

1 Amend 2 Cal. Code Regs. Section 18941 to read:

2 **§ 18941. Receipt, Promise, Acceptance and Return of Gift.**

3 ~~(a) Receipt or Acceptance of a Gift. Except as otherwise provided in subdivision (e), a~~  
4 ~~gift is both “received” and “accepted” when the official, or the official's family member pursuant~~  
5 ~~to Regulation 18943, knowingly takes actual possession of the gift or is provided the benefit of~~  
6 ~~the gift, or takes any action exercising direction or control over the gift.~~

7 A gift of a rebate or discount is both “received” and “accepted” under ~~subdivision (a)~~ Section  
8 89503.5 when the official knows that the rebate or discount given to the official is not made in  
9 the regular course of business to members of the public without regard to official status. An  
10 official who receives a rebate or discount has the burden of showing that the rebate or discount  
11 was made in the regular course of business to members of the public without regard to official  
12 status.

13 (b) Promise of a Gift. For the purposes of Sections 87100 and 87103(e), a gift is  
14 “promised” on the date it is offered to the official provided he or she thereafter obtains actual  
15 possession of the gift or takes any action exercising direction or control over the gift or, with  
16 respect to family members under Regulation 18943, on the date the official becomes aware of a  
17 promise of a gift to a family member provided that the family member obtains actual possession  
18 of the gift or takes any action exercising direction or control over the gift.

19 (c) General Rule for Return, Donation, or Reimbursement of a Gift. ~~A~~ Notwithstanding  
20 Section 89503.5, a gift is neither accepted nor received if, within 30 days:

21 (1) The gift is returned to the donor, the donor's agent, or the donor's intermediary from  
22 whom the item was received, unused and without receiving anything of value in exchange for the  
23 returned payment or;

1 (2) The gift is donated, unused, to a 501(c)(3) charitable organization with which the  
2 official, or a member of the official's immediate family, holds no position, or to a state, local, or  
3 federal government agency, without being claimed as a deduction for tax purposes or;

4 (3) The official reimburses the donor, donor's agent, or the donor's intermediary from  
5 whom the payment was received, in full, or for a portion thereof. If the donor is not reimbursed  
6 for the full value of the payment, the value of the gift the official has received is reduced by the  
7 amount of the reimbursement.

8 (d) Relief from Disqualification. In order to relieve the official of an otherwise  
9 disqualifying financial interest under Section 87100 the return, donation, or reimbursement of the  
10 gift pursuant to subdivision (c) above:

11 (1) Must occur within 30 days of receipt and before the date the official makes,  
12 participates in making, or uses his or her official position to influence the governmental decision  
13 in question; or

14 (2) If the return, donation, or reimbursement has not been made before the decision, and  
15 the gift would otherwise cause the official to be disqualified from participating in a governmental  
16 decision, the official must publicly disclose the receipt of the gift on the public record, disclose  
17 its value, and declare that the return, donation, or reimbursement will occur within two working  
18 days following the decision. The subsequent return, donation, or reimbursement of the gift must  
19 be made within two working days, and within 30 days after receipt or acceptance, and it must be  
20 documented in the public record.

21 Note: Authority cited: Section 83112, Government Code. Reference: Sections 82028(b)(2),  
22 87100, 87103, 87207, 87302 and 89503, Government Code.