

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

§ 18943. Gift to Official Through Family Member.

(a) Scope of Regulation. This regulation determines when a payment will be treated as if it were a gift to the official even though the payment is made to the official's family member.

(b) For purposes of this regulation, the term “family member” means any of the following individuals:

(1) The official's spouse as defined in Section 82048.8.

(2) A “dependent child” of the official as defined in Regulation 18229.1.

(3) The official's child (including an adoptive child or stepchild) who meets all of the following criteria:

(A) Is at least 18 but no more than 23 years old and is a full-time or part-time student.

(B) Has the same principal place of residence as the official. For purposes of this provision, a place, located away from the official's residence, at which the child resides for the purpose of attending school, is not the child's “principal place of residence.”

(C) Does not provide over one-half of the individual's own support.

(c) Absent an exception under Regulation 18942, a payment provided to or for the use of a family member is a gift to the official under either of the following conditions:

(1) There is no established working, social, or similar relationship between the donor and the family member that would suggest an association between the donor and the family member suitable or appropriate for making the type of payment provided to the family member.

(2) There is evidence to suggest the donor had a purpose to influence the official.

Evidence to suggest the donor had a purpose to influence the official exists in any of the following circumstances:

(A) The payment is made to a family member of a state agency official by a donor who is a lobbyist, lobbying firm, lobbyist employer, or other person required to file reports under Chapter 6 (commencing with Section 86100) of the Act and who is registered to lobby the official's agency.

(B) The payment is made to a family member of a state or local government agency official by a donor, or the donor's agent, if the donor is involved in an action or decision before the official's agency, in which the official will reasonably foreseeably participate or in an action or decision in which the official has participated within the last 12 months.

(C) The payment is made to a family member by a person who has a contract with the official's agency or by a person who engages in a business that regularly seeks contracts with or comes before the agency for the purpose of receiving a license, permit, or other entitlement and the official may reasonably foreseeably make or participate in a governmental decision, as defined in the Act's conflict of interest regulations (Regulation 18702 et seq.), related to the person, or has participated in any decision related to the person within 12 months of the time the gift is made. For purposes of this subparagraph, a person who "has a contract with the official's agency" or who "engages in a business that regularly seeks contracts with or comes before the agency" does not include any individual who has less than a ten percent interest in the business contracting with or appearing before the agency.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82028 and 82048.8, Government Code.

HISTORY

1. Renumbering of former section 18726.1 to section 18943, including amendment of section heading, section and Note filed 1-26-94; operative 1-26-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 4).
2. Change without regulatory effect relocating section filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of subsection (b) filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
4. Amendment of section and Note filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
5. Amendment of subsection (b) and Note filed 6-3-97; operative 6-3-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 23).
6. Amendment of subsection (b) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).
7. Amendment of subsection (b) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).
8. Amendment of subsection (b) filed 1-16-2003; operative 1-1-2003. 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 2003, No. 3).
9. Editorial correction of History 8 (Register 2003, No. 12).

10. Amendment of subsection (b) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).
11. Amendment of subsection (b) filed 12-18-2006; operative 1-1-2007. Submitted to OAL 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 2006, No. 51).
12. Amendment of subsection (b) filed 10-31-2008; operative 11-30-2008. 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 2008, No. 44).
13. Amendment of subsection (b) filed 11-15-2010; operative 12-15-2010. 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 2010, No. 47).
14. Repealer of former section 18943 and renumbering of former section 18944 to section 18943, including amendment of section heading and section, filed 1-23-2012. Pursuant to California Code of Regulations, title 2, section 18313(e), FPPC has designated an effective date of 1-1-2012. 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 2012, No. 4).

15. Change without regulatory effect amending subsection (c)(2)(B) filed 2-13-2012 pursuant to section 100, title 1, 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 2012, No. 7).

16. Amendment of subsection (a)(1) and Note filed 9-14-2020; operative 10-14-2020 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. 38).

17. Amendment of subsections (b)(3)(C) and (c)(2)(B) 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).