expenses.

(a) When reporting activity expenses as required under Section 86112 for events described under Regulation 18946.2, subdivisions (a) and (b),

the value of the expense reported by any person required to file a periodic report under Article 1 of Chapter 6 of this title for each reportable person attending the event shall be calculated as provided in Regulation 18946.2(b).

(b) Notwithstanding subdivision (a) of this regulation, if an official notifies the filer, in writing, that the official attended the event but that the official did not stay for any meal or entertainment, and that the official received only minimal appetizers and drinks, the value of the gift received is the value of any specific item, other than food, that is presented to the official and guest accompanying the official at the event. For purposes of this subdivision, "entertainment" means a feature show or performance intended for an audience, and does not include music provided for background ambiance.

Upon receiving the above notification from the official, the value of the expense reported by the filer may be reported to reflect the value of gift pursuant to this regulation.

COMMENT: Cross-reference: See Regulation 18946.2, subdivision (e).

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 86112 and 86112.5, Government Code.

HISTORY

1. New section filed 5-2-2005; operative 5-2-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 18).

2. Amendment filed 8-7-2012; operative 9-6-2012. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2012, No. 32).

§ 18650. Reportable Exchanges (86107 and 86109).

[Repealed]

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 86107 and 86109, Government Code.

HISTORY

1. Amendment filed 10-13-78; designated effective 1-1-79 (Register 78, No. 41).

2. Repealer filed 8-27-81; effective thirtieth day thereafter (Register 81, No. 35).

Chapter 7. Conflicts of Interest

Article 1. Conflicts of Interest; General Prohibition

§ 18700. Basic Rule; Guide to Conflict of Interest Regulations.

(a) No public official at any level of state or local government may make, participate in making or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest. A public official has a conflict of interest if the decision will have a reasonably foreseeable material financial effect on one or more of his/her economic interests, unless the public official can establish either: (1) that the effect is indistinguishable from the effect on the public generally, or (2) a public official's participation is legally required.

(b) To determine whether a given individual has a disqualifying conflict of interest under the Political Reform Act, proceed with the following analysis:

(1) Determine whether the individual is a public official, within the meaning of the Act. (See Government Code section 82048; 2 Cal. Code Regs. § 18701.) If the individual is not a public official, he or she does not have a conflict of interest within the meaning of the Political Reform Act.

(2) Determine whether the public official will be making, participating in making, or using or attempting to use his/her official position to influence a governmental decision. (See 2 Cal. Code Regs. § 18702.) If the public official is not making, participating in making, or using or attempting to use his/her official position to influence a governmental decision, then he or she does not have a conflict of interest within the meaning of the Political Reform Act.

(3) Identify the public official's economic interests. (See 2 Cal. Code Regs. § 18703.)

(4) For each of the public official's economic interests, determine whether that interest is directly or indirectly involved in the governmental decision which the public official will be making, participating in making, or using or attempting to use his/her official position to influence. (See 2 Cal. Code Regs. § 18704.)

(5) Determine the applicable materiality standard for each economic interest, based upon the degree of involvement determined pursuant to California Code of Regulations, title 2, section 18704. (See 2 Cal. Code Regs. § 18705.)

(6) Determine whether it is reasonably foreseeable that the governmental decision will have a material financial effect (as defined in California Code of Regulations, title 2, section 18705) on each economic interest identified pursuant to California Code of Regulations, title 2, section 18703. (See 2 Cal. Code Regs. § 18706.) If it is not reasonably foreseeable that there will be a material financial effect on any of the public official's economic interests, he or she does not have a conflict of interest within the meaning of the Political Reform Act. If it is reasonably foreseeable that there will be a material financial effect on any of the public official's economic interests, and the official does not participate in the decision, determine whether the official may segment the decision into separate decisions to allow his or her participation in subsequent decisions. (See 2 Cal. Code Regs. § 18709.)

(7) Determine if the reasonably foreseeable financial effect is distinguishable from the effect on the public generally. If the official can establish that the reasonably foreseeable material financial effect on his or her economic interest is indistinguishable from the effect on the public generally, he or she does not have a conflict of interest within the meaning of the Political Reform Act. If the reasonably foreseeable material financial effect on the public official's economic interest is distinguishable from the effect on the public generally, he or she has a conflict of interest within the meaning of the Political Reform Act. (See 2 Cal. Code Regs. § 18707.)

