

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

§ 18747. Influencing Prospective Employment.

(a) No public official shall “make,” “participate in making,” or “use official position to influence” any governmental decision, as defined in Regulation 18704, if the decision directly relates to a prospective employer.

(b) A governmental decision “directly relates” to a prospective employer if the public official knows or has reason to know:

(1) The prospective employer is “explicitly involved” in the decision, as defined in Regulation 18701(a); or

(2) It is reasonably foreseeable that the financial effect of a decision on a prospective employer is material as follows:

(A) For a business entity, the same as set forth in Regulation 18702.1;

(B) For a nonprofit entity, the same as set forth in Regulation 18702.3(a)(1) and (3); or

(C) For an individual, the same as set forth in Regulation 18702.3(a)(1) and (2).

(c) A person is a “prospective employer” of a public official if the official, either personally or through an agent, is “negotiating” or has an “arrangement” concerning prospective employment with that person.

(1) A public official is “negotiating” employment when the official interviews or discusses an offer of employment with an employer or the employer's agent.

(2) A public official has an “arrangement” concerning prospective employment when the official accepts an employer's offer of employment.

(3) A public official is not “negotiating” or does not have an “arrangement” concerning prospective employment if the official rejects or is rejected for employment.

(d) Notwithstanding subdivision (a), the prohibitions of Section 87407 do not apply if:

(1) The governmental decision will affect the “public generally” as set forth in Regulation 18703;

(2) The public official is legally required to make or participate in the making of the governmental decision within the meaning of Section 87101 and Regulation 18705; or

(3) The prospective employer is a state, local, or federal governmental agency.

Note: Authority cited: Section 83112, Government Code. Reference: Section 87407, Government Code.

HISTORY

1. New article 2.5 (section 18747) and section filed 10-28-98; operative 10-28-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 44).

2. Change without regulatory effect amending subsections (a), (b)(1), (b)(2)(A)-(C) and (d)(1)-(2) filed 12-15-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 51).

3. Change without regulatory effect amending section filed 10-6-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 41).

4. Amendment of subsections (a) and (b)(2)(A) filed 10-26-2004; operative 11-25-2004 (Register 2004, No. 44).

5. Amendment filed 7-10-2015; operative 7-10-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations. 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. 28).

6. Amendment of subsections (a) and (c)(1)-(3) 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).