



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 Cardenas, Hatch and Hayward

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

**Subject:** Advice Letter Report and Commission Review

**Date:** June 3, 2019

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The following advice letters have been issued since the May Advice Letter Report. The Commission may review and discuss the following letters and may act to withdraw the advice provided. Full copies of FPPC Advice Letters, including those listed below, are available at: <http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

### **Campaign**

**Bianca Pirayou**

[A-19-048](#)

The Act requires that a candidate controlled ballot measure committee maintain its status as “candidate controlled” until the controlling candidate no longer has an open committee for elective office. Once a candidate terminates his or her committee for election to office, the status of the candidate’s controlled ballot measure committee may be changed to non-candidate controlled by amending the committee’s statement of organization. When this change in status occurs, because the ballot measure committee is in effect terminating its status as candidate controlled, the ballot measure committee may dispense its funds as provided for in Regulation 18521.5(d)(3), which governs the use of committee funds when a candidate controlled ballot measure committee is preparing to terminate.

**Clementine Bonner Klein**

[A-19-105](#)

After an original report or statement has been on file for at least two years, a filing officer may utilize any space-saving device that is capable of retaining documents indefinitely including electronic retention by Netfile or Southtech in accordance with Section 81009(g).

### **Conflict of Interest**

**Emel G. Wadhvani**

[A-19-029](#)

Public official may participate in the development and approval of Water Board’s regulatory program for discharges from irrigated agricultural lands which will subject his irrigated agricultural real property to increased annual fees and costs of approximately \$267, because the increase is anticipated to be nominal, and therefore not material, under the Act.

**Anna Chouteau**[A-19-052](#)

The Act's conflict of interest provisions do not prohibit a councilmember from taking part in decisions concerning the City's General Plan update because it will not have any financial impact on her spouse's business located outside of the City's jurisdiction but in one of the study areas of the update.

**Jason S. Rosenberg, Esq.**[A-19-075](#)

City councilmember does not have a disqualifying conflict of interest under the Act in participating in decisions involving City-created tenant protection policies and programs based on his position as an outreach coordinator for a nonprofit organization advocating for housing-related issues. It is not reasonably foreseeable that the tenant protection policy decisions will materially affect the Councilmember's nonprofit employer.

**Robin Donoghue**[A-19-079](#)

The Act prohibits a mayor and a planning commissioner from taking part in governmental decisions relating to a residential development project for 360 condominium units on a 20-acre project site that is approximately 345 feet away commercial real property in which both the mayor and the planning commissioner have financial interests because it is reasonably foreseeable that those decisions would have a material financial effect on the mayor's and the planning commissioner's respective interests in that commercial property.

**Christine Davi**[A-19-082](#)

Under the Act, a member of a Neighborhood Improvement Program Committee has a potential conflict of interest in four proposed projects located within 500 feet of his residence. However, because three of the projects will likely have only a nominal, inconsequential or insignificant financial effect on his residence, he is not disqualified from those three decisions. Additionally, the committee member may take part in decisions related to the remaining projects so long as a decision on the project in which he is disqualified is considered first and a final decision is reached by the Committee without his participation.

**Terence R. Boga**[A-19-083](#)

Under the Act, it is not reasonably foreseeable that a decision to adopt a Specific Plan and associated Environmental Impact Report to establish allowable land uses in a particular area of the City will have a material financial effect on a councilmember's source of income, a tax-exempt, non-profit, that advocates for state level policies that promote the development of affordable housing.

**Mark Vanni**[I-19-084](#)

Public official may participate in the decisions relating to City's Apartment Rent Ordinance and Ellis Act Ordinance under the public generally exception in Regulation 18703(e)(4), where her only financial interest at issue is her leasehold interest in her residential apartment (subject to both ordinances), and the ordinances are of the type that affect all renters of residential property within the official's jurisdiction.

## Section 1090

### **Michael J. Ciccozzi**

[A-19-022](#)

Section 1090 does not prohibit County from entering into a design and/or project manager contract with company that previously performed a Broadband Feasibility Study. Based upon the facts provided, the company did not participate in the making of the design and/or project manager contract through its performance of feasibility study and has not imposed considerable or undue influence over the County regarding the design and/or project manager contract.

### **Robert Schulz**

[A-19-054](#)

Section 1090 does not prohibit the general contractor for State University from entering a subcontract with an architectural firm to provide architectural design services for a project where the firm performed a feasibility study under a previous contract for the same project. Under the initial contract, the firm, was required to perform conceptual design work for a new multi-use stadium at the direction of the University and the work performed was used to inform key University decision makers. Thus, the firm's work on the first contract does not disqualify it from the subsequent contract.

### **Robert Garcia**

[A-19-055](#)

Section 1090 prohibits Board of Education President from making or participating in the making of, and the board from entering into, a contract with a business entity for fire alarm equipment and related services at an elementary school under the board's jurisdiction because the president has a financial interest in that contract as an employee of that business entity.

### **Daniel G. Sodergren**

[A-19-057](#)

Section 1090 prohibits City from entering into an energy services contract with a company that, as a consultant to the City under a previous contract, established the second contract's scope of work as well as terms and conditions related to the implementation of the scope of work.

### **Shannon L. Chaffin**

[A-19-065](#)

Under the Act and Section 1090, a city council could contract with a local company for products and services, despite a councilmember being an employee of the company. The company had 10 or more other employees and the councilmember had been an employee for more than three years prior to accepting office, owned less than three percent of company stock, was not an officer or director of the contracting part, and did not participate in formulating any bid by the contracting party. Thus, his interest was "remote" under Section 1091(b)(2), and the City could contract with the company so long as the interested councilmember properly recused himself.

### **James A. Jackson, Esq.**

[A-19-069](#)

Section 1090 does not prohibit a Harbor District and commissioner from renewing a tideland lease, because the commissioner has a noninterest in the lease under Section 1091.5(a)(3) due to the fact that the district issues tideland leases as a public service generally provided on the same terms and conditions to all tideland tenants.

**Daniel Para**[A-19-100](#)

A city councilmember could take part in the City's negotiations and sale of property to a non-profit organization he volunteers for because his work for the organization was uncompensated and, thus, he had no potentially disqualifying economic interest in the organization.

**Statement of Economic Interest****Bruce Geller**[A-19-041](#)

The manager of an equity investment fund has had a long-term contractual relationship with a state agency to provide the ongoing and primary management of the investment of public moneys. The primary manager of the fund is a public official who manages a public investment and a statutory filer under Section 87200 of the Act. Thus, the manager is subject to full disclosure, and must file Statements of Economic Interest as directed by the employing agency.

**Paul Joiner**[A-19-062](#)

A public official is not required to report loans received from his or her parents on a Statement of Economic Interests because personal loans received from an individual's parent are specifically exempt from the Act's definition of "income."

**Jay Goldstone**[A-19-064](#)

The manager of a short-term investment fund cash investment option has a long-term contractual relationship with a state agency to provide the ongoing and primary management of the investment of public monies. The primary manager of the fund is a public official who manages a public investment and a statutory filer under Government Code section 87200. Thus, the manager is subject to full disclosure, and must file Statements of Economic Interests as directed by the employing agency.