

**Updated FPPC Gift Regulations Effective January 1, 2012:
Side-by-Side Comparison
By Bill Lenkeit, Senior Commission Counsel and Lindsey Nakano, Legal Intern**

The following side-by-side comparison shows the changes made to the FPPC Gift Regulations. The left column shows the pre-2012 Regulations, with stricken text to indicate where language was removed or changed. The center column shows the current Regulations, effective January 1, 2012, with changes and additions as underlined text. The right column provides discussion of the changes.

Regulations:

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- [§ 18946.6. Reporting and Valuation of Gifts: Air Transportation. \[Renumbered\]](#)

Text of Pre 2012 Regulations	Text of Regulations effective January 1, 2012	Discussion of Changes
<p>§ 18940. Guide to Gift Regulations</p> <p>(a) Limits on Gifts—Government Code Section 89503 (b) Gift Limit Amount—Section 18940.2 (c) Definition of "Gift"—Government Code Section 82028(a) (1) Receipt, Promise and Acceptance of Gifts—Section 18941 (2) Payments for Food—Section 18941.1 (d) Exclusions and Exceptions (1) Exceptions to "Gift" and Exceptions to Gift Limits—Section 18942 (2) Definition of "Informational Material"—Section 18942.1 (e) Return, Donation, or Reimbursement of a Gift—Section 18943 (f) Recipient of the Gift (1) Valuation of Gifts to An Official and His or Her Family—Section 18944 (2) Passes or Tickets Given to an Agency—18944.1 (3) Gifts to an Agency—18944.2 (g) Source of Gifts—Section 18945 (1) Cumulation of Gifts; "Single" Source—18945.1 (2) Intermediary of a Gift—18945.3 (3) A Gift from Multiple Donors—18945.4 (h) Reporting and Valuation of Gifts: General Rule—Section 18946 (1) Passes and Tickets—Section 18946.1 (2) Testimonial Dinners and Events—Section 18946.2 (3) Wedding Gifts—Section 18946.3 (4) Tickets to Nonprofit and Political Fundraisers—Section 18946.4 (5) Prizes and Awards From Bona Fide Competitions—Section 18946.5 (i) Travel—Sections 18950 through 18950.4</p>	<p>§ 18940. Guide to Gift Regulations</p> <p><u>(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, and 87204 or Sections 87300 and 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 18703.4; 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.</u></p> <p><u>(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.</u></p> <p><u>(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 18946.6.) 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 18703.4, and the official may have a conflict of</u></p>	<p>Repealed: Former Regulation 18940</p> <p>New Regulation Adopted: This Regulation “lays out the basic gift rules and their purpose while providing a roadmap to the relevant areas concerning exceptions, valuation, and reporting requirements for all persons who are required to report gifts under the Act.” (Gift Memo, 10/31/2011.)</p>

	<p><u>interest with respect to that source under the Act's conflict of interest provisions (Sections 87100, 87103)(e.)</u></p> <p><u>(d) Disclosure. For officials required to disclose under Section 87200 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.</u></p>	
<p>§ 18940.1. No prior regulation</p>	<p>§ 18940.1. General Definitions</p> <p><u>In addition to the definition provided in the Act, for purposes of the gift regulations (Regulations 18940 through 18946.6), the following definitions apply:</u></p> <p><u>(a)(1) Reportable Gift. A "gift" is reportable only if it is received from a source that the official is required to identify pursuant to the official's filing obligations under the Act.</u></p> <p><u>(b) Official. For purposes of these regulations, "official" means any individual who holds a position designated in Section 87200 or 87201, or a position that is involved in the making or participation in the making of governmental decisions that may foreseeably have a material effect on any of the official's financial interests as provided in Section 87302, or who is otherwise required to file a statement of economic interests. "Official" includes a public official, agency official, candidate, judge, court commissioner, and state or local public employee who is designated, or is required to be designated under Section 87302, in the official's agency's conflict of interest code. (See Sections 82007 and 82048.)</u></p> <p><u>(c) Official's Filing Obligations. "Filing obligations" means the financial interest disclosure requirements imposed on an official by Sections 87200 and 87201 or the official's conflict of interest code adopted pursuant to Article 3 of Chapter 7 of the Act beginning with Section 87300.</u></p> <p><u>(d) Official Status/Official Position. "Official status" or</u></p>	<p>New Regulation Adopted: The Regulation provides definitions for:</p> <ul style="list-style-type: none"> • Reportable Gift • Official • Official's Filing Obligations • Official Status/Official Position • Rebate or Discount • Food <p>The regulation also provides cross citations to other definitions provided in Regulations 18942.1, 18942.2, and 18942.3.</p>

"official position" means the official's status or position as a public official, candidate, judge, court commissioner, or any position for which filing obligations are imposed.

(e) Rebate or Discount. A "rebate or discount" as set forth in Section 82028 is not "made in the regular course of business to members of the public without regard to official status" if the rebate or discount is made solely to the official or to a select group of specific officials, such as one agency or one department or unit within an agency. A group consisting of all state, all local officials without regard to jurisdiction, or all officials in a specified local jurisdiction or jurisdictions with more than 1,000 officials is not considered "a select group of specific officials" so long as the benefit is available to all officials in that jurisdiction or jurisdictions.

(f) Food. "Food" includes food and beverages.

(g) Specific definitions applicable to certain exceptions provided in Regulation 18942 are listed in Regulation 18942.1, 18942.2, and 18942.3.

§ 18940.2. Gift Limit Amount

(a) For purposes of Section 89503, the adjusted annual gift limitation amount in effect for the period January 1, 2011, to December 31, 2012, is \$ 420.

~~(b) The gift limitation of \$ 250 in Section 89503 shall be adjusted biennially by the Commission to reflect changes in the Consumer Price Index and rounded to the nearest \$ 10. The resulting figure shall be the adjusted gift limitation in effect until January 1 of the next odd-numbered year.~~

~~(c) The adjustment shall be based upon the September forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for the calendar year immediately preceding the year in which the adjustment is to take effect.~~

~~(d) The adjusted gift limitation amount shall be calculated by the Commission as follows:~~

~~(1) The base dollar amount of \$ 250 shall be increased or decreased by the cumulative percentage change in the annual average California Consumer Price Index from 1990 to the end of the calendar year immediately preceding the year in which the adjustment will take effect.~~

~~(2) The dollar amount obtained by application of the calculation set forth in subdivision (b) shall be rounded to the nearest \$ 10.1~~

[Footnote 1] For example, the California Consumer Price

§ 18940.2. Gift Limit Amount

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Comment: Unnecessary information regarding the method of calculation for adjusting the gift limitation amount was removed (Gift Memo, 10/31/11.)

<p>Index for All Urban Consumers for 1990 is 135.0. In 1992, the California CPI increased to 145.6. Therefore, the adjusted gift limitation amount beginning in 1993 would be calculated as follows: $\\$250 \times 145.6 / 135.0 = \\269.63 (\$270 rounded to the nearest \$10.)</p>		
<p>§ 18941. Receipt, Promise and Acceptance of Gifts</p> <p>(a) Receipt or Acceptance of a Gift. Except as otherwise provided in this section or in California Code of Regulations, Title 2, Section 18943, a gift is "received" or "accepted" when the recipient knows that he or she has either actual possession of the gift or takes any action exercising direction or control over the gift.</p> <p>(1) In the case of a rebate or discount which, based on Government Code Section 82028, would otherwise be a gift, the gift is "received" or "accepted" when the recipient knows that the rebate or discount is not made in the regular course of business to members of the public without regard to official status.</p> <p>(2) Except for passes or tickets as set forth in California Code of Regulations, Title 2, Section 18946.1(a), discarding a gift does not negate receipt or acceptance of a gift.</p> <p>(3) Turning a gift over to another person does not negate receipt or acceptance of a gift.</p> <p>(b) Disqualification: Promise of a Gift. For the purposes of Government Code Sections 87100 and 87103, a gift is "promised" on the date an offer to give the gift is made if the recipient knows that a gift has been offered and ultimately obtains actual possession of the gift or takes any action exercising direction or control over the gift.</p> <p>§ 18943. Return, Donation, or Reimbursement of a Gift</p> <p>(a) General Rule for Return, Donation, or Reimbursement of a Gift. A gift is neither accepted nor received if it is returned, donated, or reimbursed in any manner set forth below:</p> <p>(1) The gift is returned to the donor, or to the donor's agent or intermediary, unused, within 30 days of receipt or acceptance. In such event, neither the recipient nor the donor shall be required to disclose the receipt or making of a gift or activity expense; or</p> <p>(2) The gift is donated, unused, to a charitable organization within 30 days of receipt or acceptance, without being claimed as a charitable contribution for tax purposes. In such event, neither the recipient nor the donor shall be</p>	<p>§ 18941. Receipt, Promise, Acceptance and <u>Return</u> of Gift</p> <p>(a) Receipt or Acceptance of a Gift. Except as otherwise provided in subdivision (c), a gift is both "received" and "accepted" when the <u>official, or the official's family member pursuant to Regulation 18943</u>, knowingly takes actual possession of the gift <u>or is provided the benefit of the gift</u>, or takes any action exercising direction or control over the gift.</p> <p>A gift of a rebate or discount is both "received" and "accepted" under subdivision (a) when the official knows that the rebate or discount given to the official is not made in the regular course of business to members of the public without regard to official status. <u>An official who receives a rebate or discount has the burden of showing that the rebate or discount was made in the regular course of business to members of the public without regard to official status.</u></p> <p>(b) Promise of a Gift. For the purposes of Sections 87100 and 87103(e), a gift is "promised" on the date it is offered to <u>the official</u> provided he or she thereafter obtains actual possession of the gift or takes any action exercising direction or control over the gift <u>or, with respect to family members under Regulation 18943, on the date the official becomes aware of a promise of a gift to a family member provided that the family member obtains actual possession of the gift or takes any action exercising direction or control over the gift.</u></p> <p>(c) General Rule for Return, Donation, or Reimbursement of a Gift. A gift is neither accepted nor received if, within 30 days:</p> <p>(1) The gift is returned to the donor, the donor's agent, or the donor's intermediary from whom the item was received, unused and without receiving anything of value in exchange for the returned payment or;</p> <p>(2) The gift is donated, unused, to a <u>501(c)(3)</u> charitable organization with which the official, or a member of the official's immediate family, holds no position, or to a state, local, or federal government agency, without being claimed as a deduction for tax purposes or;</p> <p>(3) The official reimburses the donor, donor's agent, or the donor's intermediary from whom the payment was</p>	<p>Comment: This section now combines 18941 (Receipt, Promise, and Acceptance) and 18943 (Return, Donation, Reimbursement). A new provision related to reciprocal gifts was added. (Gift Memo, 10/31/2011) In addition, throughout the regulation, "recipient" was changed to "official, or the official's family member pursuant to Regulation 18943"</p> <p>Amended: (a) The phrase "or is provided the benefit of the gift" was added to what constitutes "receipt" and "acceptance" of a gift</p> <p>Amended: (a) The burden is on the official to show the rebate/discount received was made in the regular course of business to the public and without regard to official status.</p> <p>Amended: (b) A gift promised to a family member is considered "promised" on the date the official becomes aware of the promise, provided that actual possession/direction/control results.</p>

