

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

§ 18746.1. Revolving Door; State One-Year Ban.

(a) The prohibitions of Section 87406 apply to the following:

(1) A member of the Legislature.

(2) An elected state officer.

(3) A member of a state board or commission with “decisionmaking authority,” as that term is defined in Regulation 18700(c)(2).

(4) An employee of a state administrative agency who holds a position that is designated or should be designated in the agency's conflict-of-interest code.

(5) An individual who holds a position enumerated in Section 87200 appointed to or employed by a state administrative agency.

(b) A public official covered by subdivision (a) of this regulation is prohibited from making any appearance or communication if all of the following apply:

(1) The official has permanently left, as defined in Regulation 18746.4(b), any particular office or employment specified in subdivision (a) of this regulation.

(2) The appearance or communication is made within one year after leaving that office or employment. For a member of the Legislature who resigns from office, however, the prohibition period commences with the effective date of the resignation and concludes one year after the adjournment sine die of the session in which the resignation occurred, meaning it concludes one year after the final termination of the legislative session.

(3) The public official is compensated, or promised compensation, for the appearance or communication. For purposes of Section 87406, a payment made for necessary travel, meals, and

accommodations received directly in connection with voluntary services is not considered compensation.

(4) The appearance or communication is made on behalf of any person as an agent, attorney, or representative of that person. An appearance or communication made by a public official relating solely to represent his or her personal interests under Regulation 18704(d)(2) is not prohibited or limited by this section.

(5) The appearance or communication is made by any of the following for the purpose of influencing, as defined in Regulation 18746.2:

(A) A former member of the Legislature in a legislative action.

(B) A former elected state official, other than a former member of the Legislature, in an administrative action, or any discretionary action involving the issuance, amendment, awarding, or revocation of a permit, license, grant or contract, or the sale or purchase of goods or property.

(C) A former official as specified in subdivision (a)(3) through (5) in a legislative or administrative action, or any discretionary action involving the issuance, amendment, awarding, or revocation of a permit, license, grant or contract, or the sale or purchase of goods or property.

(6) The appearance or communication is any of the following:

(A) Made by a former member of the Legislature before the Legislature, any committee or subcommittee thereof, any present member of the Legislature, or any officer or employee thereof.

(B) Made by a former elected state official, other than a former member of the Legislature, before any state or administrative agency, or any officer or employee thereof.

(C) Made by any former official as specified in subdivision (a)(3) through (a)(5) before any of the following:

(i) The state administrative agency, or officer or employee thereof, that the public official worked for or represented as specified in subdivision (a)(3) through (5). An employee loaned to an agency is deemed to have worked for or represented that agency.

(ii) Any state administrative agency, or officer or employee thereof, whose budget, personnel, and other operations are subject to the direction and control of any agency described in subdivision (b)(6)(C)(i). However, whether an agency is provided technical assistance or legal advice, or is subject to oversight, by another agency pursuant to state law, are not factors to be considered in determining whether an agency is subject to the direction and control of another.

(iii) Any state administrative agency, or officer or employee thereof, subject to the direction and control of the Governor, if the official was a designated employee of the Governor's office.

(c) Services performed to administer, implement, or fulfill the requirements of an existing permit, license, grant, contract, or sale agreement are excluded from the prohibitions of Section 87406 and this regulation, provided the services do not involve the issuance, amendment, awarding, or revocation of any of these actions or proceedings. However, the prohibitions of Government Code Sections 87401 and 87402 may apply.

Note: Authority cited: Section 83112, Government Code. Reference: Section 87406, Government Code.

HISTORY

1. New section filed 2-18-99; operative 2-18-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 8).
2. 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).

3. Amendment of subsections (a)(3), (b)(2), (b)(4), (b)(5)(C), (b)(6)(C) and (b)(6)(C)(i) filed 3-20-2018; operative 4-19-2018 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 2018, No. 12).

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