

1 Amend and Renumber 2 Cal. Code Regs. Section 18702.4. and Amend and Renumber Section
2 18705.4 to read:

3 **§ 18702.4. ~~Exceptions~~ Materiality Standard: Financial Interest in Source of Gift.**

4 **[Moved to Regulation 18704.4]**

5 ~~(a) Making or participating in making a governmental decision shall not include:~~

6 ~~(1) Actions of public officials which are solely ministerial, secretarial, manual, or~~
7 ~~clerical;~~

8 ~~(2) Appearances by a public official as a member of the general public before an agency~~
9 ~~in the course of its prescribed governmental function to represent himself or herself on matters~~
10 ~~related solely to the official's personal interests as defined in Title 2, California Code of~~
11 ~~Regulations, section 18702.4(b)(1); or~~

12 ~~(3) Actions by public officials relating to their compensation or the terms or conditions of~~
13 ~~their employment or contract. In the case of public officials who are "consultants," as defined in~~
14 ~~Title 2, California Code of Regulations, section 18701(a)(2), this includes actions by consultants~~
15 ~~relating to the terms or conditions of the contract pursuant to which they provide services to the~~
16 ~~agency, so long as they are acting in their private capacity.~~

17 ~~(b) Notwithstanding Title 2, California Code of Regulations, section 18702.3(a), an~~
18 ~~official is not attempting to use his or her official position to influence a governmental decision~~
19 ~~of an agency covered by that subsection if the official:~~

20 ~~(1) Appears in the same manner as any other member of the general public before an~~
21 ~~agency in the course of its prescribed governmental function solely to represent himself or~~
22 ~~herself on a matter which is related to his or her personal interests. An official's "personal~~
23 ~~interests" include, but are not limited to:~~

24 ~~(A) An interest in real property which is wholly owned by the official or members of his~~
25 ~~or her immediate family.~~

26 ~~(B) A business entity wholly owned by the official or members of his or her immediate~~
27 ~~family.~~

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1 ~~(C) A business entity over which the official exercises sole direction and control, or over~~
2 ~~which the official and his or her spouse jointly exercise sole direction and control.~~

3 ~~(2) Communicates with the general public or the press.~~

4 ~~(3) Negotiates his or her compensation or the terms and conditions of his or her~~
5 ~~employment or contract.~~

6 ~~(4) Prepares drawings or submissions of an architectural, engineering or similar nature to be used~~
7 ~~by a client in connection with a proceeding before any agency. However, this provision applies~~
8 ~~only if the official has no other direct oral or written contact with the agency with regard to the~~
9 ~~client's proceeding before the agency except for necessary contact with agency staff concerning~~
10 ~~the processing or evaluation of the drawings or submissions prepared by the official.~~

11 ~~(5) Appears before a design or architectural review committee or similar body of which he or she~~
12 ~~is a member to present drawings or submissions of an architectural, engineering or similar nature~~
13 ~~which the official has prepared for a client if the following three criteria are met:~~

14 ~~(A) The review committee's sole function is to review architectural or engineering plans~~
15 ~~or designs and to make recommendations in that instance concerning those plans or designs to a~~
16 ~~planning commission or other agency;~~

17 ~~(B) The ordinance or other provision of law requires that the review committee include~~
18 ~~architects, engineers or persons in related professions, and the official was appointed to the body~~
19 ~~to fulfill this requirement; and~~

20 ~~(C) The official is a sole practitioner.~~

21 ~~(e) Academic Decisions~~

22 ~~(1) Except as provided in subsection (e)(2), neither disclosure of financial interests nor~~
23 ~~disqualification is required under Government Code sections 87100, 87302, or any Conflict of~~
24 ~~Interest Code, in connection with:~~

25 ~~(A) Teaching decisions, including the selection by a teacher of books or other educational~~
26 ~~materials for use within his or her own school or institution, and other decisions incidental to~~
27 ~~teaching;~~

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1 ~~(B) Decisions made by a person who has teaching or research responsibilities at an~~
2 ~~institution of higher education to pursue personally a course of academic study or research, to~~
3 ~~apply for funds to finance such a project, to allocate financial and material resources for such~~
4 ~~academic study or research, and all decisions relating to the manner or methodology with which~~
5 ~~such study or research will be conducted. Provided, however, that the provisions of this~~
6 ~~subsection (c)(1)(B) shall not apply with respect to any decision made by the person in the~~
7 ~~exercise of institution or campus wide administrative responsibilities respecting the approval or~~
8 ~~review of any phase of academic research or study conducted at that institution or campus.~~

9 ~~(2) Disclosure (consistent with 2 Cal. Code Regs. section 18755) shall be required under~~
10 ~~Government Code section 87302 or any Conflict of Interest Code in connection with a decision~~
11 ~~made by a person or persons at an institution of higher education with principal responsibility for~~
12 ~~a research project to undertake such research, if it is to be funded or supported, in whole or in~~
13 ~~part, by a contract or grant (or other funds earmarked by the donor for a specific research project~~
14 ~~or for a specific researcher) from a nongovernmental entity, but disqualification may not be~~
15 ~~required under Government Code sections 87100, 87302 or any Conflict of Interest Code in~~
16 ~~connection with any such decision if the decision is substantively reviewed by an independent~~
17 ~~committee established within the institution. Note: Authority cited: Section 83112, Government~~
18 ~~Code. Reference: Section 87100, Government Code.~~

19 **[Moved from Regulation 18705.4]**

20 The financial effect of a governmental decision on the source of a gift to a public official,
21 as identified in Section 87103(e), is material if:

22 (a) The source is a claimant, applicant, respondent, contracting party, or is otherwise
23 named or identified as the subject of the proceeding; or

24 (b) The source is an individual that will be financially affected under the standards
25 applied to an official in Regulation ~~18705.5~~ 18702.5, or the official knows or has reason to know
26 that the individual has an interest in a business entity or real property that will be financially
27 affected under the standards applied to a financial interest in Regulation ~~18705.1 or 18705.2,~~
28 18702.1 or 18702.2, respectively; or

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2 (c) The source is a nonprofit that will receive a measurable financial benefit or loss, or
3 the official knows or has reason to know that the nonprofit has an interest in real property that
4 will be financially affected under the standards applied to a financial interest in Regulation
5 ~~18705.2~~ 18702.5; or

6 (d) The source is a business entity that will be financially affected under the standards as
7 applied to a financial interest in Regulation ~~18705.1~~ 18702.1.

8 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5,
9 87102.6, 87102.8 and 87103, Government Code.

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