<p>required to disclose the receipt or making of a gift or activity expense; or</p> <p>(3) The gift is donated, unused, to a state, local, or federal government agency, within 30 days of receipt or acceptance, without being claimed as a deduction for tax purposes. In such event, neither the recipient nor the donor shall be required to disclose the receipt or making of a gift or activity expense; or</p> <p>(4) The recipient, within 30 days of receipt or acceptance, reimburses the donor, or the donor's agent or intermediary, for all or a portion of the gift. In such event the value of the gift is reduced by the amount of the reimbursement, and the amount of any gift or activity expense which must be disclosed is reduced by the amount of the reimbursement.</p> <p>(b) Relief from Disqualification by Return, Donation, or Reimbursement. In order to relieve the recipient of an otherwise disqualifying financial interest based upon the receipt or acceptance of a gift valued at \$ 420 or more pursuant to Section 87100, the return, donation, or reimbursement of the gift pursuant to subdivision (a), above:</p> <p>(1) Must occur within 30 days of receipt or acceptance and prior to the date the recipient makes, participates in making, or uses his or her official position to influence the government decision in question; or,</p> <p>(2) If the return, donation, or reimbursement has not been made prior to the decision, the recipient must publicly disclose the receipt or acceptance of the gift on the public record, disclose its value, and declare that the return, donation, or reimbursement will occur within two working days following the decision. The subsequent return, donation, or reimbursement must be made within two working days, and within 30 days from receipt or acceptance, and must be documented in the public record.</p>	<p>received, in full, or for a portion thereof. If the donor is not reimbursed for the full value of the payment, the value of the gift the official has received is reduced by the amount of the reimbursement.</p> <p>(d) Relief from Disqualification. In order to relieve the official of an otherwise disqualifying financial interest under Section 87100 the return, donation, or reimbursement of the gift pursuant to subdivision (c) above:</p> <p>(1) Must occur within 30 days of receipt and before the date the official makes, participates in making, or uses his or her official position to influence the governmental decision in question; or</p> <p>(2) If the return, donation, or reimbursement has not been made before the decision, and the gift would otherwise cause the official to be disqualified from participating in a governmental decision, the official must publicly disclose the receipt of the gift on the public record, disclose its value, and declare that the return, donation, or reimbursement will occur within two working days following the decision. The subsequent return, donation, or reimbursement of the gift must be made within two working days, and within 30 days after receipt or acceptance, and it must be documented in the public record.</p>	
<p>§ 18941.1. Payments for Food Except as provided in Government Code section 82028 and California Code of Regulations, Title 2, sections 18727.5, 18941, 18942, 18943, 18946.2, 18946.5, 18950.3, and 18950.4, a payment made to an elected officer or candidate for his or her food is a gift.</p>	<p>§ 18941.1. Payments for Food. [Repealed]</p>	<p>Repealed.</p>
<p>§ 18942. Exceptions to Gift and Exceptions to Gift Limits (a) For purposes of Section 82028, none of the following is a gift and none is subject to any limitation on gifts:</p>	<p>§ 18942. Exceptions to Gift and Exceptions to Gift Limits (a) For purposes of Sections 82028, <u>82030, and the gift regulations, except as otherwise indicated</u>, the following</p>	<p>Comment: Language in (a)(1-6) was taken directly from Section 82028(b). Exception in (a)(7-18) are additional exceptions added by the</p>

<p>(1) Informational material as defined by Regulation 18942.1.</p> <p>(2) Except for passes and tickets as provided in Regulation 18946.1, a gift that is not used and that, within 30 days after receipt, is returned or donated pursuant to Regulation 18943, or for which reimbursement is paid pursuant to said Regulation 18943.</p> <p>(3) A gift from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, unless the donor is acting as an agent or intermediary for any person not identified in this subdivision (a)(3).</p> <p>(4) A campaign contribution required to be reported under Chapter 4 of the Act (commencing with Government Code section 84100).</p> <p>(5) Any devise or inheritance.</p> <p>(6) A personalized plaque or trophy with an individual value of less than \$ 250.</p> <p>(7)(A) The cost of hospitality (including food, beverages, or occasional lodging) provided to an official by an individual in the individual's home when the individual is present, unless one of the following provisions applies:</p> <p>(i) Any part of the cost of the hospitality is paid directly or reimbursed by another person.</p> <p>(ii) Any person deducts any part of the cost of such hospitality as a business expense on any government tax return.</p> <p>(iii) There is an understanding between the individual extending the hospitality and another person that any amount of compensation the individual receives from that person includes a portion to be utilized to provide gifts of hospitality in the individual's home.</p> <p>(B) In determining the applicability of subparagraph (A), the following apply:</p> <p>(i) The cost of providing hospitality does not include any part of the value or rental cost of the home nor does it include any depreciation value on the home where the hospitality is extended.</p> <p>(ii) An official may presume that the cost of home hospitality is paid by the host unless the host discloses to the official, or it is clear from the surrounding circumstances at the time the hospitality is provided, that a person, other than the host, paid the cost of the hospitality.</p> <p>(8) Gifts exchanged between an individual who is</p>	<p><u>payments that otherwise meet the definition of gift as provided in Section 82028, subdivision (a)</u> are neither gifts nor income:</p> <p>(1) Informational material as defined by Regulation 18942.1. <u>(Section 82028(b)(1).)</u></p> <p><u>(2) A payment that is not used and that, pursuant to Regulation 18941 is returned, donated, or for which reimbursement is paid. (Section 82028(b)(2).)</u></p> <p>(3) A payment from: the <u>official's spouse or former spouse; child or step-child; parent; grandparent; grandchild; brother; sister; current or former parent-in-law, brother-in-law, or sister-in-law; nephew; niece; aunt or uncle; including grand nephew, grand niece, grand aunt, or grand uncle, or first cousin including first cousin once removed</u> or the spouse, or former spouse, of any such person <u>other than a former in-law</u>, unless the donor is acting as an agent or intermediary for any person not identified in this paragraph. (Section 82028(b)(3).)</p> <p>(4) A campaign contribution required to be reported under Chapter 4 of the Act (commencing with Section 84100). <u>(Section 82028(b)(4).)</u></p> <p>(5) Any devise or inheritance. <u>(Section 82028(b)(5).)</u></p> <p>(6) A personalized plaque or trophy valued at less than \$ 250. <u>(Section 82028(b)(6).)</u></p> <p>(7)(A) The cost of <u>home</u> hospitality, <u>as defined in Regulation 18942.2</u>, provided to an official by an individual in the individual's home when the individual is present, unless one of the following provisions applies:</p> <p>(i) Any part of the cost of the hospitality <u>provided by the host is paid directly or reimbursed by another person.</u></p> <p>(ii) Any person deducts any part of the cost of such hospitality as a business expense on any government tax return.</p> <p>(iii) There is an understanding between the individual extending the hospitality and another person that any amount of compensation the individual receives from that person includes a portion to be utilized to provide gifts of hospitality in the individual's home.</p> <p>(B) In determining the applicability of subparagraph (A), the following apply:</p> <p>(i) The cost of providing hospitality does not include any part of the value or rental cost of the home nor does it include any depreciation value on the home where the hospitality is extended.</p> <p>(ii) An official may presume that the cost of home</p>	<p>Commission. (Gift Memo 10/31/2011; Gift Memo 11/28/2011.)</p> <p>Amended: (a)(3) To add the following to the family member exception. Something is not a gift or income when it is from a:</p> <ul style="list-style-type: none"> • “former spouse” • “step-child” • “current or former” parent-in-law • “grand nephew” • “grand niece” • “grand aunt” • “grand uncle” • “first cousin once removed” • Spouses or former spouses of any listed person, BUT NOT spouses of “former in-laws”
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~~required to file a statement of economic interests~~ and another individual, other than a lobbyist, on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. For purposes of this subdivision, and notwithstanding Regulation 18946.2(b), "gifts exchanged" includes food, beverages, entertainment, and nominal benefits provided ~~at the occasion~~ by the honoree or another individual, other than a lobbyist, hosting the event.

(9) Leave credits, including vacation, sick leave, or compensatory time off, donated to an official in accordance with a bona fide catastrophic or similar emergency leave program established by the official's employer and available to all employees in the same job classification or position. This shall not include donations of cash.

(10) Payments received under a government agency program or a program established by a bona fide charitable organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code designed to provide disaster relief or food, shelter, or similar assistance to qualified recipients if such payments are available to members of the public without regard to official status.

~~(11) Free admission, and refreshments and similar non-cash nominal benefits provided to a filer at an event at which the filer gives a speech, participates in a panel or seminar, or provides a similar service, and transportation and any necessary lodging and subsistence that is exempt under Regulation 18950.3. These items are not payments and need not be reported by the filer.~~

~~(12) The transportation, lodging, and subsistence specified by Regulation 18950.4.~~

(13) A ~~ticket or pass~~, provided to an official for his or her admission to an ~~event~~ at which the official performs a ceremonial role ~~or function~~ on behalf of the agency, so long as the official complies with the posting provisions set forth in subdivision (c) of Regulation 18944.1.

(b) The following items, if they are otherwise gifts, are exempt from the limitations on gifts described in Section 89503:

(1) Payments for transportation, lodging, and subsistence that are exempt from limits on gifts by Section 89506 ~~and Regulations 18950, et seq.~~

(2) Wedding gifts.

hospitality is paid by the host unless the host discloses to the official, or it is clear from the surrounding circumstances at the time the hospitality is provided, that a person, other than the host, paid the cost of the hospitality.

(8)(A) Benefits commonly exchanged between an official and an individual who is not a lobbyist who is registered to lobby the official's agency, on a holiday, birthday, or other occasions, including reciprocal exchanges as identified in subparagraph (B) below where benefits are commonly exchanged, to the extent that the value of the benefits exchanged is not substantially disproportionate and includes food, entertainment, and nominal benefits provided to guests at an event, by an honoree or another individual, other than a lobbyist, hosting the event.

(B) Reciprocal Exchanges made in a social relationship between an official and another individual, who is not a lobbyist who is registered to lobby the official's agency, with whom the official participates in repeated social events or activities such as lunches, dinners, rounds of golf, attendance at entertainment or sporting events, where the parties typically rotate payments on a continuing basis so that, over time, each party pays for approximately his or her share of the costs of the continuing activities, so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official. If the official receives a disproportionate amount relative to what the official paid, the official has received a gift for the excess amount. This reciprocal exchange payment provision does not apply to any single payment that is equal to or greater than the amount specified in Regulation 18940.2.

(9) Leave credits, including vacation, sick leave, or compensatory time off, donated to the official in accordance with a bona fide catastrophic or similar emergency leave program established by the official's employer and available to all employees in the same job classification or position except for donations of cash.

(10) Payments received under a government agency program or a program established by a bona fide charitable organization exempt from taxation under *Section 501(c)(3) of the Internal Revenue Code* designed to provide disaster relief or food, shelter, or similar assistance to qualified recipients if the payments are available to members of the public without regard to official status.

(11) Payments for campaign activities as specified in Regulation 18950.4.

New Subsection: (a)(8)(B) A payment is not a gift or income when made in a reciprocal exchange in a social relationship between an official and someone who is not a lobbyist. (See subsection for additional requirements.)

(12) A ticket provided to an official and one guest of the official for his or her admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose at which the official performs a ceremonial role on behalf of his or her agency, as defined in Regulation 18942.3, so long as the official's agency complies with the posting provisions set forth in Regulation 18944.1, subdivision (d). Any official who attends the event as part of his or her job duties to assist the official who is performing the ceremonial role has not received a gift or income by attending the event.

(13) A prize or award received in a manner not related to the official's status in a bona fide contest, competition, or game of chance. A prize or award that is not reported as a gift shall be reported as income unless the prize or award is received as a winning from the California State Lottery.