(8) Determine if the public official's participation is legally required despite the conflict of interest. If the official can establish that his or her participation is legally required, he or she may participate in the governmental decision despite the conflict of interest. (See 2 Cal. Code Regs. § 18708.)

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 87100 and 87103, Government Code.

HISTORY

1. Repealer and new section filed 12-17-76, as an emergency; effective upon filing (Register 76, No. 51). For prior history, see Register 76, No. 40.
2. Certificate of Compliance filed 3-31-77 (Register 77, No. 14).
3. Amendment of section heading and repealer of subsections (c) and (f) filed 8-2-85; effective thirtieth day thereafter (Register 85, No. 33).
4. Amendment of section and NOTE filed 6-23-94; operative 6-23-94 (Register 94, No. 25).
5. Editorial correction of subsection (a)(2)(B) (Register 96, No. 43).
6. Amendment of subsection (d)(2) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
7. Editorial correction of subsection (d) (Register 98, No. 44).
8. Repealer and new section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
9. Editorial change reformatting table (Register 98, No. 52).
10. Change without regulatory effect amending table filed 1-27-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 5).
11. Editorial correction of HISTORY 8 (Register 2000, No. 25).
12. Change without regulatory effect amending table filed 7-18-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 29).
13. Amendment of subsections (b)(1) and (b)(8) filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil CO10924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).

14. Change without regulatory effect amending subsection (b)(8) filed 1-16-2003. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil CO10924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).

15. Amendment of subsections (b)(1)-(8) filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).

16. Amendment of subsections (a), (b)(7) and (b)(8) filed 12-20-2005; operative 1-19-2006. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil CO10924, California Court of Appeal, Third District Court of Appeal, unpublished decision, 1992. (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements.) (Register 2005, No. 51).

§ 18700.1. Using Official Position to Influence (87100).

[Repealed]

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 87100, Government Code.

HISTORY

1. New section filed 8-2-85; effective thirtieth day thereafter (Register 85, No. 33).
2. Repealer filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
3. Editorial correction of HISTORY 2 (Register 2000, No. 25).

§ 18700.3. Parent-Subsidiary, Otherwise Related Business Entity: Defined.

(a) For purposes of Section 82034 and Section 87209, in determining if a business entity has an interest in real property or does business or plans to do business in the jurisdiction, or has done business in the jurisdiction at any time during the two years prior to the time any statement or any other action is required under the Act, the business entity includes a "parent," "subsidiary," or "otherwise related to" another business entity as those terms are defined in subdivision (b) below.

(b) Parent, Subsidiary, Otherwise Related Business Entity, defined.

(1) Parent — A business entity is a "parent" if it is a corporation that controls more than 50 percent of the voting stock of another corporation. The parent corporation is also a parent to any subsidiaries of the corporation that it controls.

(2) Subsidiary — A business entity is a "subsidiary" if it is a corporation whose voting stock is more than 50 percent controlled by another corporation. The subsidiary corporation is also a subsidiary to any corporation that controls its parent corporation.

(3) Otherwise related business entity. Business entities are otherwise related if:

(A) The same person or a majority of the same persons direct or control each business entity; or

(B) The same person or a majority of the same persons have a 50 percent or greater ownership interest in each business entity.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

HISTORY

1. New section filed 8-12-2014; operative 9-11-2014 pursuant to title 2, section 18312(e)(1) of the California Code of Regulations. Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil CO10924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2014, No. 33).

§ 18701. Public Official, Definitions.

(a) For purposes of Government Code section 82048, which defines "public official," and Government Code section 82019, which defines "designated employee," the following definitions apply:

(1) "Member" shall include, but not be limited to, salaried or unsalaried members of committees, boards or commissions with decisionmaking authority.

(A) A committee, board or commission possesses decisionmaking authority whenever:

- (i) It may make a final governmental decision;
- (ii) It may compel a governmental decision; or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto that may not be overridden; or