

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18741.1. Revolving Door; State Permanent Ban.

(a) The prohibitions of Sections 87401 and 87402 apply to any state administrative official if all of the following criteria are met:

(1) The official has permanently left or is on a leave of absence from, as defined in Regulation 18746.4(a), any particular state office or employment.

(2) The official is compensated, or is promised compensation, for making an appearance or communication, or for aiding, advising, counseling, consulting, or assisting in representing another person, other than the State of California, in a judicial, quasi-judicial or other proceeding. For purposes of Section 87401 and 87402, a payment made for necessary travel, meals, and accommodations received directly in connection with voluntary services is not considered compensation.

(3) The official makes an appearance or communication, or aids, advises, counsels, or assists in representing another person, other than the State of California, in making an appearance or communication, before any officer or employee of any state administrative agency for the purpose of influencing, as defined in Regulation 18746.2, a judicial, quasi-judicial or other proceeding, including but not limited to any proceeding described in Regulation 18202, subdivisions (a)(1)-(a)(7).

(4) The judicial, quasi-judicial or other proceeding includes any proceeding in which the official participated personally and substantially by making, participating in the making, or influencing of a governmental decision, as defined in Regulation 18704, but excluding any proceeding involving the rendering of a legal advisory opinion not involving a specific party or

parties. A supervisor is deemed to have participated in any proceeding that was “pending before,” as defined in subdivision (b) of Regulation 18438.2, the official's agency and that was under his or her supervisory authority. For purposes of this regulation, a proceeding is under a supervisor's “supervisory authority” if any of the following applies to the supervisor:

(A) The supervisor's duties include the primary responsibility within the agency for directing the operation or function of the program where the proceeding is initiated or conducted. However, this provision does not apply to a supervisor who is only responsible for the general oversight of the administrative actions or functions of a program in which the responsibilities concerning the specific or final review of the proceeding are expressly delegated to other persons in the agency.

(B) The supervisor directly supervises the person performing the investigation, review, or other action involved in the proceeding including, but not limited to, assigning the matter for which the required conduct is taken.

(C) The supervisor reviews, discusses, or authorizes any action in the proceeding.

(D) The supervisor has contact with any of the participants in the proceeding regarding the subject of the proceeding.

(5) The judicial, quasi-judicial or other proceeding is the same proceeding in which the official participated.

COMMENT: Also see *In re Lucas* (2000) 14 FPPC Ops. 15.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87401 and 87402, Government Code.

HISTORY

1. New section filed 2-19-99; operative 2-19-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 8).
2. Editorial correction moving section 18741.1 from article 2 to article 2.5 (Register 2001, No. 11).
3. Amendment filed 10-6-2005; operative 11-5-2005 (Register 2005, No. 40).
4. Amendment of section heading and section filed 6-15-2009; operative 7-15-2009. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2009, No. 25).
5. Amendment of subsection (a)(4) filed 7-22-2019; operative 8-21-2019 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2019, No. 30).