(14) Benefits received as a guest attending a wedding or civil union so long as the benefits are substantially the same as the benefits received by the other guests attending the event.

(15) Bereavement offerings typically provided in memory of and concurrent with the passing of a spouse, parent, child, or sibling or other relative of the official.

(16) Acts of Neighborliness. A service performed, such as a loan of an item, an occasional needed ride, personal assistance in making a repair, bringing in the mail or feeding the cat while the official is away, and other similar acts of ordinary assistance consistent with polite behavior in a civilized society that would not normally be part of an economic transaction between like participants under similar circumstances.

(17)(A) Bona Fide Date or Dating Relationship. Personal benefits commonly exchanged between people on a date or in a dating relationship, unless the individual providing the benefit to the official is listed under (D)(i-iii) below. If the benefit is from an individual listed under (D)(i-iii) the benefit is a gift that is not reportable or subject to limits but the aggregate value is subject to the Act's conflict of interest provisions if the value meets the amount specified in Regulation 18940.2.

(B) Acts of Human Compassion. Payments provided to an official, or an official's family member, by an individual to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or

Amended: (a)(12) The term “official” was changed to “official and one guest of the official”

Amended: (a)(12) the term “event” was changed to “facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose”

Amended: (a)(12) New language added: “Any official who attends the event as part of his or her job duties to assist the official who is performing the ceremonial role has not received a gift or income by attending the event.”

(a)(13) This subsection was moved from previous Regulation 18946.5

New Subsections: Something is not a gift or income when it is:

(a)(14) a benefit received by all guests at a wedding/civil union.

(a)(15) a typical bereavement offering

(a)(16) an act of neighborliness (See subsection for additional requirements)

(a)(17) Codifies exception for --

(A) a personal benefit commonly exchanged in a bona fide date or dating relationship (See subsection for additional requirements)

(a)(17) Adds new exceptions --

(B) an act of human compassion (See subsection for additional requirements)

(C) a payment to an official by a long term close personal friend (See subsection for additional requirements)

(D) [A-C do not apply to certain classes of

other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance (such as a relative, long-term friend, neighbor, co-worker or former co-worker, member of the same local religious or other similar organization, etc.), or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach, unless the individual providing the benefit to the official is listed under (D)(i-iii) below.

(C) A payment provided to an official by an individual with whom the official has a long term, close personal friendship unrelated to the official's position with the agency, unless the individual providing the benefit to the official is listed under (D)(i-iii) below.

(D) The limitations placed on the exceptions contained within this paragraph (17) apply to the following persons:

(i) A lobbyist, lobbying firm, lobbyist employer, or other person required to file reports under Chapter 6 (commencing with Section 86100) of the Act and who is registered to lobby the official's agency.

(ii) A person who has, or may reasonably foreseeably have, a contract, license, permit, or other entitlement for use pending before the official's agency, and for 12 months following the date a contract is signed or a final decision is rendered in the proceeding, if the official makes or participates in making a governmental decision, as defined in the Act's conflict of interest regulations (Regulation 18702 et seq.) regarding the contract, license, permit, or other entitlement for use.

(iii) A person, or an agent of a person, involved in a licensing or enforcement proceeding before a regulatory agency that employs the official and in which the official may reasonably foreseeably participate, or has participated, within 12 months of the time the gift is made.

(18) Any other payment not identified above, that would otherwise meet the definition of gift, where the payment is made by an individual who is not a lobbyist registered to lobby the official's agency, where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may

people (See subsection for additional details)]

New Subsection: (a)(18) exempts any other payment made by an individual who is not a lobbyist registered to lobby the official's agency,

	<p><u>have a reasonably foreseeable material financial effect on the individual who would otherwise be the source of the gift.</u></p> <p>(b) The following gifts are exempt from the limitations on gifts described in Section 89503:</p> <p>(1) Payments for transportation, lodging, and subsistence that are exempt from limits on gifts by Section 89506.</p> <p>(2) Wedding gifts.</p>	<p>where the gift was made because of an existing personal or business relationship unrelated to the official's position. (See subsection for additional requirements.)</p>
<p>§ 18942.1. Definition of "Informational Material."</p> <p>"Informational material" means any item which serves primarily to convey information and which is provided for the purpose of assisting the recipient in the performance of his or her official duties or of the elective office he or she seeks. Informational material may include:</p> <p>(a) Books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars.</p> <p>(b) Scale models, pictorial representations, maps, and other such items, provided that where the item has a fair market value in excess of \$420, the burden shall be on the recipient to demonstrate that the item is informational material.</p> <p>(c) On-site demonstrations, tours, or inspections designed specifically for the purpose of assisting the recipient public officials or candidates in the performance of either their official duties or of the elective office they seek. No payment for transportation to an inspection, tour, or demonstration site, nor reimbursement for any expenses in connection therewith, shall be deemed "informational material" except insofar as such transportation is not commercially obtainable.</p>	<p>§ 18942.1. Definition of "Informational Material."</p> <p>"Informational material" means any <u>goods or service</u> that serves primarily to convey information and that is provided <u>to the official</u> for the purpose of assisting him or her in the performance of his or her official duties or the duties of the elective office he or she seeks. Informational material may include:</p> <p>(a) Books, reports, pamphlets, calendars, periodicals, photographs, <u>audio and video recordings, flash drives, CD-ROMS, or DVD ROMS or other similar recordings</u>, or free or discounted admission to informational conferences or seminars.</p> <p>(b) Scale models, pictorial representations, maps, and other such items, provided that when the item has a fair market value in excess of <u>the gift limit amount specified in Regulation 18940.2</u>, the burden shall be on the recipient to demonstrate that the item is informational material.</p> <p>(c) On-site demonstrations, tours, or inspections. <u>Transportation provided to or in connection with an on-site demonstration, tour, or inspection is also considered "informational material" when any of the following apply:</u></p> <p><u>(1) The transportation serves as the means by which the information is conveyed and is integral to the conveyance of the information, such as an aerial tour over an area.</u></p> <p><u>(2) The transportation is provided solely at the site of a demonstration, tour, or inspection, including to and from an area of that site that is legally inaccessible to the public.</u></p> <p><u>(3) The transportation is to or from a site when there is no reasonable, publicly-available commercial transportation available to that site and the transportation provided is limited to the segment for which public transportation is not available.</u></p>	<p>Comment: Only minor updates were made to the regulation's provisions (Gift Memo, 10/31/2011)</p> <p>Amended: The term "item" was changed to "goods or service"</p> <p>Amended: (a) informational material includes "audio and video recordings, flash drives, CD-ROMS, or DVD ROMS or other similar recordings"</p> <p>Amended: (b) "\$420" changed to "the gift limit amount specified in Regulation 18940.2" (as of 6/13/12 it is \$420).</p> <p>Amended: (c) Transportation connected to an on-site demonstration, tour, or inspection is considered "informational material" when the transportation:</p> <p>(1) serves as the integral means of conveying the information (e.g. an aerial tour over an area)</p> <p>(2) is provided solely at the site of a demonstration, tour, or inspection.</p> <p>(3) is to or from a site when there is no reasonable, publicly-available commercial transportation.</p>
<p>None</p>	<p>§ 18942.2. Definition of Home Hospitality</p> <p><u>Home Hospitality. "Home hospitality" means any benefit received by the official, and the official's spouse and family members when accompanying the official, consisting of food,</u></p>	<p>New Regulation: The definition of "Home Hospitality" places new limits on Home Hospitality regarding lobbyists and others who influence.</p>

	<p><u>typical home entertainment, or occasional overnight lodging provided by an individual with whom the official has a relationship, connection, or association unrelated to the official's position and the hospitality is provided as part of that relationship, connection, or association in the individual's home when the individual is present. Home hospitality includes any food provided by other guests at the event and benefits received by the official when the official serves as the host. "Home" includes a vacation home owned, rented, or leased, by the individual for use as his or her residence, including a timeshare with deeded ownership or a continual right-to-use ownership benefit, and a motor home or boat owned, rented, or leased by the individual for use as his or her residence. "Home" also includes any facility in which the individual has a right-to-use benefit by his or her home residency, such as a community clubhouse. Any benefit received, other than the use of the premises, by any guests of the official other than the official's spouse and family members who are present at the request of the official or the official's agent are gifts to the official.</u></p>	<p>Comment: “[H]ome hospitality is only available if ‘provided by an individual with whom the official has a relationship, connection, or association unrelated to the official's position and the hospitality is provided as part of that relationship, connection, or association.’” (Gift Memo, 10/31/2011.)</p>
None	<p>§ 18942.3. Definition of Ceremonial Role <u>A "ceremonial role" is an act performed at an event by the official as a representative of the official's agency at the request of the holder of the event or function where, for a period of time, the focus of the event is on the act performed by the official. Examples of a ceremonial role include: throwing out the first pitch at a baseball game; cutting a ribbon at an opening; making a presentation of a certificate, proclamation, award, or other item, such as the key to the city. The filing officer of a local jurisdiction may adopt specific policies under this definition that either limit or expand the permissible ceremonial roles for an official in the local jurisdiction. If the local jurisdiction's filing officer does not have policy-making authority, the legislative body may adopt a specific policy. If a separate agency policy is adopted, the policy shall be forwarded to the Commission for posting on the Commission's website.</u></p>	<p>New Regulation: definition of “Ceremonial Role”</p> <p>Comment: The Commission adopted this definition under the belief that “local agencies should be the decision maker with respect to what roles their officials may legitimately perform.” Accordingly, this definition “allows local agencies to expand or contract the acts that officials may perform in a ceremonial role.” (Gift Memo, 10/31/2011.)</p> <p>Comment: The definition “clarifies that there must be some ceremonial purpose performed as part of the event, where the focus of the event is on the act performed by the official, under the ceremonial role exception and restricts the exception to that purpose.” (Gift Memo, 11/28/2011.)</p>
<p>§ 18944. Gifts to Members of an Official's or Candidate's Family (a) Scope of Regulation. This regulation applies when determining whether a gift to a public official's or candidate's</p>	<p>§ 18943. Gift to Official Through Family Member (a) Scope of Regulation. This regulation determines when a payment will be treated as if it were a gift to the official even though the payment is made to the official's</p>	<p>Repealed: Former Regulation 18943</p> <p>Renumbered: 18944 renumbered to 18943.</p>

family member also constitutes a gift to the public official or candidate for purposes of the Act.

(b) Definitions. For purposes of this regulation, the following definitions apply:

~~(1) "Official" means a public official as defined in Section 82048 or a candidate as defined in Section 82007.~~

(2) "Official's family" or "family member" includes any of the following individuals:

(A) An official's spouse.

(B) A "dependent child" of the official as defined in Regulation 18229.1.

(C) An official's child (including an adoptive child or stepchild) who meets all of the following criteria:

(i) Is at least 18 but no more than 23 years old and is a full-time or part-time student.

(ii) Has the same principal place of residence as the official. For purposes of this provision, a place, located away from the official's residence, at which the child resides for the purpose of attending school is not the child's "principal place of residence."

(iii) Does not provide over one-half of his or her own support.

~~(c) A single gift given to both an official and one or more members of the official's family is a gift to the official for the full value of the gift.~~

~~(d) The following applies to a gift given solely to a member of an official's family.~~

~~(1) A gift given solely to a member of an official's family is a gift to the official when the gift confers a clear personal benefit on the official. A gift to an official's family member confers a clear personal benefit on the official in any of the following circumstances:~~

~~(A) It is reasonably foreseeable at the time the gift is made that the official will enjoy a financial benefit from the gift. A "financial benefit" from a gift includes, but is not limited to, a payment, other than occasional meals, lodging, or local transportation, to fulfill a commitment, obligation, or expense of the type normally paid by a family for the ordinary care and support of one of its members.~~

~~(B) It is reasonably foreseeable at the time the gift is made that the official will use the gift, except for a minimal use.~~

~~(C) The official exercises discretion and control over who will use or dispose of the gift. Exercising "discretion and control" includes, but is not limited to, when an official, or his~~

family member.

