

1 Amend 2 Cal. Code Regs., Section 18704 to read:

2 **§ 18704. Making, Participating in Making, or Using or Attempting to Use Official Position**
3 **to Influence a Government Decision, Defined.**

4 (a) Making a Decision. A public official makes a governmental decision if the official
5 authorizes or directs any action, votes, appoints a person, obligates or commits ~~his or her~~ the
6 official's agency to any course of action, or enters into any contractual agreement on behalf of
7 ~~his or her~~ the official's agency.

8 (b) Participating in a Decision. A public official participates in a governmental decision if
9 the official provides information, an opinion, or a recommendation for the purpose of affecting
10 the decision without significant intervening substantive review.

11 (c) Using Official Position to Attempt to Influence a Decision. A public official uses ~~his~~
12 ~~or her~~ an official position to influence a governmental decision if ~~he or she~~ the official:

13 (1) Contacts or appears before any official in ~~his or her~~ the official's agency or in an
14 agency subject to the authority or budgetary control of ~~his or her~~ the official's agency for the
15 purpose of affecting a decision; or

16 (2) Contacts or appears before any official in any other government agency for the
17 purpose of affecting a decision, and the public official acts or purports to act within ~~his or her~~ the
18 official's authority or on behalf of ~~his or her~~ the official's agency in making the contact.

19 (d) Exceptions. Making, participating in, or influencing a governmental decision does not
20 include:

21 (1) Ministerial. Actions by a public official that are solely ministerial, secretarial, or
22 clerical.

1 (2) Appearances as a Member of the General Public. An appearance by a public official
2 as a member of the general public before an agency in the course of its prescribed governmental
3 function if the official is appearing on matters related solely to ~~the his or her~~ the official's
4 personal interests, including interests in:

5 (A) Real property owned entirely by the official, members of ~~his or her~~ the official's
6 immediate family, or the official and members of ~~his or her~~ the official's immediate family;

7 (B) A business entity owned entirely by the official, members of ~~his or her~~ the official's
8 immediate family, or the official and members of ~~his or her~~ the official's immediate family; or

9 (C) A business entity over which the official, members of ~~his or her~~ the official's
10 immediate family, or the official and members of ~~his or her~~ the official's immediate family
11 solely or jointly exercise full direction and control.

12 (3) Terms of Employment. Actions by a public official relating to ~~his or her~~
13 compensation or the terms or conditions of ~~his or her~~ the official's employment or consulting
14 contract. However, an official may not make a decision to appoint, hire, fire, promote, demote, or
15 suspend without pay or take disciplinary action with financial sanction against the official or ~~his~~
16 ~~or her~~ the official's immediate family, or set a salary for the official's or ~~his or her~~ the official's
17 immediate family different from salaries paid to other employees of the government agency in
18 the same job classification or position.

19 (4) Public Speaking. Communications by a public official to the general public or media.

20 (5) Academic Decisions.

21 (A) Teaching decisions, including an instructor's selection of books or other educational
22 materials at ~~his or her~~ the instructor's own school or institution, or other similar decisions
23 incidental to teaching; or

1 (B) Decisions by a public official who has teaching or research responsibilities at an
2 institution of higher education relating to ~~his or her~~ the official's professional responsibilities,
3 including applying for funds, allocating resources, and all decisions relating to the manner or
4 methodology with which ~~his or her~~ the official's academic study or research will be conducted.
5 This exception does not apply to a public official who has institution-wide administrative
6 responsibilities as to the approval or review of academic study or research at the institution
7 unrelated to ~~his or her~~ the official's own work.

8 (6) Architectural and Engineering Documents.

9 (A) Drawings or submissions of an architectural, engineering, or similar nature prepared
10 by a public official for a client to submit in a proceeding before the official's agency if:

11 (i) The work is performed pursuant to the official's profession; and

12 (ii) The official does not make any contact with the agency other than contact with
13 agency staff concerning the process or evaluation of the documents prepared by the official.

14 (B) An official's appearance before a design or architectural review committee or similar
15 body of which the official is a member to present drawings or submissions of an architectural,
16 engineering, or similar nature prepared for a client if:

17 (i) The review committee's sole function is to review architectural designs or engineering
18 plans and to make recommendations to a planning commission or other agency;

19 (ii) The review committee is required by law to include architects, engineers or persons in
20 related professions, and the official was appointed to the body to fulfill this requirement; and

21 (iii) The official is a sole practitioner.

22 (7) Additional Consulting Services: Recommendations by a consultant regarding
23 additional services for which the consultant or consultant's employer would receive additional

1 income if the agency has already contracted with the consultant, for an agreed upon price, to
2 make recommendations concerning services of the type offered by the consultant or consultant's
3 employer and the consultant does not have any other economic interest, other than in the firm,
4 that would be foreseeably and materially affected by the decision.

5 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100,
6 87101 and 87302, Government Code.

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