

# RESTRICTIONS

This chapter provides an overview of important restrictions regarding campaign contributions, gifts, honoraria, lobbying conduct, disqualification of public officials and post-governmental employment restrictions for former state officials. See Chapter 4 for specific guidance on gift and activity expense reporting.

## A. Campaign Contributions

### Lobbyist and Lobbying Firm Restrictions

Lobbyists may not mail, deliver, or otherwise transmit a campaign contribution, including a nonmonetary contribution, from their own personal assets to the following:

1. An elected state official;
2. A candidate for elective state office; or
3. A committee primarily formed to support or oppose such a candidate if the candidate is seeking an office with, or the official is an elected officeholder of, an agency the lobbyist is registered to lobby.

This prohibition also applies to a legal defense fund committee, a state or local ballot measure committee, an officeholder committee and a committee for an elective local office controlled by such state candidate.

If a business entity, including a lobbying firm, is owned, in whole or in part, by a lobbyist and the lobbyist participates in the decision to make the contribution, the entity may not contribute to a elected state official or candidate. Otherwise, lobbying firms may make campaign contributions.

**Ex 7.1** - Bert Rogers is registered to lobby the Legislature and the Attorney General's office. He may not make a contribution to any State Assembly member or Senator, any legislative candidate, the Attorney General, any candidate for Attorney General, any of their controlled committees, or any committee primarily formed to support or oppose such candidates. This prohibition applies to any ballot measure, local candidate, or legal defense fund committees the state candidates or officials may control. Bert may contribute, however, to another state official, such as the Secretary of State or Controller, or candidates for these offices.

A campaign committee may not make a contribution to an elected state official or candidate if the contribution is comprised of the personal assets of a lobbyist, in whole or in part, and the lobbyist participates in the decision to make the contribution.

A lobbyist is not prohibited from advising his or her clients or employer regarding making a contribution.

### Home or Office Fundraising Events and Meetings

Lobbyists and lobbying firms are prohibited from hosting fundraising events at their home or office for an official or candidate whose office the lobbyist or lobbying firm is registered to lobby.

In addition, a lobbying firm owned by a registered lobbyist may not rent its firm's offices as a fundraising venue (1) to an officeholder or candidate the firm is registered to lobby or (2) to one of its clients (a lobbyist employer) to benefit an officeholder or candidate the firm is registered to lobby. (Section 82015(f) and Regulation 18215(b)(4) and (5).)

A lobbying firm may host a meeting that is not a fundraising event in its office for the benefit of an officeholder or candidate for an office the lobbying firm is registered to lobby if the total cost of the meeting is \$500 or less, exclusive of the value of the office as a venue.

### Contribution Limits

Candidates for state office are subject to contribution limits. Campaign committees, including political party committees, that make contributions to state candidates, are also subject to contribution limits. These limits are reviewed for adjustment every odd-numbered year. For easy reference, the FPPC's website posts the current limits in effect.

### Delivery of Campaign Contributions

No person may deliver or accept a campaign contribution in the State Capitol, a state office building or any building for which the State of California pays the majority of the rent. This includes delivery of a copy of a contribution check or a contribution transmittal letter. Contributions

**Ex 7.2** - Dana Bethel is a lobbyist for the California Furniture Manufacturers' Coalition and is registered to lobby the State Legislature, the Governor and all state agencies.

Dana contributes to and sits on the board of a general purpose recipient committee for a state environmental group. Dana may not participate when the board decides which state candidates to support with a contribution.

Dana makes a personal contribution to a general purpose recipient committee that is not controlled by a state officer. Dana does not participate in deciding which state candidates receive contributions from this committee. Dana's contribution does not preclude the committee from making contributions to state officials.

sent to the State Capitol or other building by mail and contributions delivered to a legislator's district office, are not prohibited.

## **B. Gift Limit for Lobbyists and Lobbying Firms**

No lobbyist or lobbying firm may:

Make a gift(s) aggregating more than ten dollars (\$10) in a calendar month, act as an agent or intermediary in the making of such a gift, or arrange such a gift to any of the following officials:

- A state candidate;
- An elected state officer;
- A legislative official;
- An agency official employed by an agency that is or should be listed on the lobbying registration statement.

See Chapter 4 for the definition of "arranges for the making of a gift."

