

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18940. Guide to the Gift Regulations.

(a) Basic Rule. A gift is a payment made by any person of any thing of value, whether tangible or intangible, real or personal property, a good or service that provides a personal benefit to an official when the official does not provide full consideration for the value of the benefit received. A gift includes the forgiveness of a debt or obligation and a rebate or a discount in the price of anything of value unless the rebate or discount is offered in the ordinary course of business without regard to official status. (See Sections 82028, 82044, and 82047.) A gift may be reportable by the official under Sections 87200, 87202, 87203, 87204, 87207, 87300, or 87302; subject to limits under Sections 89503 and 86203 and Regulation 18940.2; result in a disqualifying conflict of interest for the official under Sections 87100 and 87103 and Regulation 18702.4; and/or require the filing of an activity expense report by a lobbyist, lobbying firm, or lobbyist employer, or person who directly or indirectly makes payments to influence legislative or administrative action of \$5,000 or more in any calendar quarter as defined in Section 86111.

(b) Exceptions. Certain payments that otherwise meet the Act's definition of gift, are excepted from the definition of gift as provided by statute and these regulations. (See Section 82028(b) and Regulation 18942.) These payments are neither a gift nor income. Certain payments that do not meet the Act's definition of gift may be considered income.

(c) Valuation. Generally, the value of a gift is determined by its fair market value. (Regulation 18946, exceptions are provided in Regulations 18946.1 through 18946.5.) An official must report gifts received from a source subject to disclosure if the cumulative value is \$50 or more within a reporting period. (Section 87207(a)(1).) With certain exceptions (See

Wedding Gifts, Regulation 18946.3; Travel Payments, Section 89506) if a gift is reportable under the Act, it is prohibited if the value is more than the amount specified in the gift limits identified in Regulation 18940.2 (Section 89503(c) or Section 86203.) Whether or not a gift is reportable, if an official receives any gift(s) from one source with a cumulative value that meets the amount specified in Regulation 18940.2 within 12 months before the making or participating in the making of a governmental decision, the official has an economic interest in that source pursuant to Regulation 18700, and the official may have a conflict of interest with respect to that source under the Act's conflict of interest provisions (Sections 87100, 87103(e).)

(d) Disclosure. For officials required to disclose under Sections 87200, 87202, 87204, or 87207 of the Act (“statutory filers”), any gift, or combination of gifts, received from any source is reportable by the official if the value of the gift, or the cumulative value of multiple gifts, received from the source in the reporting period is \$50 or more. For officials required to disclose under an agency conflict of interest code (“code filers”) the gift, or combination of gifts valued at \$50 or more is only reportable by the official if received from a source identified in the disclosure category under which the official files pursuant to the official's agency conflict of interest code. For those making gifts required to be disclosed under Section 86113 (Lobbyists), 86114 (Lobbying Firms), and 86116 (Lobbyist Employers), and \$5,000 filers, any gift, or combination of gifts, of any amount must be disclosed by the donor to the extent required under Section 86111.

(1) Travel Payments, Advances, or Reimbursements: Travel Destination Disclosure. With respect to a gift that is a travel payment, advance, or reimbursement, a person required to file a statement of economic interests must disclose the travel destination on the person's statement of economic interests as required by Section 87207(a)(4).

(2) Nonprofit Travel Payments, Advances, or Reimbursements: Donor Disclosure. A 501(c)(3) or 501(c)(4) nonprofit organization that regularly organizes and hosts travel for elected officials and makes travel payments, advances, or reimbursements, as specified in Section 89506(f), must disclose the names of donors that meet the criteria set forth in that Section to the Commission by April 30 of the following year on a form provided by the Commission.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82028, 82030, 87100, 87103, 87202, 87204, 87207, 87302 and 89501-89506, Government Code.

HISTORY

1. New section filed 6-22-94; operative 6-22-94 (Register 94, No. 25).
2. Change without regulatory effect relocating section filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. New subsection (a), subsection relettering and amendment of Note filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
4. Repealer of first paragraph and subsection (a), amendment and relettering of former subsection (b) to subsection (a), new subsection (b), and amendment of subsections (c)-(c)(1) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
5. Repealer and new section filed 1-23-2012. Pursuant to California Code of Regulations, title 2, section 18313(e), FPPC has designated an effective date of 1-1-2012. 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. 4).

6. Amendment of subsections (a), (c) and (d), new subsections (d)(1)-(2) and amendment of Note filed 11-22-2016; operative 12-22-2016 pursuant to California Code of Regulations, title 2, section 18313(e). 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 2016, No. 48).

7. Amendment of subsection (d)(1) filed 5-12-2021; operative 6-11-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). 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 2021, No. 20).