(b) For purposes of this regulation, the term "family member" means any of the following individuals:

(1) The official's spouse as defined in Regulation 18229.

(2) A "dependent child" of the official as defined in Regulation 18229.1.

(3) The official's child (including an adoptive child or stepchild) who meets all of the following criteria:

(A) Is at least 18 but no more than 23 years old and is a full-time or part-time student.

(B) Has the same principal place of residence as the official. For purposes of this provision, a place, located away from the official's residence, at which the child resides for the purpose of attending school, is not the child's "principal place of residence."

(C) Does not provide over one-half of his or her own support.

(c) Absent an exception under Regulation 18942, a payment provided to or for the use of a family member is a gift to the official under either of the following conditions:

(1) There is no established working, social, or similar relationship between the donor and the family member that would suggest an association between the donor and the family member suitable or appropriate for making the type of payment provided to the family member.

(2) There is evidence to suggest the donor had a purpose to influence the official. Evidence to suggest the donor had a purpose to influence the official exists in any of the following circumstances:

(A) The payment is made to a family member of a state agency official by a donor who is a lobbyist, lobbying firm, lobbyist employer, or other person required to file reports under Chapter 6 (commencing with Section 86100) of the Act and who is registered to lobby the official's agency.

(B) The payment is made to a family member of a state or local government agency official by a donor, or the donor's agent, if the donor is involved in an action or decision before the official's agency, in which the official will reasonably foreseeably participate or in an action or decision in which he or she has participated within the last 12 months.

(C) The payment is made to a family member by a person who has a contract with the official's agency or by a person who engages in a business that regularly seeks contracts with or comes before the agency for the purpose of receiving a license, permit, or other entitlement and the

Comment: This regulation has been simplified from the previous version, "does not eliminate any of the [principles] contained in the prior version and... places some restrictions on certain types of donors that were not previously covered by the regulation." (Gift Memo, 10/31/2011.)

New Subsection: (c)(2)(C) A payment to a family member is a gift to an official when the payment is made by a person who

- has a contract or regularly seeks contracts with the official's agency, or

<p>or her agent,; requests a gift for, or to be used by, the official's family member.</p> <p>(2) A gift given solely to a member of an official's family and not covered under subdivision (1) is a gift to the official if the gift confers a presumed personal benefit on the official. A gift to an official's family member confers a presumed personal benefit on the official in any of the following circumstances:</p> <p>(A) The gift is made to a family member of a state agency official who is subject to Section 87200 by a donor who is a lobbyist, lobbying firm, lobbyist employer, or other person required to file reports under Chapter 6 (commencing with Section 86100) of the Act.</p> <p>(B) The gift is made to a family member of a local government agency official who is subject to Section 87200 by a donor who is or has been directly involved in a governmental decision, as defined in Regulation 18704.1(a), in which the official will foreseeably participate or has participated in the prior 12-month period.</p> <p>(3) Exceptions</p> <p>(A) There is no gift to an official under paragraph (1) if both of the following circumstances apply:</p> <p>(i) The official can show there is an established working, social, or similar relationship between the donor and the official's family member independent of the relationship between the donor and the official.</p> <p>(ii) The person who made the gift is not a donor identified in paragraphs (2)(A) or (2)(B).</p> <p>(B) The official can rebut the presumption in paragraph (2) if he or she can show there is an established working, social, or similar relationship between the donor and the official's family member independent of the relationship between the donor and the official.</p> <p>(e) This regulation does not apply to the type of gift that, under the Act or other Commission regulations, would not be considered a gift if given directly to the official.</p>	<p><u>official may reasonably foreseeably make or participate in a governmental decision, as defined in the Act's conflict of interest regulations (Regulation 18702 et seq.), related to the person, or has participated in any decision related to the person within 12 months of the time the gift is made. For purposes of this subparagraph, a person who "has a contract with the official's agency" or who "engages in a business that regularly seeks contracts with or comes before the agency" does not include any individual who has less than a ten percent interest in the business contracting with or appearing before the agency.</u></p>	<ul style="list-style-type: none"> comes before the agency for the purpose of receiving a license, permit, or other entitlement. <p>(See subsection for additional details)</p>
<p>§ 18944.2. Gifts to an Agency</p> <p>(a) Applicability. This regulation sets forth circumstances under which a payment made to a state or local government agency, that is controlled by the agency and used for official agency business, is not considered a reportable or limited gift to an individual public official, although the official receives a personal benefit from the payment.</p>	<p>§ 18944. Gifts to an Agency</p> <p>(a) Applicability. This regulation sets forth circumstances under which a payment made to a state or local government agency, that is controlled by the agency and used for official agency business, is not considered a reportable or limited gift to an individual public official, although the official receives a personal benefit from the payment.</p>	<p>Renumbered: 18944 renumbered to 18943.</p> <p>Renumbered: 18944.2 renumbered to 18944.</p>

<p>(b) Definitions.</p> <p>(1) "Payment" means a payment as defined in Section 82044 and includes a monetary payment to an agency, a loan, gift, or other transfer, and the payment for, or provision of, goods or services to an agency.</p> <p>(2) "Agency head" means an individual in whom the ultimate legal authority of an agency is vested, or who has been delegated authority to make determinations by the agency for purposes of this regulation.</p> <p>(c) Gift to an Agency. A payment, that is otherwise a gift to a public official, as defined in Section 82028, shall be considered a gift to the public official's agency and not a gift to the public official if all of the following requirements are met:</p> <p>(1) Agency Controls Use of Payment. The agency head, or his or her designee, determines and controls the agency's use of the payment. The donor may identify a purpose for the payment, but the donor may not designate by name, title, class, or otherwise, an official who may use the payment. If the payment will provide a personal benefit to an official, the agency head, or his or her designee, shall select the individual who will use it. The agency official who determines and controls the agency's use of the payment may not select himself or herself as the individual who will use the payment.</p> <p>(2) Official Agency Business. The payment must be used for official agency business.</p> <p>(3) Agency Reports the Gift. Within 30 days after use of the payment, the agency reports the payment on a form prescribed by the Commission that includes the following information:</p> <p>(A) A description of the payment, the date received, the intended purpose, and the amount of the payment (or the actual or estimated value of the goods or services provided).</p> <p>(B) The name and address of the donor. If the donor is not an individual, the report shall also describe the business activity, or the nature and interests of the entity. If the donor has raised funds from other persons for the specific purpose of making the payment to the agency, the report shall contain the names of and amounts given by these persons.</p> <p>(C) The agency's use of the payment, and the name, title, and department of the agency official for whom the payment was used. The report shall include the date(s) and place(s) of travel, and a breakdown of the total expenses for transportation, lodging, meals and other related expenses.</p> <p>(D) The form is signed by the agency head, or his or her</p>	<p>(b) Definitions.</p> <p>(1) "Payment" means a payment as defined in Section 82044 and includes a monetary payment to an agency, a loan, gift, or other transfer, and the payment for, or provision of, goods or services to an agency.</p> <p>(2) "Agency head" means an individual in whom the ultimate legal authority of an agency is vested, or who has been delegated authority to make determinations by the agency for purposes of this regulation.</p> <p>(c) Gift to an Agency. A payment, that is otherwise a gift to a public official, as defined in Section 82028, shall be considered a gift to the public official's agency and not a gift to the public official if all of the following requirements are met:</p> <p>(1) Agency Controls Use of Payment. The agency head, or his or her designee, determines and controls the agency's use of the payment. The donor may identify a purpose for the payment, but the donor may not designate by name, title, class, or otherwise, an official who may use the payment. If the payment will provide a personal benefit to an official, the agency head, or his or her designee, shall select the individual who will use it. The agency official who determines and controls the agency's use of the payment may not select himself or herself as the individual who will use the payment.</p> <p>(2) Official Agency Business. The payment must be used for official agency business.</p> <p>(3) Agency Reports the Gift. Within 30 days after use of the payment, the agency reports the payment on a form prescribed by the Commission that includes the following information:</p> <p>(A) A description of the payment, the date received, the intended purpose, and the amount of the payment (or the actual or estimated value of the goods or services provided).</p> <p>(B) The name and address of the donor. If the donor is not an individual, the report shall also describe the business activity, or the nature and interests of the entity. If the donor has raised funds from other persons for the specific purpose of making the payment to the agency, the report shall contain the names of and amounts given by these persons.</p> <p>(C) The agency's use of the payment, and the name, title, and department of the agency official for whom the payment was used. The report shall include the date(s) and place(s) of travel, and a breakdown of the total expenses for transportation, lodging, meals and other related expenses.</p> <p>(D) The form is signed by the agency head, or his or her</p>	
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designee, and maintained by the agency as a public record subject to inspection and copying under Section 81008(a).

(E) A state agency shall provide the completed form to the Commission (or in the case of the Commission to the office of the Attorney General), within 30 days after use of the payment, by mail, personal delivery, electronic mail or facsimile. If the state agency maintains a website, the state agency shall also post a copy of the form or the information in the form on its website in a prominent fashion within 30 days after use of the payment. If the state agency does not maintain a website, the Commission shall post a copy of the form or the information in the form on its website.

(F) A local agency shall provide the completed form to the filing officer who receives the agency employees' statements of economic interests, within 30 days after use of the payment, by mail, personal delivery, electronic mail or facsimile. The filing officer shall post a copy of the form or the information in the form on its website, or if it does not maintain a website, shall provide a copy of the form to the Commission which shall post the information on its website.

(G) The individual in the agency who has official custody of these forms is the filing officer for the forms, keeps a log of the forms under both the name of the agency and official receiving the payment, and maintains the forms for a period of not less than four years.

(d) Limitations on Application of this Regulation. The exception provided in subdivision (c) does not apply to the following payments:

(1) A payment for travel, including transportation, lodging, and meals, for a state or local elected officer, as defined in Section 82020, or an official specified in Section 87200.

(2) A payment for travel to the extent that it exceeds the agency's reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses, or if the agency has no standard policy or practice concerning reimbursement rates, the State per diem rates as set forth in applicable sections of the State Administrative Manual and Department of Personnel Administration regulations, or the Internal Revenue Service rates for reimbursement of these expenses as set forth in the U.S. General Service Administration's website under "Per Diem Rates" and Internal Revenue Service Publications 463 and 1542, or their successors.

(3) A payment for travel that the agency head, or his or her designee, has not preapproved in writing in advance of the

designee, and maintained by the agency as a public record subject to inspection and copying under Section 81008(a).

(E) A state agency shall provide the completed form to the Commission (or in the case of the Commission to the office of the Attorney General), within 30 days after use of the payment, by mail, personal delivery, electronic mail or facsimile. If the state agency maintains a website, the state agency shall also post a copy of the form or the information in the form on its website in a prominent fashion within 30 days after use of the payment. If the state agency does not maintain a website, the Commission shall post a copy of the form or the information in the form on its website.

(F) A local agency shall provide the completed form to the filing officer who receives the agency employees' statements of economic interests, within 30 days after use of the payment, by mail, personal delivery, electronic mail or facsimile. The filing officer shall post a copy of the form or the information in the form on its website, or if it does not maintain a website, shall provide a copy of the form to the Commission which shall post the information on its website.

