

1 Amend 2 Cal. Code Regs., Section 18944 to read:

2 **§ 18944. Payments Made to an Agency for Use by Agency Officials.**

3 (a) Applicability. Except as limited below, this regulation identifies when a payment that
4 is made to a state or local government agency, or any subdivision, department division, bureau,
5 office board, or commission of the foregoing and used for official agency business is not a gift or
6 income to any official of that agency. This regulation does not apply to a pass or ticket as
7 described in Regulation 18944.1, which shall be governed by that regulation, or for travel
8 expenses as described in Regulation 18950.1, which are governed by that regulation.

9 (b) Definitions.

10 (1) "Payment" means a payment as defined in Section 82044, including the payment for,
11 or provision of, fees, goods or services to an agency where the person providing the payment has
12 no legal obligation to do so.

13 (2) "Agency head" means the individual who has the ultimate legal authority for the
14 agency, or the individual the agency authorizes to determine how the agency uses the payment as
15 provided in paragraph (c)(1).

16 (c) Payment to an Agency. A payment to an agency, as described in subdivision (a), is
17 not a gift or income to the official who receives the use of the payment if it meets all of the
18 following requirements:

19 (1) Official Agency Business. The payment is used for official agency business.

20 (2) Agency Head Controls Use of Payment. The agency head determines and controls the
21 agency's use of the payment including the selection of the agency official who will use the
22 payment. The agency head may not select ~~himself or herself~~ oneself as the individual who will

1 use the payment unless payment is for an item that provides for general use by agency officials
2 and the agency head is one of those officials who will have access to such use.

3 (3) Agency Reports the Payment. The agency reports the payment on a form prescribed
4 by the Commission and maintained pursuant to the provisions of subdivision (d) below, that
5 includes the following information:

6 (A) A description of the payment, the date it was received, the intended purpose and the
7 amount of the payment (or the actual or estimated fair market value of the goods or services
8 provided, if the amount is unknown).

9 (B) The name and address of the donor. If the donor is not an individual, the report must
10 also describe the business activity, or the nature and interests of the entity. If the donor has raised
11 funds from another person for the specific purpose of making the payment to the agency, the
12 report must contain the name of each person and the amount given by each person.

13 (C) The agency's use of the payment, and the name, title, and department of the agency
14 official who used the payment.

15 (D) The signature of the agency head.

16 (d) The form must be maintained by the agency as a public record and pursuant to the
17 provisions of Section 81008(a). Additionally, for any quarter year period in which payments
18 aggregating to \$2,500.00 or more since the last filing are received by an agency, the agency must
19 report the payment as follows:

20 (1) A state agency must submit a copy of the form(s) or a summary of the information on
21 the form to the Commission (or, in the case of the Commission, the office of the Attorney
22 General), within 30 days after the close of the quarter. If the state agency maintains a website,
23 the state agency shall also post a copy of the form(s) or a summary of the information on the

1 form(s) on its website in a prominent fashion within 30 days after the close of any quarter in
2 which the agency receives payments aggregating to \$2,500 or more since the last filing. The
3 Commission shall post a copy of the form(s), or a summary of the information on the form(s), on
4 its website. A local jurisdiction may require additional filing or website posting.

5 (2) A local agency must submit a copy of the form(s) or a detailed summary of the
6 information on the form to the filing officer who receives the agency employees' statements of
7 economic interests, within 30 days after the close of the quarter. The filing officer shall post a
8 copy of the form or the information in the form on its website, in a prominent fashion within 30
9 days after the close of any quarter in which the agency receives payments aggregating to
10 \$2,500.00 or more since the last filing or if it does not maintain a website, shall provide a copy of
11 the form to the Commission, which shall post the information on its website.

12 (e) Public Colleges and University Research Projects. Notwithstanding the above
13 provisions, a payment to a California public college or university for a specific research project
14 that is received consistent with the requirements of Regulation 18704(d)(5) or a meal received in
15 the course of the college's or university's official fundraising activity, which qualifies under
16 federal and state law for a deduction as a charitable contribution for educational purposes, is not
17 a gift or income to the official of the college or university who uses the payment.

18 COMMENTS:

19 1. Acceptance of a pass or discount from a transportation company by a public officer, other than
20 a Public Utilities Commissioner, may result in forfeiture of the official's office pursuant to
21 Article XII, Section 7 of the California Constitution.

22 Note: Authority cited: Section 83112, Government Code. Reference: Sections 82028, 82030,
23 82044, 87100, 87103, 87207, 87302 and 89501-89506, Government Code.