



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Miadich and Commissioners Baker, Gómez, Wilson, and Wood

From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel

Subject: Advice Letter Report and Commission Review

Date: August 26, 2022

The following advice letters have been issued since the July 29, 2022, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the September 15, 2022, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Campaign

Peter Bagatelos

[A-22-081](#)

A candidate may use separate campaign committees simultaneously while running for two separate terms of office. Pursuant to the Act, expenditures must be made from the account set up for a specific term of office. To the extent there are expenditures made which benefit both campaigns, these costs must be allocated between the committees using a reasonable method and documented in the committees' files.

Conflict of Interest

Kristopher J. Kokotaylo

[A-22-070](#)

The Act prohibits a vice mayor from taking part in decisions regarding properties on a draft housing element where he owns a residence located within 158 feet of one of the properties and there is not clear and convincing evidence that decisions will not have a measurable impact on the residence. However, to the extent that the property 158 feet from the official's residence is removed from the decisions or segmented under Regulation 18706, the official should seek additional advice regarding taking part in decisions involving the housing element.

Jeffrey A. Walter

[A-22-086](#)

A councilmember may take part in a city council decision interpreting the city zoning code, despite owning a rental property less than 100 feet from a commercial zoning district, where the official's property is located more than two miles from the specific property at issue and any potential broad impact on commercial zoning districts as a result of the decision would apply to all properties within the districts.

*Revolving Door***Danielle Borrelli**[A-22-075](#)

The Act's revolving door provisions do not prohibit a state university employee from accepting a position with a private company that currently provides services to the university. However, we caution the ban on influencing prospective employment prohibits the employee from taking part in decisions that financially affect the company while negotiating employment and that the permanent ban may apply to any particular matters involving specific parties the employee participated in as a state employee. However, because the employee's position was not designated in the university's conflict of interest code, the "one-year" ban does not apply.

*Section 1090***Chelsea Straus**[A-22-064](#)

Where two contractors provided preconstruction services on an extensive airport construction project but did so in their private capacities without engaging in or advising on the public contracts of the airport agency, the contractors are not subject to Section 1090 due to their previous services to the agency on the project. Additionally, to the extent that any employee of the contractors qualifies as a consultant for purposes of the Act, the employee is not prohibited from bidding for the subsequent contract as negotiating terms and conditions of an employment or consulting contract is not a type of decision subject to the conflict-of-interest prohibitions.

Warren Green[A-22-067](#)

Section 1090 does not prohibit a utility agency from entering a second contract with an independent contractor that has merely provided technical consulting services to the agency. However, the agency is prohibited from entering a second contract with independent contractors that have been hired to advise on or engage in public contracting on behalf of the agency.

Jeffrey Scott[A-22-080](#)

Under Section 1090, a healthcare district CEO who is not a member of the district's board of directors is prohibited from taking part in the district's awarding of a grant to a nonprofit organization that employs the CEO's spouse. However, the district is not prohibited from awarding the grant so long as the CEO properly recuses himself from the process.