



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Silver and Commissioners Baker, Brandt, Ortiz, and Wilson
From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel
Subject: Advice Letter Report
Date: February 3, 2025

The following advice letters have been issued since the December 27, 2024, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the March 20, 2025, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Conflict of Interest

Steven Graham Pacifico

[A-25-012](#)

Councilmember is disqualified from decision regarding a proposed project to develop a vacant area into 51 single-family residential lots and associated open space/vineyards within 215 feet of the councilmember's residence. Under applicable regulations, it is reasonably foreseeable the decisions will have a material financial effect on the councilmember's interest in real property absent clear and convincing evidence the decisions would have no measurable impacts on the property.

Gifts

Alex R. Giragosian

[I-24-133](#)

Planning commissioner may accept travel payments (lodging and food) to attend a conference related to the commissioner's business, trade, or profession, provided the business does not generally involve speechmaking and the payments satisfy the criteria to claim a federal income tax deduction for business expenses for the items. These payments are not gifts or prohibited honoraria and may be accepted. However, these payments are reportable income and subject to the conflict of interest rules. Payments for other conference benefits (entertainment and swag bags) are gifts valued at a fair market value unless the items are provided to all guests, in which case the items are valued at the official's pro-rata share. These gifts are subject to reporting, conflict of interest rules, and the gift limit and may not be accepted if the gifts will exceed the aggregate value of \$630 from the conference host in the calendar year.

Mass Mailing

Elvia Dominguez

[A-24-140](#)

A ratepayer insert with a reference/QR code linking to a video that includes an agency's elected board members is not a prohibited mass mailing under Section 89002 so long as the mailing

itself does not feature or reference an elected official within the four corners of the mailing. Additionally, there is no indication that payments for the production or distribution of the video would be reportable contributions or expenditures under the Act. While the video provided will identify elected officials, there is no mention of an election for office or any proposed ballot measure, much less express advocacy, and the video does not discuss the qualifications or lack of qualifications for any candidate for elected office.

Section 84308

Susanne Meyer Brown

[I-25-004](#)

A governmental decision amending a city's Residential Tenant Protection Program Ordinance could qualify as an entitlement for use proceeding depending on various factors, including whether the decision targets a small number of affected individuals. In general, however, broad amendments of the Ordinance affecting many and diverse interests, including annual reviews and changes to the rent increase cap and the potential exemption of single-family homes from certain provisions of the Ordinance, do not qualify as entitlement for use proceedings for purposes of Section 84308.

Scott E. Porter

[A-25-009](#)

Section 84308 restrictions and requirements do not apply to officials who received contributions of *exactly* \$500. Section 84308 potentially applies only to contributions *greater than* \$500.

Section 1090

Aleks. R. Giragosian

[A-24-116](#)

Sanitary district director has a disqualifying financial interest under Section 1090 in a prospective contract in which the director's employer is a named subcontractor in the project. However, the director's financial interest is "remote" under Section 1091(b)(3) because: the district is located in a county with a population of less than 4,000,000; all contracts for professional engineering services are competitively bid; the director is not in a primary management capacity with her employer, is not an officer or director, and holds no ownership interest; the employer has more than 10 employees; the director did not directly participate in formulating her employer's bid; and the employer is a subcontractor for the prime contractor, which was the lowest responsive and responsible bidder. The district may contract with the prime contractor if the disqualified director properly recuses herself.

Felicia Williams

[A-24-124](#)

Section 1090 prohibits a city from entering a contract with a former councilmember for financial consulting services related to public infrastructure investment in and around specified areas where the former councilmember participated in the making of the proposed City contract through her official actions while serving on the City Council.

Tom Walker[A-24-137](#)

Under the Act, newly elected county supervisor has a source of income interest in law firm, which contracts to provide county counsel services, resulting from spouse's employment with the firm. However, the supervisor is not prohibited from taking part in a budget decision regarding the allocation of funds to the firm for its preexisting contract when there is no discretion in making the allocation, because the decision is ministerial. Additionally, the annual budget decision regarding the County Counsel Office implicates only in-house employees and does not alter the flat monthly payment rate set for the firm's services. Accordingly, the firm is not explicitly involved in the annual budget decisions and there is no indication of a financial effect on the firm from the decisions. Therefore, the supervisor does not have a disqualifying interest in the annual budget decisions and may take part in the decisions. Outside of the annual budget decisions, the supervisor is generally disqualified from decisions regarding the contract with the firm under both the Act and Section 1090. However, to the extent that all the factors in Section 1091(b)(2) are met, the interest is "remote," and the County may make decisions regarding the contract so long as the supervisor properly abstains from the decisions.

Michele Bagneris[A-24-141](#)

Section 1090 does not prohibit a councilmember from taking part in decisions concerning a potential contract involving a client of the councilmember's law firm because the noninterest exception under Section 1091.5(a)(10) would apply to allow him to participate in the decisions so long as neither he, nor his law firm, receives any "remuneration, consideration, or commission" as a result of the client's contract with the city. Furthermore, the Act does not prohibit him from taking part in decisions concerning the contract or the client's applications for land use permits because it is not reasonably foreseeable that those decisions would have a material financial effect on the councilmember's financial interest in his law firm as a business entity and source of income.

Jesse Bullis[A-24-143](#)

An elected district healthcare board member does not have a disqualifying interest in his spouse's employment with the district and may participate in the final approval of a union contract under the noninterest exception in Section 1091.5(a)(6) because the spouse has been in the position for more than one year prior to the board member's election, the decision applies equally to all union employees in their classifications, and the decision does not change the status quo of the spouse's employment position. The board member does not have a disqualifying interest under the Act because the spouse's salary and benefits are not defined as "income" for purposes of the Act and it is not reasonably foreseeable that the decision would have a material effect on the official's personal finances as the decision does not alter the spouse's employment position or uniquely affect the spouse's salary.

Joshua Nelson[A-25-001](#)

The Act prohibits the district general manager from taking part in a decision to contract with a company that employs the manager's spouse because the company is explicitly involved in the decision. Under applicable regulations, the manager has an interest in the company as a source of income and it is reasonably foreseeable that the financial effect of the decision on the company would be material. The manager also has a prohibitory financial interest under Section 1090 in

any contract between the district and the company. However, so long as she completely abstains from making or participating in the making of the potential contract, Section 1090 does not prohibit the district from entering the contract.