

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

§ 18702.5. Materiality Standard: Financial Interest in an Official's Personal Finances.

(a) A governmental decision's reasonably foreseeable financial effect on a public official's financial interest in personal finances or those of immediate family, also referred to as a "personal financial effect," is material if the decision may result in the official or the official's immediate family member receiving a financial benefit or loss of \$500 or more in any 12-month period due to the decision.

(b) Notwithstanding subdivision (a), a personal financial effect is not material if the decision would:

(1) Affect only the salary, per diem, or reimbursement for expenses the public official or a member of the official's immediate family receives from a federal, state, or local government agency unless the decision is to appoint (other than an appointing decision permitted under subdivision (b)(2) and (3)), hire, fire, promote, demote, suspend without pay or otherwise take disciplinary action with financial sanction against the official or a member of the official's immediate family, or to set a salary for the official or a member of the official's immediate family which is different from salaries paid to other employees of the government agency in the same job classification or position, or when the member of the public official's immediate family member is the only person in the job classification or position.

(2) Appoint the official to be a member of any group or body created by law or formed by the official's agency for a special purpose. However, if the official will receive a stipend for attending meetings of the group or body aggregating \$500 or more in any 12-month period, the

effect on the official's personal finances is material unless the appointing body posts all of the following on its website:

(A) A list of each appointed position and its term.

(B) The amount of the stipend for each appointed position.

(C) The name of the official who has been appointed to the position.

(D) The name of any official who has been appointed to be an alternate for the position.

(3) Appoint the official to be an officer of the governing body of which the official is already a member, such as a decision to appoint a city councilmember to be the city's mayor.

(4) Establish or change the benefits or retirement plan of the official or the official's immediate family member, and the decision applies equally to all employees or retirees in the same bargaining unit or other representative group.

(5) Result in the payment of any travel expenses incurred by the official or the official's immediate family member while attending a meeting as an authorized representative of an agency.

(6) Permit the official's use of any government property, including automobiles or other modes of transportation, mobile communication devices, or other agency-provided equipment for carrying out the official's duties, including any nominal, incidental, negligible, or inconsequential personal use while on duty.

(7) Result in the official's receipt of any personal reward from the official's use of a personal charge card or participation in any other membership rewards program, so long as the reward is associated with the official's approved travel expenses and is no different from the reward offered to the public.

(c) If the decision would have a reasonably foreseeable financial effect on the official's financial interest in a business entity or real property, any related effect on the official's personal finances is not considered separately. The financial effect on the business entity or real property is analyzed only under the respective materiality standards in Regulations 18702.1 and 18702.2. Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5, 87102.6, 87102.8 and 87103, Government Code.

HISTORY

1. New section filed 6-10-2003; operative 6-10-2003 (Register 2003, No. 24). For prior history, see Register 98, No. 48.
2. Amendment of subsection (b)(1)(A) filed 10-26-2004; operative 11-25-2004 (Register 2004, No. 44).
3. Change without regulatory effect renumbering former section 18702.5 to section 18704.5 and renumbering former section 18705.5 to section 18702.5, including amendment of subsection (c), filed 4-27-2015. 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 2015, No. 18).
4. Amendment of section heading and repealer and new section filed 1-15-2020; operative 2-14-2020 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 2020, No. 3).

5. Amendment of subsections (a) and (b)(1) filed 5-12-2021; operative 6-11-2021 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 2021, No. 20).