(G) The individual in the agency who has official custody of these forms is the filing officer for the forms, keeps a log of the forms under both the name of the agency and official receiving the payment, and maintains the forms for a period of not less than four years.

(d) Limitations on Application of this Regulation. The exception provided in subdivision (c) does not apply to the following payments:

(1) A payment for travel, including transportation, lodging, and meals, for a state or local elected officer, as defined in Section 82020, or an official specified in Section 87200.

(2) A payment for travel to the extent that it exceeds the agency's reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses, or if the agency has no standard policy or practice concerning reimbursement rates, the State per diem rates as set forth in applicable sections of the State Administrative Manual and Department of Personnel Administration regulations, or the Internal Revenue Service rates for reimbursement of these expenses as set forth in the U.S. General Service Administration's website under "Per Diem Rates" and Internal Revenue Service Publications 463 and 1542, or their successors.

(3) A payment for travel that the agency head, or his or her designee, has not preapproved in writing in advance of the

<p>date of the trip.</p> <p>(4) Passes or tickets, as described in Regulation 18944.1, which shall be governed by that regulation.</p> <p>(e) Public Colleges and University Research Projects. Notwithstanding this regulation, a donation to a California public college or university for a specific research project that is received consistent with the requirements of Regulation 18702.4(c) or a meal received in the course of the college's or university's official fundraising activity, which qualifies under federal and state law for a deduction as a charitable contribution for educational purposes, will be deemed a gift to the college or university.</p> <p>(f) Payments from the Federal Government. Notwithstanding this regulation, a grant, reimbursement, funding, or other payment received by a state or local government agency from a federal government agency for education, training, or other inter-agency programs, will not be considered a gift to the public official who receives a personal benefit from the payment.</p> <p>Comments: 1. Acceptance of a pass or discount from a transportation company by a public officer, other than a Public Utilities Commissioner, may result in forfeiture of the official's office pursuant to Article XII, Section 7 of the California Constitution.</p>	<p>date of the trip.</p> <p>(4) Passes or tickets, as described in Regulation 18944.1, which shall be governed by that regulation.</p> <p>(e) Public Colleges and University Research Projects. Notwithstanding this regulation, a donation to a California public college or university for a specific research project that is received consistent with the requirements of Regulation 18702.4(c) or a meal received in the course of the college's or university's official fundraising activity, which qualifies under federal and state law for a deduction as a charitable contribution for educational purposes, will be deemed a gift to the college or university.</p> <p>(f) Payments from the Federal Government. Notwithstanding this regulation, a grant, reimbursement, funding, or other payment received by a state or local government agency from a federal government agency for education, training, or other inter-agency programs, will not be considered a gift to the public official who receives a personal benefit from the payment.</p> <p>Comments: 1. Acceptance of a pass or discount from a transportation company by a public officer, other than a Public Utilities Commissioner, may result in forfeiture of the official's office pursuant to Article XII, Section 7 of the California Constitution.</p>	
<p>§ 18944.1. Gifts: Tickets or Passes to Events</p> <p>For purposes of this regulation "ticket or pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.</p> <p>(a) Ticket or pass provided to official by official's agency.</p> <p>(1) When an agency provides a ticket or pass to an official of that agency, the ticket or pass is not subject to the provisions of this regulation, provided that the official treats the ticket or pass as income consistent with applicable state and federal income tax laws and the agency reports the distribution of the ticket or pass as income to the official in complying with the provisions of subdivision (c) below.</p> <p>(2) When an agency provides a ticket or pass to a public official that otherwise meets the definition of gift under Section 82028 and is not exempt under applicable Commission regulations, the official will meet the burden under Section 82028 that equal or greater value has been</p>	<p>§ 18944.1. Gifts: Agency Provided Tickets or Passes</p> <p>For purposes of this regulation the terms "ticket" and "pass," <u>as defined in Regulation 18946, apply solely to an admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose provided by an agency to, or at the behest of, an official of that agency, other than an admission provided to a school, college or university district official, coach, athletic director, or employee to attend an amateur event performed by students of that school, college, or university district or an admission identified in Regulation 18942(a)(12).</u></p> <p>(a)(1) A ticket or pass is not subject to the provisions of this regulation, if the official treats the ticket or pass as income consistent with applicable state and federal income tax laws and the agency reports the distribution of the ticket or pass as income to the official in compliance with the reporting provisions of subdivision (d) below.</p> <p>(2) Any ticket or pass acquired by the agency under</p>	<p>Comment: This regulation was edited for clarity throughout. (Gift Memo, 10/31/2011.)</p> <p>Amended: Language “added to make clear that the regulation was never intended to cover school and college district officials attending events such as plays or football games involving the students.” (Gift Memo, 10/31/2011.)</p> <p>Amended: (a)(2) this regulation is “not intended to require names of individuals who receive tickets if the individual would not be required to report the source of the ticket on his or her statement of economic interest if the ticket was directly from that source when tickets are distributed by the agency for employee [morale] purposes.” (Gift Memo, 10/31/2011.)</p>

provided in exchange therefor, provided that all of the following requirements are met:

(A) With respect to a ticket or pass from an outside source ~~provided to an official by the official's agency:~~

(i) The ticket or pass is not earmarked by the original source for use by the agency official who uses the ticket or pass;

(ii) The agency determines, in its sole discretion, ~~which official may use~~ the ticket or pass.

(iii) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency in accordance with subdivision (b) below.

(B) With respect to a ticket or pass provided by the official's agency to an agency official, which ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) that is purchased by the agency at fair market value, the distribution of the ticket or pass is made in accordance with subdivision (b) below.

(b) Any distribution of tickets or passes under subdivision (a)(2) by an agency to, or at the behest of, its officials must be made pursuant to a written policy duly adopted by legislative or governing body of the agency ~~that state the public purposes to be accomplished by the agency policy. If the agency maintains a website, the written policy shall be posted on the website in a prominent fashion.~~ The written policy shall contain, at a minimum, the following:

(1) a provision setting forth the public purposes of the agency to be accomplished by the distribution of tickets or passes;

(2) a provision requiring that the distribution of any ticket or pass by the agency to, or at the behest of, an official accomplish a public purpose of the agency; and

(3) a provision prohibiting the transfer by any official of any ticket or pass, distributed to such official pursuant to the agency policy, to any other person, except to members of the official's immediate family solely ~~for their personal use.~~

(c) The distribution of a ticket or pass pursuant to this regulation, ~~or Regulation 18942(a)(13),~~ including a ticket or pass that is provided to the official under subdivision (a)(1) above, shall be posted, on a form provided by the Commission, ~~in a prominent fashion on the agency's website, within 30 days after the distribution. If the agency does not maintain a website,~~ the form shall be maintained as a public record, be subject to inspection and copying under Section

subdivision (b)(2) and distributed to an official, other than an elected official or member of the legislative or governing body of the agency, for the official's personal use, to support general employee morale, retention, or to reward public service is deemed to serve a public purpose, and any tickets distributed to an official for such purpose shall be reported as described under subdivision (d)(3). For purposes of this paragraph, "personal use" means use by the official, his or her family, or no more than one guest.

(b) The official will meet the burden under Section 82028 that equal or greater value has been provided in exchange for the ticket or pass if the official reimburses the agency for the ticket or if all of the following requirements are met:

(1) For a ticket or pass the agency receives from an outside source, other than as provided in subdivision (b)(2):

(A) The ticket or pass is not earmarked by the outside source for use by the agency official who uses the ticket or pass;

(B) The agency determines, in its sole discretion, who uses the ticket or pass.

(C) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency that incorporates all of the provisions of subdivision (c) below.

(2) For a ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) by purchase at fair market value, the distribution of the ticket or pass is made in accordance with a policy adopted by the agency that incorporates all of the provisions of subdivision (c) below.

(c) Agency Ticket/Pass Distribution Policy. Any distribution of a ticket or pass under this regulation to, or at the behest of, an agency official must be made pursuant to a written agency ticket distribution policy, duly adopted by the legislative or governing body of the agency or, if none, the agency head that contains, at a minimum, all of the following:

(1) A provision setting forth the public purposes of the agency for which tickets or passes may be distributed.

(2) A provision requiring that the distribution of any ticket or pass to, or at the behest of, an agency official accomplish a stated public purpose of the agency.

(3) A provision prohibiting the transfer of any ticket received by an agency official pursuant to the distribution policy except to members of the official's immediate family

<p>81008(a), and be forwarded to the Commission for posting on its website. The posting shall include the following:</p> <p>(1) the name of the person receiving the ticket or pass, except that if the ticket or pass is distributed to an organization outside the agency, the agency may post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization;</p> <p>(2) a description of the event;</p> <p>(3) the date of the event;</p> <p>(4) the face value of the ticket or pass;</p> <p>(5) the number of tickets or passes provided to each person;</p> <p>(6) if the ticket or pass is behested, the name of the official who behested the ticket or pass; and</p> <p>(7) a description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.</p> <p>(d) The Commission recognizes the discretion of the legislative or governing body of an agency to determine whether the distribution of a ticket or pass serves a legitimate public purpose of the agency, provided the determination is consistent with state law.</p> <p>(e) The provisions of subdivision (a) apply only to the benefits the official receives by the admission and are not applicable to any other benefits the official may receive that are not included with the admission, such as food or beverages, or any other item presented to the official at the event.</p>	<p>or no more than one guest solely <u>for their attendance at the event.</u></p> <p>(d) Public Posting. A record of a ticket or pass distributed pursuant to this regulation, must be completed, on a form provided by the Commission. The form must be maintained as a public record, be subject to inspection and copying under Section 81008(a), and be forwarded to the Commission for posting on its website.</p> <p>(1) Except as provided in paragraphs (2) and (3) below, the information must include the following:</p> <p>(A) The name of the person receiving the ticket or pass;</p> <p>(B) A description of the event;</p> <p>(C) The date of the event;</p> <p>(D) The face value of the ticket or pass;</p> <p>(E) The number of tickets or passes provided to each person;</p> <p>(F) If the ticket or pass is behested, the name of the official who behested the ticket; and</p> <p>(G) A description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.</p> <p>(2) If the ticket or pass is distributed to an organization outside the agency, the agency <u>shall</u> post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization as otherwise required in paragraph (1) above;</p> <p><u>(3) If the ticket or pass is distributed pursuant to subdivision (b) the agency may post the name of the department or other unit of the agency and the number of tickets or passes provided to the department or other unit in lieu of posting the name of the individual employee as otherwise required in paragraph (1) above:</u></p> <p>(e) The Commission recognizes the discretion of the legislative or governing body of an agency or, if none, the agency head to determine whether the distribution of a ticket or pass serves a legitimate public purpose of the agency, provided the determination is consistent with state law.</p> <p>(f) The provisions of this regulation apply only to the benefits the official receives that are provided to all members of the public with the same class of ticket.</p>	<p>Amended: (d)(2) “may” changed to “shall”</p>
<p>§ 18944.4. Agency Raffles and Gift Exchanges</p> <p>(a) Applicability. This regulation identifies when a payment made by a state or local government agency in the</p>	<p>§ 18944.2. Agency Raffles and Exchanges of Presents</p> <p>(a) Applicability. This regulation identifies when a payment made by a state or local government agency of an</p>	<p>Renumbered: 18944.4 was renumbered to 18944.2.</p>

