



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Germond and Commissioners Cardenas, Hatch and Hayward

From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel

Subject: Advice Letter Report and Commission Review

Date: October 8, 2018

The following advice letters have been issued since the September Advice Letter Report. The Commission may review and discuss the following letters and may act to withdraw the advice provided. Full copies of FPPC Advice Letters, including those listed below, are available at: <http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Conflict of Interest

- Josh Fryday** [A-18-127](#)
Mayor may participate in development project decisions where the official's residence is approximately 2,800 feet from the development project, with intervening structures, development, hill slopes, and no facts indicated that the decisions would change the character of the residential parcel or influence the market value of the residence.
- Keith F. Collins** [A-18-183](#)
The Act prohibits a Councilmember from taking part in governmental decisions relating to the City's potential adoption of enhanced operational standards for recycling facilities within the City because those decisions would have a reasonably foreseeable measurable impact on the Councilmember's real property interest in his residence located within 300 feet of an existing recycling facility that may be forced to cease operations at that location under the new standards.

- Eric S. Casher** [A-18-187](#)
The Act does not prohibit a city from conducting a candidate forum or debate at a city-owned facility hosted by a third-party organization to be televised on a city-owned public access cable television channel provided that all candidates have equal time and opportunity to participate. Additionally, the Act does not prohibit the city from televising recorded candidate statements on the city-owned public access cable channel provided that all candidates have equal time and opportunity to participate, or televising video recorded arguments regarding a proposed ballot measure so long as the proponent of a ballot measure and at least one opponent, or their respective representative, are invited to participate in equal numbers.

Gifts

Eric B. Milstein

[A-18-103](#)

Staff of a state agency may attend a three to four-day trip that included food and lodging on a tanker ship of the type regulated by the agency. Because the purpose of the trip was to observe current practices and procedures to assist with development of laws and regulations related to these tankers, the travel payments were not a gift to the staff because the payments fell within the informational material gift exception. Moreover, while meals and lodging do not typically fall within the exception, the exception was extended in this narrow circumstance because such items are not otherwise available, are the same as provided to the rest of the crew aboard the tanker, and are provided as part of the trip.

Honoraria

Derek McDonald

[A-18-156](#)

A “Standby Officer” assumes office on the earlier of either the date that the Standby Officer is authorized to serve or the date that the Standby Officer begins to perform the duties of the assumed position. An appointment to a board as a Standby Officer would constitute a circumstance in which an officer is “authorized to serve,” and thus trigger the Act’s requirement that the officer file an “Assuming Office Statement of Economic Interests” within 30 days of the date of appointment.

Revolving Door

R. Brent Lemon

[A-18-146](#)

The Act’s One-Year Ban is not applicable to a former designated employee of a state agency in respect to the former employee’s potential representation of another person for compensation before, or in communications with, another state agency so long as agency’s budget, personnel, and other operations are not subject to the “direction and control” of the employee’s former agency as described in Regulation 18746.1(b)(6)(C)(ii).

Section 1090

Edward J. Kiernan

[A-18-100](#)

Section 1090 did not prohibit a County from entering a contract with a company for design work through construction where the County determined the prior project location was not feasible based on a feasibility study previously performed by the company. At the new project location, the company performed limited and technical pre-construction work as a subcontractor and is not subject to Section 1090. Moreover, the company did not impose considerable influence over the County regarding a new contract, has derived no unfair advantage in procuring a new contract by the work it performed under the first contract, and did not participate in the making of a new contract through its performance of the first contract.

Tricia Hynes

A-18-133

Where Councilmembers vote on a future contract involving a publicly owned arena that includes language allocating tickets to the city, and the tickets continue to be delivered and distributed consistent with the city's ticket distribution policy, Section 1090 would not apply.