

1 Amend 2 Cal. Code Regs. Section 18942 to read:

2 **§ 18942 Exceptions to Gift and Exceptions to Gift Limits.**

3 (a) For purposes of Sections 82028, 82030, and the gift regulations, except as otherwise
4 indicated, the following payments that otherwise meet the definition of gift as provided in
5 Section 82028, subdivision (a) are neither gifts nor income:

6 (1) Informational material as defined by Regulation 18942.1. (Section 82028(b)(1).)

7 (2) A payment that is not used and that, pursuant to Regulation 18941 is returned,
8 donated, or for which reimbursement is paid. (Section 82028(b)(2).)

9 (3) A payment from: the official's spouse or former spouse; child or step-child; parent;
10 grandparent; grandchild; brother; sister; current or former parent-in-law, brother-in-law, or sister-
11 in-law; nephew; niece; aunt or uncle; including grand nephew, grand niece, grand aunt, or grand
12 uncle, or first cousin including first cousin once removed or the spouse, or former spouse, of any
13 such person other than a former in-law, unless the donor is acting as an agent or intermediary for
14 any person not identified in this paragraph. (Section 82028(b)(3).)

15 (4) A campaign contribution required to be reported under Chapter 4 of the Act
16 (commencing with Section 84100). (Section 82028(b)(4).)

17 (5) Any devise or inheritance. (Section 82028(b)(5).)

18 (6) A personalized plaque or trophy valued at less than \$250. (Section 82028(b)(6).)

19 (7)(A) The cost of home hospitality, as defined in Regulation 18942.2, provided to an
20 official by an individual in the individual's home when the individual is present, unless one of the
21 following provisions applies:

1 (i) Any part of the cost of the hospitality provided by the host is paid directly or
2 reimbursed by another person.

3 (ii) Any person deducts any part of the cost of such hospitality as a business expense on
4 any government tax return.

5 (iii) There is an understanding between the individual extending the hospitality and
6 another person that any amount of compensation the individual receives from that person
7 includes a portion to be utilized to provide gifts of hospitality in the individual's home.

8 (B) In determining the applicability of subparagraph (A), the following apply:

9 (i) The cost of providing hospitality does not include any part of the value or rental cost
10 of the home nor does it include any depreciation value on the home where the hospitality is
11 extended.

12 (ii) An official may presume that the cost of home hospitality is paid by the host unless
13 the host discloses to the official, or it is clear from the surrounding circumstances at the time the
14 hospitality is provided, that a person, other than the host, paid the cost of the hospitality.

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

1 (B) Reciprocal Exchanges made in a social relationship between an official and another
2 individual, who is not a lobbyist who is registered to lobby the official's agency, with whom the
3 official participates in repeated social events or activities such as lunches, dinners, rounds of
4 golf, attendance at entertainment or sporting events, where the parties typically rotate payments
5 on a continuing basis so that, over time, each party pays for approximately his or her share of the
6 costs of the continuing activities, so long as the total value of payments received by the official
7 within the calendar year is not substantially disproportionate to the amount paid by the official. If
8 the official receives a disproportionate amount relative to what the official paid, the official has
9 received a gift for the excess amount. This reciprocal exchange payment provision does not
10 apply to any single payment that is equal to or greater than the amount specified in Regulation
11 18940.2.

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

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

21 (11) Admission, where paid admission is required, food, and nominal items provided as
22 part of the paid admission to those attending, to an official where the official makes a speech is

1 not a “payment” as defined in Section 82044 so long as the admission is provided by the person
2 who sponsors organizes the event. For purpose of this subdivision, nominal means an
3 insignificant item typically purchased in large volume and provided for free as a means of
4 advertisement at events, such as a pen, pencil, mouse pad, rubber duck, stress ball, note pad, or
5 similar item.

6 ~~(11)~~ (12) Payments for campaign activities as specified in Regulation 18950.4.

7 ~~(12)~~ (13) A ticket provided to an official and one guest of the official for his or her
8 admission to a facility, event, show, or performance for an entertainment, amusement,
9 recreational, or similar purpose at which the official performs a ceremonial role on behalf of his
10 or her agency, as defined in Regulation 18942.3, so long as the official's agency complies with
11 the posting provisions set forth in Regulation 18944.1, subdivision (d). Any official who attends
12 the event as part of his or her job duties to assist the official who is performing the ceremonial
13 role has not received a gift or income by attending the event.

14 ~~(13)~~ (14) A prize or award received in a manner not related to the official's status in a
15 bona fide contest, competition, or game of chance. A prize or award that is not reported as a gift
16 shall be reported as income unless the prize or award is received as a winning from the
17 California State Lottery.

18 ~~(14)~~ (15) Benefits received as a guest attending a wedding or civil union so long as the
19 benefits are substantially the same as the benefits received by the other guests attending the
20 event.

21 ~~(15)~~ (16) Bereavement offerings typically provided in memory of and concurrent with the
22 passing of a spouse, parent, child, or sibling or other relative of the official.

1 ~~(16)~~ (17) Acts of Neighborliness. A service performed, such as a loan of an item, an
2 occasional needed ride, personal assistance in making a repair, bringing in the mail or feeding
3 the cat while the official is away, and other similar acts of ordinary assistance consistent with
4 polite behavior in a civilized society that would not normally be part of an economic transaction
5 between like participants under similar circumstances.

6 ~~(17)~~ (18) (A) Bona Fide Date or Dating Relationship. Personal benefits commonly
7 exchanged between people on a date or in a dating relationship, unless the individual providing
8 the benefit to the official is listed under (D)(i-iii) below. If the benefit is from an individual listed
9 under (D)(i-iii) the benefit is a gift that is not reportable or subject to limits but the aggregate
10 value is subject to the Act's conflict of interest provisions if the value meets the amount specified
11 in Regulation 18940.2.

12 (B) Acts of Human Compassion. Payments provided to an official, or an official's family
13 member, by an individual to offset family medical or living expenses that the official can no
14 longer meet without private assistance because of an accident, illness, employment loss, death in
15 the family, or other unexpected calamity; or to defray expenses associated with humanitarian
16 efforts such as the adoption of an orphaned child, so long as the source of the donation is an
17 individual who has a prior social relationship with the official of the type where it would be
18 common to provide such assistance (such as a relative, long-term friend, neighbor, co-worker or
19 former co-worker, member of the same local religious or other similar organization, etc.), or the
20 payment is made without regard to official status under other circumstances in which it would be
21 common to receive community outreach, unless the individual providing the benefit to the
22 official is listed under (D)(i-iii) below.

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

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

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

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

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

18 ~~(18)~~ (19) Any other payment not identified above, that would otherwise meet the
19 definition of gift, where the payment is made by an individual who is not a lobbyist registered to
20 lobby the official's agency, where it is clear that the gift was made because of an existing
21 personal or business relationship unrelated to the official's position and there is no evidence
22 whatsoever at the time the gift is made that the official makes or participates in the type of

1 governmental decisions that may have a reasonably foreseeable material financial effect on the
2 individual who would otherwise be the source of the gift.

3 (b) The following gifts are exempt from the limitations on gifts described in Section
4 89503:7

5 (1) Payments for transportation, lodging, and subsistence that are exempt from limits on
6 gifts by Section 89506.

7 (2) Wedding gifts.

8 Note: Authority cited: Section 83112, Government Code. Reference: Sections 82028,
9 86113, 86203, 87100, 87103, 87207, 87302 and 89503, Government Code.