



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

February 10, 2026

Victoria Grotewohl
California Department of Veterans Affairs
1227 O Street, Suite 306
Sacramento, CA. 95814

**Re: Your Request for Advice
Our File No. A-25-145**

Dear Ms. Grotewohl:

This letter is in response to your request for advice regarding and Government Code Section 1090, et seq.¹ Please note that we are only providing advice under Section 1090, not under other general conflict of interest prohibitions such as common law conflict of interest. Also, note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

We are required to forward your request regarding Section 1090 and all pertinent facts relating to the request to the Attorney General's Office and the Sacramento County District Attorney's Office, which we have done. (Section 1097.1(c)(3).) We did not receive a written response from either entity. (Section 1097.1(c)(4).) We are also required to advise you that, for purposes of Section 1090, the following advice "is not admissible in a criminal proceeding against any individual other than the requestor." (See Section 1097.1(c)(5).)

QUESTION

Do the Act or Section 1090 prohibit the California Department of Veteran's Affairs (the Department) from entering, or Brenda Novak, the Director of Nursing (the Director) of a veteran's home, from participating in a contract with the Director's employer, the College of the Canyons?

CONCLUSION

No. Under Section 1090, Ms. Novak has a potential financial interest in the contract. However, the noninterest exception under Section 1091(b)(3) applies because both the

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18109 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Department and the College will receive public services generally provided on the same terms and conditions as if Ms. Novak was not an employee of either the Department or the College. Thus, Section 1090 does not prohibit the Department from entering, or the Director from participating in, a contract with the College. Under the Act, the Director's income received from the College is government salary and exempt from being a financial interest that would create a conflict of interest, and the facts provided do not indicate any effect on the Director's personal finances under Regulation 18702.5.

FACTS AS PRESENTED BY REQUESTER

The Department owns and operates veteran's homes that provide several levels of nursing care. The Veteran's Home of California – West Los Angeles (the veteran's home), which allows local nursing schools to do clinical rotations on its campus, sent out mailers to all local colleges that run nursing schools asking if they had interest in hands-on learning (clinical rotations) at the veteran's home.

The College of the Canyons (the College) responded that it would like to perform clinicals at the veteran's home, among multiple other schools that responded. The College is part of the California Community College system. To enable the College to perform clinicals at the veteran's home, the Department and the College seek to enter a \$0 contract with no pecuniary gain for either the Department or the College.

The veteran's home Director, Brenda Novak (the Director), is also employed at the College as a part time adjunct professor for classes in its nursing program. The Director declares her second job at the College on her Form 700. The Director drafted the mailer that was sent to the schools, and she is the contact person for the schools that respond to the mailer. The Director does not personally sign contracts with the schools, but she refers each matter for the contracting process. She would not be teaching the College students or representing the College in any way while the students are at the veteran's home.

The Director's duties include mailing out notices to different schools to inform them about a career fair and inquiring if they are open to being a site for schools to do their clinical rotations. She speaks with each school that expresses interest and ensures that it is a licensed school. If so, she requests that the contract be created by the Department's contracts staff and she signs the contract request. When the contract is finalized, she acts as the contract manager, ensuring that all staff and students get a livescan, physical, and receive requisite training prior to working with residents.

No interested school has been turned away from the veteran's home, which has been able to accommodate all of the schools that have responded to the mailer. Contracting with the College would not prevent any other school from performing its clinical rotations at the veteran's home.

ANALYSIS

A. The Act.

Under the Act, “[a] public official at any level of state or local government shall not make, participate in making or in any way attempt to use the official’s position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.” (Section 87100.) “A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official’s immediate family,” or on certain specified economic interests. (Section 87103.)

Interests that are potentially disqualifying and pertinent to the questions posed include:

- An interest in a source of income to the official, or promised income, which aggregates to \$500 or more within 12 months prior to the decision (Section 87103(c)) including any community property interest in the income of a spouse and a pro rata share of the income of any business entity or trust in which the official (or his or her spouse) owns directly, indirectly, or beneficially, a 10-percent or greater interest (Section 82030(a)).
- Personal finances, meaning the financial effect of a governmental decision on the personal finances of a public official or his or her immediate family. (Section 87100; Regulation 18700(c)(6).)

However, Section 82030(b)(2), as further interpreted by Regulation 18232, exempts from the Act’s definition of “income” salary paid by a government agency. Therefore, the income the College pays directly to the Director for her work as an adjunct professor is government salary and exempt from being a financial interest that would create a conflict of interest for the Director under the Act.

Turning to the official’s interest in the official’s personal finances, Regulation 18702.5, provides the materiality standard for a personal financial effect, states that it is reasonably foreseeable that a governmental decision’s financial effect on a public official’s financial interest will be material if the decision may result in the official or the official’s immediate family member receiving a financial benefit or loss of \$500 or more in any 12-month period due to the decision. (Regulation 18702.5(a).) Here, the facts provided do not indicate any effect on the Director’s personal finances.