## **C. General Prohibitions for Lobbyists and Lobbying Firms**

No lobbyist or lobbying firm may:

- Do anything for the purpose of placing any elected state officer, legislative official, agency official or state candidate under personal obligation to the lobbyist, lobbying firm or a lobbyist employer, including making secured or unsecured loans;
- Deceive or attempt to deceive any elected state officer, legislative official, agency official or state candidate with regard to any material fact pertinent to any pending or proposed legislative or administrative action;
- Cause or influence the introduction of any bill or amendment for the purpose of being employed to secure its passage or defeat;
- Attempt to create a fictitious appearance of public favor or disfavor of any proposed legislative or administrative action or

cause any communication to be sent to any elected state officer, legislative official, agency official or state candidate in the name of any fictitious person or in the name of any real person, except with the consent of such real person;

- Represent falsely either directly or indirectly that the lobbyist or lobbying firm can control the official action of any elected state officer, legislative official or agency official; or
- Accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action. This includes an individual who qualifies as a lobbyist because he or she is a placement agent.

## D. Loans

A lobbyist is prohibited from engaging in any activity with the purpose of placing an elected state officer, legislative official, agency official, or state candidate under personal obligation to the lobbyist, the lobbying firm, or the lobbyist's or the firm's employer. This includes arranging or making a loan whether secured or unsecured, to the official or the official's agent. The lobbyist or lobbying firm arranges a loan when either refers the recipient of the loan to an individual for the purpose of facilitating making the loan and has any contact with any individual to facilitate making the loan. A lobbyist or lobbying firm may not cosign, guarantee, furnish security for, or endorse a loan for an elected state officer, legislative official, agency official, or state candidate.

**Ex 7.3** - Abby Gail is a lobbyist who is also a campaign consultant. An elected official has owed her over \$50,000 for several years. Over that time, Abby made no attempt to collect the debt. The FPPC may assess a fine because the lobbyist violated the prohibition against placing an official under personal obligation.

## E. Home Hospitality

In general, a lobbyist may not entertain a reportable official in his or her home. An exception applies when an official and lobbyist have a relationship, connection, or association unrelated to the official's position and the hospitality is provided as part of that relationship in the individual's home.

"Home" includes a personal residence and vacation home owned, rented, or leased, by the individual for use as his or her residence, including a timeshare with deeded ownership or a continual

**Ex 7.4** - A lobbyist regularly appears before an agency and over the years developed a friendship with an agency employee. The individuals do not have a relationship or common association outside the workplace. A lobbyist could not entertain the official in his/her home as it is likely the food/beverages would exceed the \$10 gift limit.

right-to-use ownership benefit, and a motor home or boat owned, rented, or leased by the individual for use as his or her residence. “Home” also includes any facility in which the individual has a right-to-use benefit by his or her home residency, such as a community clubhouse. Any benefit received, other than the use of the premises, by any guests of the official other than the official’s spouse and family members who are present at the request of the official or the official’s agent are gifts to the official.

## **F. General Prohibitions for Officials**

The following restrictions apply to public officials and are only briefly reviewed to acquaint lobbying filers of other restrictions in the Political Reform Act.

### **Gift Limit**

Legislative officials, most state and local officials and employees, and candidates for state and local office may not accept gifts from a single source aggregating more than \$500 in a calendar year for the 2019-2020 Legislative Session. The gift limit is adjusted each odd-numbered year to reflect changes in the Consumer Price Index. Certain payments are not subject to the gift limit. The FPPC’s website provides the current gift limit.

### **Honoraria Ban**

Legislative officials, most state and local officials and employees and candidates for state and local office may not accept honoraria payments. “Honorarium” means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal or like gathering.

Honorarium does not include earned income for personal services that are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching, practicing law, medicine, insurance, real estate, banking or building contracting, unless the sole or predominant activity of the business, trade, or profession is making speeches.

## Disqualification

A state official may need to disqualify himself or herself from voting or otherwise participating in a governmental decision affecting a source of income (including a person who has provided a gift to the public official) if the payment was received or promised to the official within 12 months preceding the decision. Whether an official must disqualify himself or herself relies heavily on the facts of each governmental decision.

## Post-Governmental Employment Restrictions – Revolving Door Provisions

The Act restricts the lobbying activities of certain state agency officials once the official has left government employment. Many officials are subject to both a one-year and a lifetime lobbying ban.

- **One-year ban:** State agency officials are prohibited for 12 months after leaving state service from receiving compensation to appear before or communicate with the agency to influence certain agency decisions.
- **Lifetime ban:** A state agency official may **never** receive compensation for the purpose of appearing before, or assisting another person in appearing before, a former agency in certain proceedings on which the official worked while employed by the agency.