<p>form of an item awarded to an agency employee in a raffle open to all employees of the agency or the unit of the agency holding the raffle, or in an agency gift exchange, will be treated as a gift to the employee.</p> <p>(b) Agency Raffles.</p> <p>(1) When an agency holds an employee raffle and the item awarded in the raffle has been received by the agency from a source other than an agency employee and the agency did not purchase the item from its funds, the payment is a gift to the employee from the source who provided the item to the agency, and the agency is the intermediary of the gift. The value of the gift is the fair market value less any consideration paid by the employee to participate in the raffle. If the value of the gift is \$ 50 or more and the employee is required to report the gift on his or her statement of economic interests, the agency and the employee shall comply with Section 87210 or Section 87313 as applicable.</p> <p>(2) When an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds or is otherwise an asset of the agency and not donated to the agency by a non-agency source, the provisions of Regulation 18944.3 apply.</p> <p>(3) When an agency holds an employee raffle and the item awarded in the raffle has been received by the agency from an agency employee who is not acting as an intermediary for another donor, the item is not a gift to the employee who wins the raffle.</p> <p>(c) Agency Gift Exchanges. When an employee of an agency participates in an employee gift exchange, any item received by the employee in the gift exchange is not a gift so long as the item received is provided by another employee of the agency and the gifts are not substantially disproportionate in value.</p> <p>(d) This regulation does not apply to passes or tickets of the type described in Regulation 18944.1, which shall be governed by that regulation.</p>	<p>item awarded to an <u>agency official</u> in a raffle open to all employees of the agency, or the unit of the agency holding the raffle, or received in an exchange of presents among agency employees, will be treated as a gift to the <u>official</u>.</p> <p>(b) Agency Raffles.</p> <p>(1) When an agency holds an employee raffle and the item awarded in the raffle has been received by the agency from a source other than an agency employee and the agency did not purchase the item from its funds, the <u>item</u> is a gift from the source who provided the item to the agency <u>to the official</u> who wins the item, and the agency is the intermediary of the gift. The value of the gift is the fair market value less any consideration that the <u>official</u> paid to participate in the raffle. If the value of the gift is \$ 50 or more, the agency and the official shall comply with Section 87210 or Section 87313 if applicable.</p> <p>(2) When an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds or is otherwise an asset of the agency and not donated to the agency by a non-agency source, the provisions of Regulation 18944.3 apply.</p> <p>(3) When an agency holds an employee raffle and the item awarded in the raffle has been received by the agency from an agency employee who is not acting as an intermediary for another donor, the item is not a gift to the employee who wins the raffle.</p> <p>(c) <u>Exchanges of Presents Among Agency Employees</u>. When an employee of an agency <u>receives a present</u> in an exchange of presents, <u>where all participants in the exchange are agency employees</u>, any <u>present</u> received by the official in the exchange is not a gift so long as the <u>present</u> received is provided by another employee of the agency and is not substantially disproportionate in value <u>from the item provided by the official</u>.</p> <p>(d) This regulation does not apply to a ticket or pass of the type described in Regulation 18944.1, which shall be governed by that regulation, <u>if the ticket or pass is provided from a source other than an agency employee</u>.</p>	<p>Comment: Minor editing and style changes. (Gift Memo, 10/31/2011.)</p> <p>Amended: (throughout the regulation) “employee” was changed to “official”</p> <p>Amended: (b)(1) the term “payment” was changed to “item”</p> <p>Amended: (c) Amended to clarify the nature of “exchanges of presents among agency employees”</p> <p>Amended: (d) The regulation does not apply to tickets/passes “if the ticket or pass is provided from a source other than an agency employee.”</p>
<p>§ 18944.3. Gifts from a Government Agency to Officials in That Agency</p> <p>Except as provided in Regulation 18944.1 and 18944.2, a payment by a government agency from that agency's assets that provides food, beverage, entertainment, goods, or services of more than a nominal value to an official in that</p>	<p>§ 18944.3. Gifts from a Government Agency to Officials in That Agency</p> <p>Except as provided in Regulations 18944 and 18944.1, a payment by a government agency from that agency's assets that provides food, beverage, entertainment, goods, or services of more than a nominal value to an official in that</p>	

<p>agency is a gift to that official unless the payment is a lawful expenditure of public moneys.</p>	<p>agency is a gift to that official unless the payment is a lawful expenditure of public moneys.</p>	
	<p>§ 18944.4. Agency Raffles and Gift Exchanges. [Renumbered]</p>	<p>Renumbered: 18944.4 renumbered to 18944.2.</p>
<p>§ 18945. Source of Gifts</p> <p>(a) General Rule. A person is the source of a gift if the person makes a gift to an official and is not acting as an intermediary.</p> <p>(b) Gifts through an Intermediary.</p> <p>(1) A person is the source of a gift, and a third party is an intermediary of the gift under Sections 87210 or 87313; if the person makes a payment to the third party and the payment is used directly or indirectly by the third party to make a gift to an official under any of the following conditions:</p> <p>(A) The person directs and controls the payment at the time it is used by the third party to make a gift to the official.</p> <p>(B) The person and third party have agreed that the payment will be used by the third party to make a gift to the official.</p> <p>(C) The person identifies the official to the third party as the intended beneficiary of the payment prior to the third party making the payment to the official.</p> <p>(D) The third party identifies the official to the person as the intended beneficiary of the payment prior to the person making the payment to the third party.</p> <p>(E) The person knows or has reason to know that the sole or primary purpose of the payment is to make gifts to officials.</p> <p>(F) The official or the official's agent solicits the payment from the person to the third party for the purpose of making a gift to the official.</p> <p>(2) For purposes of subdivisions (b)(1)(C) and (b)(1)(D), a person or third party "identifies the official" if the person or third party identifies the official by name or any other designation of the official from which it is clear the person or third party is referring to the official, or if the person or third party identifies a group of officials from one or more specific state or local government agencies and the official is part of that group.</p> <p>(c) A person who pays dues or similar payments for membership in a bona fide association, including any federation, confederation, or trade, labor or membership organization is not the source of gifts made by the association</p>	<p>§ 18945. Source of Gifts</p> <p>(a) The person who makes the gift to the official(s) is the source of the gift unless that person is acting as an intermediary.</p> <p>The person is acting as an intermediary for the source of the gift when the gift to the official was provided under any of the following conditions:</p> <p>(1) the person receives a payment from a source and the payment is made to the official after the source identifies the official as the intended recipient of the gift;</p> <p>(2) the person receives a payment from a source after <u>soliciting the payment with the understanding that the payment will be used for the sole or primary purpose of making a gift to an official; or</u></p> <p>(3) the person receives a payment from a source after the payment was solicited by the official or the official's agent for the purpose of making a gift to the official.</p> <p><u>(b) Under any of the conditions identified in subdivision (a)(1)-(3), the source of the payment is the source of the gift.</u></p> <p><u>(c) If a public official's pro-rata share of the cost of the benefit provided at an event constitutes a gift to the official, the person hosting the event, unless the admission to the event was provided by someone other than the host, shall be deemed the source of the gift so long as the event is widely attended by persons other than governmental officials.</u></p> <p>(d) <u>Presumption of Source by Official. Notwithstanding subdivision (a), an official may presume that the person delivering the gift or, if the gift is offered but has not been delivered, the person offering the gift to him or her is the source of the gift unless it is clear from the surrounding circumstances at the time the gift is delivered or offered that the person delivering or offering the gift is not the actual source of the gift.</u></p> <p>(e) <u>Presumption of Source by Intermediaries. A person that qualifies as an intermediary as a result of a payment solicited from an official pursuant to subdivision (a)(3) may presume that he, she, or it is the source of the gift unless the person does not know or have reason to know of the official's solicitation.</u></p>	<p>Comment: Simplified without changing any of the restrictions previously in place. (Gift Memo, 10/31/2011.)</p> <p>Amended: (c) “Amended to clarify that for a ‘widely attended event’ the person hosting the event is the source of the gift, unless the admission to the event was provided by someone other than the host.” (Gift Memo, 10/31/2011.)</p>

<p>to an official unless the sole or primary purpose of the dues or similar payments is to make gifts to officials.</p> <p>(d) Presumption of Source by Officials. An official may presume that the person delivering the gift or, if the gift is offered but has not been delivered, the person offering the gift to him or her is the source of the gift unless either of the following apply:</p> <p>(1) The person delivering or offering the gift discloses to the official the actual source of the gift.</p> <p>(2) It is clear from the surrounding circumstances at the time the gift is delivered or offered that the person delivering or offering the gift is not the actual source of the gift.</p> <p>(3) The official solicits a payment pursuant to subdivision (b)(1)(F) and receives or is offered a gift responsive to the solicitation within 12 months of making the solicitation.</p> <p>(e) Presumption of Source by Intermediaries. A third party otherwise qualifying as an intermediary as a result of a payment solicited from an official pursuant to subdivision (b)(1)(F) may presume that he or she is the source of the gift, and is not required to disclose the actual source of the gift as required by Regulation 18945.3, when both of the following apply:</p> <p>(1) The third party does not know or have reason to know of the official's solicitation.</p> <p>(2) The third party does not qualify as an intermediary under subdivisions (b)(1)(A) (b)(1)(E).</p>		
<p>§ 18945.1. Cumulation of Gifts; "Single" Source</p> <p>For purposes of the limitations in Government Code Sections 89501 through 89506, two or more gifts are cumulated as being from a "single" source if any of the following circumstances apply:</p> <p>(a) Gifts from an individual and an entity in which the individual has an ownership interest of more than 50 percent shall be cumulated as being gifts from a "single" source.</p> <p>(b) Except as provided in subdivision (a), gifts from an individual and an entity shall be cumulated as being gifts from a "single" source if the individual in fact directs and controls the decision of the entity to make the gifts.</p> <p>(c) If the same person or a majority of the same persons in fact directs and controls the decisions of two or more entities to make gifts to one or more public officials or candidates, gifts by those affiliated entities shall be cumulated as being gifts from a "single" source.</p>	<p>§ 18945.1. <u>Aggregation of Gifts; "Single" Source</u></p> <p>For purposes of the gift limits in Sections <u>86203 and 89503</u>, and the Act's reporting requirements, separate gifts from two or more sources are aggregated as being from a single source in any of the following circumstances:</p> <p>(a) The separate gifts are from an individual and an entity in which the individual has an ownership interest of more than 50 percent unless the individual did not direct and control the gift from the entity. <u>An individual who has an ownership interest of more than 50 percent is presumed to direct and control the gift from the entity. This presumption may be rebutted if the payment is made by another individual who, in fact, directed and controlled the payment.</u></p> <p>(b) The separate gifts are from an individual and an entity and the individual in fact directed and controlled the decision of the entity to make the gift.</p> <p>(c) The gifts are from two or more entities and the same</p>	<p>Comment: No substantive changes were made; the regulation was amended for clarity only. (Gift Memo, 10/31/11.)</p>

<p>(d) Business entities in a parent-subsidiary relationship, or business entities with the same controlling (more than 50 percent) owner, shall be considered a "single" source unless the business entities act independently in their decisions to make gifts to one or more public officials or candidates. For purposes of this regulation, a parent-subsidiary relationship exists when one business entity owns more than 50 percent of another business entity.</p>	<p>person or a majority of the same persons directed and controlled the decisions of the entities to make the gifts to the official.</p> <p>(d) Business entities in a parent-subsidiary relationship, or business entities with the same controlling (more than 50 percent) owner, shall be considered a single source unless the business entities acted independently in their decisions to make the gifts. For purposes of this regulation, a parent-subsidiary relationship exists when one business entity owns more than 50 percent of another business entity.</p>	
<p>§ 18945.4. A Gift from Multiple Donors</p> <p>A gift which is received from multiple donors must be reported if the gift's value equals or exceeds \$ 50. The name of any donor whose share of the gift is less than \$ 50 in value need not be separately reported; it is sufficient to describe in general terms those who gave the gift. If, however, the share of any donor or his or her [agent or] intermediary is \$ 50 or more in value, his or her name must be reported.</p>	<p>§ 18945.2. Group Gifts</p> <p>If an <u>official</u> receives a gift valued at \$ 50 or more from a <u>group of persons</u>, the official need only report any source(s) of the gift who donates \$ 50 or more to the overall value of the gift. <u>In addition, any donation to the group gift made by any person for whom the official is required to report a gift shall be aggregated with any other gift made by that person. A gift from a single organization is not a group gift from the members of that organization.</u></p>	<p>Renumbered: 18945.4 renumbered to 18945.2</p> <p>Comment: Officials are “no longer [required] to report individuals who contribute less than \$50 to a gift presented by a group of people, even though the value of the gift itself is more than the reporting threshold. (Gift Memo, 10/31/2011.)</p>
<p>§ 18945.3. Intermediary of a Gift</p> <p>(a) Intermediaries of Gifts to Persons Required to File Under Title 9, Chapter 7, Article 2 of the Government Code—No person shall make a gift totaling fifty dollars (\$ 50) or more in a calendar year to a person described in Article 2 on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.</p> <p>(b) Intermediaries of Gifts to Persons Required to File Under Title 9, Chapter 7, Article 3 of the Government Code—No person shall make a gift of fifty dollars (\$ 50) or more in a calendar month on behalf of another, or while acting as the intermediary or agent of another to a person whom he knows or has reason to know may be required to disclose the gift pursuant to a conflict of interest code, without disclosing to the recipient of the gift both his own full name, street address, and business activity, if any, and the full name, street address, and business activity, if any, of the actual donor. The recipient of the gift shall include in his Statement of Economic Interests</p>	<p>§ 18945.3. Intermediary of a Gift. [Repealed]</p>	<p>Repealed.</p>

<p>the full name, street address, and business activity, if any, of the intermediary or agent and the actual donor.</p> <p>(c) Notwithstanding subdivisions (a) or (b) above, it shall be unlawful for a lobbyist or lobbying firm to act as an intermediary in the making of any gift aggregating more than \$ 10 per calendar month to a state candidate, elected state officer, legislative official or agency official of any agency required to be listed on the registration statement of the lobbying firm or the lobbyist employer of the lobbyist.</p>		
	<p>§ 18945.4. A Gift from Multiple Donors. [Renumbered]</p>	<p>Renumbered: 18945.4 renumbered to 18945.2.</p>
<p>§ 18946. Reporting and Valuation of Gifts</p> <p>(a) Scope of Section. Except as specified in 2 Cal. Code Regs. sections 18946.1 through 18946.5, inclusive, gifts shall be valued at fair market value as of the date of receipt or promise. Sections 18946.1 through 18946.5 provide for the valuation of specific types of gifts in the following situations: Passes and Season Tickets--Regulation 18946.1 Testimonial Dinners and Events, Invitation-Only Events, and Ceremonial Functions--Regulation 18946.2 Wedding Gifts--Regulation 18946.3 Tickets to Nonprofit and Political Fundraisers--Regulation 18946.4 Prizes and Awards From Bona Fide Competitions--Regulation 18946.5</p> <p>(b) General Rule for Valuation of Unique Gifts. Whenever the fair market value cannot readily be ascertained because the gift is unique or unusual, the value shall be the cost to the donor, if known or ascertainable. If the cost to the donor is unknown and unascertainable, the recipient shall make a reasonable approximation. In making such an approximation, the recipient shall take into account the price of similar items. If similar items are not available as a guide, a good faith estimate shall be utilized.</p> <p>(c) Except as specified in 2 Cal. Code Regs. sections 18943, 18944, and 18946.1, a gift must be valued, for purposes of disclosure and disqualification, even if unused, discarded or given to another person.</p> <p>(d) Definitions: For purposes of this section and 2 Cal. Code Regs. sections 18946.1 through 18946.5 and section 18640, the following definitions apply:</p> <p>(1) "Face Value." The term "face value" means the price indicated on the ticket, or if no price is indicated, the price at which the ticket or similar pass would otherwise be offered</p>	<p>§ 18946. Valuation of Gifts</p> <p>(a) General Gifts. Except as specified in <u>subdivisions (b) and (c)</u>, a gift is valued at fair market value as of the date of receipt. Sections 18946.1 through 18946.5 provide for the valuation of specific types of gifts in the following situations:</p> <p>Ticketed Events -- See Regulation 18946.1 Invitation-Only Events -- See Regulation 18946.2 Wedding Gifts -- See Regulation 18946.3 Tickets to Nonprofit and Political Fundraisers -- See Regulation 18946.4 <u>Air Transportation -- See Regulation 18946.5</u></p> <p>(b) Unique Gifts. Whenever the fair market value of a gift cannot be determined because the gift is unique or unusual, the <u>official</u> must make a reasonable approximation. In making such an approximation, the <u>official</u> must take into account the price of similar items. If similar items are not available as a guide, a good faith estimate shall be utilized.</p> <p>(c) Except as specified in Regulation 18946.1(a) and (b), the <u>value of a gift is its full value</u> even if unused, partially used, discarded, or transferred to another person.</p> <p>(d) Definitions: For purposes of this regulation and Regulations 18946.1 through 18946.5 and Regulation 18640, the following definitions apply:</p> <p>(1) "Face Value." "Face value" means the price <u>as offered for sale to the general public</u> indicated on the ticket or pass, or if that price is not indicated, the price at which the ticket or pass would otherwise be offered for sale to the general public by the operator of the venue or host of the event who offers the ticket for public sale.</p> <p>(2) "Ticket." A "ticket" is anything that provides <u>access, entry, or admission to a specific future event or function and for which similar tickets are sold to the public to view, listen to, or otherwise take advantage of the attraction or activity for</u></p>	<p>Amended: (throughout regulation) the term "recipient" was changed to "official"</p> <p>Amended: (d)(2) and (3) "ticket" and "pass" are now defined separately.</p>

<p>for sale to the general public by the operator of the venue or host of the event who offers the ticket for public sale.</p> <p>(2) "Ticket/Pass." A "ticket" or "pass" means anything that provides an admission privilege to an event or function and for which similar tickets or passes are offered for sale to the public.</p> <p>(3) "Invitation." An "invitation" means a request to attend an event or function by the sponsor of the event or function, that is not a ticket or pass as defined above in subsection (d)(2) of this section and 2 Cal. Code Regs. section 18944.1, and where admission to the event is provided by such invitation only.</p> <p>(4) "Specific Item." The term "specific item" means a tangible item received by an official or candidate at an event that is not included among the non-cash nominal items presented to all attendees at the event.</p>	<p><u>which the ticket is sold and includes any benefits that the ticket provides.</u></p> <p>(3) "Pass." A "pass" is a ticket that provides repeated access, entry, or admission to a facility or series of events and for which similar passes are sold to the public.</p> <p>(4) "Invitation." An "invitation" means a request to attend an event or function by the <u>host, sponsor, or organizer</u> of the event or function, where admission to the event is provided by the invitation only and not by a ticket or pass as defined above.</p> <p>(5) "Invitation Only Event." An "invitation only event" is <u>a gathering of individuals, who attend by invitation and where costs are incurred to hold the event beyond the costs of providing food.</u></p> <p>(6) "Specific Item." "Specific item" means a tangible item the official receives at an event <u>that is included</u> among the non-cash nominal items presented to all attendees at the event.</p>	<p>New Subsection: (d)(5) new definition for "invitation only event"</p>
<p>§ 18946.1. Reporting and Valuation of Gifts: Passes and Tickets</p> <p>(a) A pass or ticket that provides one-time admission or access to facilities, goods, services, or other incidental tangible or intangible benefits (including a pass to motion picture theaters, amusement parks, parking facilities, country clubs, and similar places or events, and also including a ticket for theater, opera, sporting, or similar event, but not including travel or lodging) shall be valued at the face value of the pass or ticket, provided that the face value is a price that was, or otherwise would have been, offered to the general public. A pass or ticket has no value unless it is ultimately used or transferred to another person.</p> <p>(b) A pass or ticket that provides repeated admission or access to facilities, goods, services, or other incidental tangible or intangible benefits (including a pass to motion picture theaters, amusement parks, parking facilities, country clubs and similar places or events, and also including a season ticket for theater, opera, sporting, or similar season events, but not including travel or lodging) shall be valued as follows:</p> <p>(1) For purposes of disclosure and the gift limits, the value shall be the fair market value of the actual use of the pass or ticket by the recipient, including guests who may accompany the recipient and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person or persons to whom the privilege of use of the pass or</p>	<p>§ 18946.1. Exception -- Valuation of Gifts: Passes and Tickets</p> <p>(a) Unless otherwise indicated herein, the value of a ticket is the face value of the ticket. A ticket has no reportable value unless it is ultimately used or transferred to another person.</p> <p>(b) The value of a pass is determined as follows:</p> <p>(1) For purposes of disclosure and the gift limits, the value of a pass is equal to the <u>face value</u> of an individual one-time admission multiplied by the actual use of the pass by the official and any other individuals who are admitted with the pass up to the face value of the pass.</p> <p>(2) For purposes of disqualification, the value of a pass is the <u>face value</u>. If the official returns the pass before the decision, the value is the actual use of the pass made prior to the decision, as provided in subdivision (b)(1).</p> <p>(3) A pass has no reportable value unless it is ultimately used or transferred to another person.</p>	<p>Comment: Simplified; no substantive changes. (Gift Memo, 10/31/11.)</p> <p>Amended: (b)(1) The phrase "fair market value" was changed to "face value" of one-time admission multiplied by the actual use, up to the face value of the pass.</p> <p>Amended: (b)(2) "actual use of the pass" was changed to "face value"</p>