All public officials are also prohibited from participating in certain governmental decisions when they are negotiating employment or have an employment arrangement with a prospective employer.

### ***Important Note:***

Legislators are not subject to the lifetime ban but are prohibited from lobbying the Legislature for one year. Employees of the Legislature are not subject to either the one-year or lifetime revolving door provisions.

## Answering Your Questions

**A. May a lobbyist who is registered to lobby the Legislature make a contribution to a ballot measure committee controlled by an Assembly member or State Senator?**

No. A lobbyist may not make a contribution to state or local committees controlled by a state candidate or officeholder if the lobbyist is registered to lobby the candidate's or officeholder's agency.

**B. May a lobbyist employer deliver a campaign contribution to a legislator's Capitol office?**

No. Even though there is no prohibition on lobbyist employers making a contribution to a state legislator's campaign, no one may personally deliver a contribution anywhere in the Capitol building.

**C. May a lobbyist make a contribution to a legislator's committee for federal office even if the lobbyist would otherwise be prohibited from making a contribution to the legislator's state committee?**

Yes. The Act does not prohibit lobbyists from making contributions to a candidate's committee for federal office.

**D. The partners of a lobbying firm are not lobbyists. May these partners make a contribution to a state candidate from funds of the lobbying firm?**

Yes. A lobbying firm may make a contribution to a state candidate, as long as no lobbyist participates in the decision to make a contribution.

**E. I am registered to lobby the Secretary of State's office. May I attend the fundraiser of a candidate running for that office if my employer pays for attendance?**

Yes. The prohibition against a lobbyist making a contribution to state candidates does not preclude a lobbyist from delivering a contribution made by his or her lobbyist employer.

**F. Will a \$370 gift of dinner and entertainment provided to an official by a lobbyist employer violate the \$10 gift limit?**

The \$10 gift limit does not apply to lobbyist employers as long as a lobbyist or lobbying firm is not involved in making or arranging the gift, however most officials may not receive gifts that exceed \$500 in a calendar year from a single source.

**G. When a lobbyist has lunch with a reportable person and the reportable person pays for their own lunch, must the lobbyist report the lunch as an activity expense?**

No. The reportable person has not received a gift because they paid for their own lunch.

**H. What is the maximum amount a lobbyist employer/lobbying coalition or \$5,000 filer may spend on an official during the calendar year?**

The gift limit is \$500 per official in a calendar year. This amount is adjusted every odd-numbered year.

**I. May a lobbyist receive contingency payments based on the outcome of legislative or administrative actions?**

No. Lobbyists are prohibited from accepting or agreeing to accept any payment that is in any way contingent upon the defeat, enactment or outcome of any proposed legislative or administrative action.

**J. May a lobbyist employer pay its lobbyist a contingency fee for assistance in obtaining a software contract with the Department of Technology?**

Yes. The definition of lobbying does not include securing a state contract other than a contract from a state pension fund. Placement agents may not receive contingency fees.

**K. Traditionally, our investment company provides a contingency fee or bonus for successful arrangements. May we continue to offer these financial benefits to placement agents?**

No. Government Code Section 86205(f) specifically prohibits contingency fees and similar arrangements. A written document outlining payment services should be kept in order to show compliance with the law.

## Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

### Government Code Sections

- 84309 Transmittal of Campaign Contributions in State Office Buildings.
- 85301 Limits on Contributions from Persons.
- 85303 Limits on Contributions to Committees and Political Parties.
- 85702 Contributions from Lobbyists.
- 86201 Gift.
- 86203 Unlawful Gifts.
- 86205 Acts Prohibited.
- 86206 Placement Agent Fees.
- 87100 Public Officials; State and Local.
- 87102.5 Legislature; Use of Position to Influence Decisions.
- 87401 Restrictions on Activities of Former State Officers.
- 87402 Restrictions on Activities of Former State Officers; Assisting Others.
- 87406 Milton Marks Postgovernmental Employment Restrictions Act.
- 87407 Influencing Prospective Employment.
- 89501 Honoraria.
- 89502 Honorarium.
- 89503 Gift Limits.

### Title 2 Regulations

- 18439 Definition of “Personally Deliver.”
- 18545 Contribution Limit and Voluntary Expenditure Ceiling Amounts.
- 18572 Lobbyist Contributions -- Making a Contribution Defined.
- 18624 Lobbyist Arranging Gifts.
- 18625 Loans from Lobbyist or Lobbying Firm; Placing Official Under Personal Obligation.
- 18940.2 Gift Limit Amount.
- 18942.2 Home Hospitality.