<p>ticket is transferred.</p> <p>(2) For purposes of disqualification, the value shall be the actual use of the pass or ticket by the official, including guests who may accompany the official and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person or persons to whom the official transfers the privilege of use of the pass or ticket, through the date of the governmental decision in question, plus the fair market value of the maximum reasonable use following the date of the decision. If the official returns the pass or any unused ticket prior to the decision, the value shall be determined pursuant to subdivision (b)(1).</p>		
<p>§ 18946.2. Reporting and Valuation of Gifts: Testimonial Dinners and Events, Invitation-Only Events, and Ceremonial Functions</p> <p>(a) Testimonial Dinners. When an official or candidate is honored at a testimonial dinner or similar event, at which campaign fundraising for the official or candidate does not occur, the value received is the official's or candidate's pro rata share of the cost of the event, plus the value of any specific item that is presented to the official or candidate at the event.</p> <p>(b) Invitation-Only Events. Except as provided in subdivisions (d) through (f) of this regulation, when an official or candidate attends an invitation-only event such as a banquet, party, gala, celebration, or other similar function, other than a nonprofit or political fundraiser as set forth in 2 Cal. Code Regs. section 18946.4, the value received is the official's or candidate's pro rata share of the cost of the event, plus the value of any specific item that is presented to the official or candidate at the event.</p> <p>(c) "Pro-rata share of the cost of the event." The term "pro rata share of the cost of the event" means the cost of all food and beverages, rent of the facilities, decorations, entertainment, and all other costs associated with the event, divided by the number of acceptances or the number of attendees.</p> <p>(d) Official or Ceremonial Functions. When an official performs an official or ceremonial function at an invitation-only event, as set forth in subdivision (b) of this regulation, in which the official is invited to participate by the event's sponsor or organizer to perform an official or ceremonial function, the value received is the cost of any food or beverages provided to the official plus the value of any</p>	<p>§ 18946.2. Exception -- Valuation of Gifts: Attendance at Invitation-Only Events</p> <p>(a) The valuation of attendance at an invitation-only event under this regulation applies to the official <u>and one guest</u> of the official attending the event.</p> <p>(b) Invitation-Only Events. Except as provided in subdivisions (d) through (f) of this regulation, and in Regulation 18946.4, the <u>admission</u> value of the benefit received by an official <u>and one guest</u> who attend an invitation-only event, is the official's <u>and the guest's</u> pro-rata share of the cost of the <u>food, catering services, entertainment, and any item provided to the official and guest that is available to all guests attending the event. Any other specific benefit provided to the official and guest at the event, such as golf green fees, is valued at fair market value.</u></p> <p>(c) "Pro-rata share of the cost of the <u>food, catering services, entertainment, and any item provided to the official.</u>" The term "pro-rata share of the cost of the food, catering services, entertainment, and any item provided to the official and guest" means the cost of all <u>food, catering services, entertainment, and any specific item presented to all attendees as part of the event,</u> divided by the number of acceptances or the number of attendees.</p> <p>(d) Official or Ceremonial Functions. When an official performs an official or ceremonial function at an invitation-only event, as set forth in subdivision (b) of this regulation, in which the official is invited to participate by the event's sponsor or organizer to perform an official or ceremonial function, the value received is the <u>pro rata cost of any meal provided to the official and guest</u> plus the value of any specific item that is presented to the <u>official and his or her guest</u> at the event.</p>	<p>Comment: The changes modify the way admission is valued; see below.</p> <p>Amended: (throughout the regulation) "official" changed to "official and one guest"</p> <p>Amended: (b) "cost of the event" changed to "cost of the food, catering services, entertainment"</p> <p>Amended: (b) "presented to the official or candidate at the event" changed to "provided to the official and guest that is available to all guests attending the event."</p> <p>Amended: (b) For invitation only events "[a]ny other specific benefit provided to the official and guest at the event, such as golf green fees, is valued at fair market value."</p> <p>Amended: (c) "cost of the event" changed to "cost of the food, catering services, entertainment, and any item provided to the official"</p> <p>Amended: (c) "cost of all food and beverages, rent of the facilities, decorations, entertainment, and all other costs associated with the event" changed to "cost of all food, catering services, entertainment, and any specific item presented to all attendees as part of the event"</p>

<p>specific item that is presented to the official at the event.</p> <p>(e) Drop-In Visit. Except as provided in subdivision (f) of this regulation, if an official attends an event referred to in subdivision (a) or (b) of this regulation and does not stay for any meal or entertainment otherwise provided at the event, and receives only minimal appetizers and drinks, the value of the gift received is the cost of the food and beverage consumed by the official and guests accompanying the official, plus the value of any specific item that is presented to 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.</p> <p>(f) Lobbyists, Lobbying Firms, and Lobbyist Employers. Where an official attends an event referred to in subdivision (a) or (b) of this regulation, sponsored by any person required to file a periodic statement under Article 1 of Chapter 6 of this title, the value of the gift is determined pursuant to the provisions of 2 Cal Code Regs. section 18640.</p>	<p>(e) Drop-In Visit. Except as provided in subdivision (f) of this regulation, if an official attends an invitation-only event and does not consume any meal or stay for any entertainment and consumes only minimal appetizers and drinks, the value of the gift received is the <u>value of any specific item, other than food</u>, presented to the official and guest accompanying the official at the event.</p> <p>(f) Lobbyists, Lobbying Firms, and Lobbyists Employers. When an official attends an invitation-only event sponsored by any person required to file a periodic statement under Article 1 of Chapter 6 of <u>the Act</u>, the value of the gift is determined pursuant to the provisions of Regulation 18640.</p> <p>For purposes of this <u>regulation</u>, "entertainment" means a feature show or performance intended for an audience, and does not include music provided for background ambiance.</p>	<p>Amended: (d) "cost of any food or beverages" changed to "pro rata cost of any meal"</p> <p>Amended: (e) "cost of the food and beverage consumed by the official and guests accompanying the official, plus the value of any specific item" changed to "value of any specific item, other than food"</p>
<p>§ 18946.3. Reporting and Valuation of Gifts: Wedding Gifts</p> <p>Notwithstanding the provisions of California Code of Regulations, Title 2, Section 18944, wedding gifts given to an official and his or her spouse or spouse-to-be are considered as gifts to both spouses equally, and the official is deemed to receive one-half of the value as determined pursuant to California Code of Regulations, Title 2, Section 18946, unless the gift is peculiarly adaptable to the personal use and enjoyment of one spouse or specifically and unequivocally intended exclusively for use and enjoyment by one spouse, in which event the full value of the gift is attributed to that spouse.</p>	<p>§ 18946.3. Exception -- Valuation of Gifts: Wedding Gifts</p> <p>Notwithstanding the provisions of Regulation 18943, the value to the official of a wedding gift given to an official and his or her spouse or spouse-to-be is one-half of the gift's total value.</p>	<p>Comment: This regulation now reflects the basic "half and half rule," without exception. (Gift Memo, 10/31/11.)</p>
<p>§ 18946.4. Reporting and Valuation of Gifts: Tickets Provided by Nonprofit and Political Organizations for Their Fundraising Events</p> <p>This regulation applies to a single ticket or other admission privilege to a specific fundraising event provided to a public official by a nonprofit or political organization holding its own fundraiser and used solely by the public official.</p> <p>(a) Nonprofit Fundraiser. Except as provided in subdivision (b), the value of a gift of a ticket, pass, or other</p>	<p>§ 18946.4. Exception -- Valuation of Gifts: Attendance at Nonprofit or Political Organization Fundraising Event</p> <p>This regulation establishes the value of a ticket, or admission by invitation, when the ticket or invitation to attend is to a fundraising event for a nonprofit or political organization.</p> <p>(a) Nonprofit Fundraiser. Except as provided in subdivision (b), the value of a ticket or <u>admission by invitation</u>, to a fundraising event for a non-profit, tax-exempt organization that is not a committee covered by subdivision</p>	<p>Comment: This regulation now values all tickets to non-profit fundraisers at the value of the benefit received (the nondeductible portion of the price) and not the face value of the ticket. Additionally, one free ticket for 501(c)(3) and political fundraising events has been expanded to two tickets, and the political fundraising event is no longer limited to California. (Gift Memo, 10/31/11.)</p>

<p>admission privilege to a fundraising event for a nonprofit, tax-exempt organization that is not a committee covered by subdivision (c) is determined as follows:</p> <p>(1) Where the ticket clearly states that a portion of the ticket price is a donation to the organization, the value of the gift is the face value of the ticket reduced by the amount of the donation.</p> <p>(2) If there is no ticket indicating a face value or the ticket or other admission privilege has no stated price or no stated donation portion, the value of the gift is the pro rata share of the cost of any food, and beverages, plus any other specific item presented to the attendee at the event.</p> <p>(b) 501(c)(3) Organization Fundraiser. Where the event is a fundraising event for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, the organization may provide one ticket per event to an official and that ticket shall be deemed to have no value so long as the cumulative value of the nondeductible portion of the ticket(s), as provided in subdivision (a), received by the official from the same organization during a calendar year, does not exceed the gift limits imposed under Section 89503 and Regulation 18940.2.</p> <p>(c) Political Fundraiser. For a gift of a ticket, pass, or other admission privilege to a fundraising event for a committee defined in Section 82013(a), or a comparable committee regulated under federal law holding an event in California, the committee or candidate may provide one ticket per event to an official and that ticket shall be deemed to have no value.</p>	<p>(c) is determined as follows:</p> <p>(1) When the ticket clearly states that a portion of the ticket price is a donation to the organization, <u>or the organization provides information indicating the portion of the admission price that constitutes the donation</u>, the value of the <u>ticket</u> is the <u>nondeductible portion of the admission.</u></p> <p>(2) If there is no ticket, <u>or other official information provided by the organization</u>, indicating the value of the nondeductible portion of the admission, the value of the <u>admission</u> is the pro-rata share of the cost of any food, <u>catering services, entertainment</u>, and any other item provided to the <u>official that is available to all guests attending the event, as determined under Regulation 18946.2 for invitation-only events. Any other specific benefit provided to the official at the event, such as golf green fees, is valued at fair market value.</u></p> <p>(b) 501(c)(3) Organization Fundraiser. When the event is a fundraising event for an organization exempt from taxation under <i>Section 501(c)(3) of the Internal Revenue Code</i>, the organization may provide <u>two tickets or invitations</u> per event to an official that shall be deemed to have no value. <u>Additional tickets or admissions by invitation provided to or controlled by the official and any tickets not provided directly by the 501(c)(3) organization to the official are valued under subdivision (a) above.</u></p> <p>(c) Political Fundraiser. For a ticket or invitation to attend a fundraising event for a committee defined in Section 82013(a), or a comparable committee regulated under federal law <u>or the laws of another state</u>, the committee or candidate may provide <u>two tickets</u> or invitations per event to an official that shall be deemed to have no value. <u>Additional tickets or admissions by invitation provided to or controlled by the official and any tickets not provided directly by the committee or candidate to the official are valued under subdivision (a) above.</u></p>	
<p>§ 18946.6. Reporting and Valuation of Gifts: Air Transportation</p> <p>Air transportation that is a gift to a public official shall be valued as follows:</p> <p>(a) For transportation on a commercial aircraft, the value of the ticket or fare the carrier charges to a member of the public for the same transportation provided to the official. For purposes of this regulation, "commercial aircraft" means an aircraft used to transport the general public for compensation</p>	<p>§ 18946.5. Exception -- Valuation of Gifts: Air Transportation</p> <p>Air transportation is valued as follows:</p> <p>(a) The value of transportation on a "<u>commercial flight</u>," is the price the carrier charges the public for the same class seat on the flight provided to the official. For purposes of this regulation, "<u>commercial flight</u>," <u>means a flight where individual seats are sold to the public in the general course of business.</u></p>	<p>Comment: This regulation now provides a more realistic valuation method of air transportation. The value of transportation on a commercial flight is the price charged to the public for the same class seat. The value of all other air transportation is the value of the normal rental charge divided by the number of passengers. (Gift Memo,10/31/11.)</p>

<p>or hire on a regular basis, and for which a fare is charged on a per passenger basis.</p> <p>(b) For all other air transportation, the value of the normal and usual charter fare or rental charge for a comparable airplane of comparable size, divided by the number of all of the following persons that share the same flight:</p> <p>(1) "Designated employees" as defined in Section 82019.</p> <p>(2) Public officials specified in Section 87200.</p> <p>(3) Members of Congress, and officers and employees of the executive, legislative, or judicial branch of the United States government.</p> <p>(c) The actual cost or fair market value of any other personal benefits provided to the official during the air transportation, including food, beverages, or entertainment, shall be treated as a separate gift to the official unless the benefit is included as part of the fare determined in subdivision (a) or (b).</p>	<p>(b) The value of all other air transportation is the value of the normal and usual charter fare or rental charge for a comparable airplane of comparable size, divided by the number of <u>passengers</u> aboard the flight.</p>	
	<p>§ 18946.6. Reporting and Valuation of Gifts: Air Transportation. [Renumbered]</p>	<p>Renumbered: 18946.6 renumbered to 18946.5.</p>