B. Section 1090.

Under Section 1090, public officials “shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are a member.” Section 1090 is “concerned with any financial interests, other than perhaps a remote or minimal interest, which would prevent the officials involved from exercising absolute loyalty and undivided allegiance to the best interests of” their respective agencies. (*Stigall v. City of Taft*

(1962) 58 Cal.2d 565, 569.) Under Section 1090, “the prohibited act is the making of a contract in which the official has a financial interest.” (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.) A contract that violates Section 1090 is void, regardless of whether the terms of the contract are fair and equitable to all parties. (*Thomson v. Call* (1985) 38 Cal.3d 633, 646-649.)

Section 1090 reaches beyond the officials who participate personally in the actual execution of the contract to capture those officials who participate in any way in the making of the contract. (*People v. Sobel* (1974) 40 Cal.App.3d 1046, 1052.) Therefore, participation in the making of a contract is defined broadly as any act involving preliminary discussions, negotiations, compromises, reasoning, planning, drawing of plans and specifications, and solicitation for bids. (*Millbrae Assn. for Residential Survival v. City of Millbrae* (1968) 262 Cal.App.2d 222, 237.)

Although Section 1090 does not specifically define the term “financial interest,” case law and Attorney General opinions state that prohibited financial interests may be indirect as well as direct, and may involve financial losses, or the possibility of losses, as well as the prospect of pecuniary gain. (*Thomson v. Call*, supra, at pp. 645, 651-652; see also *People v. Vallerga* (1977) 67 Cal.App.3d 847, 867, fn. 5; 85 Ops.Cal.Atty.Gen. 34, 36-38 (2002); 84 Ops.Cal.Atty.Gen. 158, 161-162 (2001).) Case law and statutory exceptions to Section 1090 make clear that the term “financially interested” must be liberally interpreted; the term cannot be interpreted in a restricted and technical manner. (*People v. Gnass* (2002) 101 Cal.App.4th 1271, 1298.)

Here, the Director’s works as a part time adjunct professor for the College’s nursing program. The Director works for the Department that operates the veteran’s home and for the College that seeks to perform its clinical rotation at the veteran’s home. Thus, the Director has a prohibited financial interest in a contract between the Department and the College under Section 1090,² unless an exception applies.

Public Services Generally Provided Exception

Section 1091 and 1091.5 provide exceptions to Section 1090 where the financial interest involved is a “remote interest” or a “noninterest.” The exception that may apply under the facts provided here is the noninterest under Section 1091.5(a)(3), which states that a public official is deemed to not be interested in a contract if the official’s interest is:

That of a recipient of public services generally provided by the public body or board of which he or she is a member, on the same terms and conditions as if he or she were not a member of the body or board.

To determine if this exception applies, the question is whether the benefits offered by the nurse training arrangement at the veteran’s home constitutes “public services generally

² Although the Department and the College seek to enter a \$0 contract with no pecuniary gain, a contract involving volunteer services may nevertheless involve a financial interest under Section 1090. (See 86 Ops.Cal.Atty.Gen. 138 (2003).)

provided,” and whether the benefits would be granted to the Department or the College “on the same terms and conditions” as if Ms. Novak were not an employee of either entity.

The term “public services” under this exception is not limited to services provided to the general public or the public at large; “[p]ublic agencies provide many kinds of ‘public services’ that only a limited portion of the public needs or can use. This does not derogate from their characterization as ‘public services’ according to the ordinary meaning of those words.” (*City of Vernon v. Central Basin Mun. Water Dist.* (1999) 69 Cal.App.4th 508, 514.) The public service must not be intentionally designed to limit the class of recipients and must be broadly available to all those potentially within it. (*Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1087.)

Here, clinical rotations for nursing students at the veteran’s home are not intentionally designed to limit the class of recipients. Rather, they are broadly available to all nursing students who attend nursing programs that choose to contract with the veteran’s home to train its nursing students. Therefore, this qualifies as “public service” under Section 1091.5(a)(3). Also, each entity would be providing a mutual public benefit to the other: the College would receive the benefit of clinical training opportunities for its nursing students and the Department’s veteran’s home would receive the benefit of clinical nursing rotations for its patients.

Application of Section 1091.5(a)(3) also depends on the second key phrase: “on the same terms and conditions as if he or she were not a member of the body or board.” In *Lexin*, the California Supreme Court explained:

[F]or any transaction to pass muster under section 1091.5(a)(3) it must be provable that no preferential treatment was involved. It was the apparent intent of this provision to exempt a board member’s receipt of public services that are given under the same terms and conditions to the other customers of the public agency. Thus, a party asserting section 1091.5(a)(3) as a defense must establish that other constituents of an agency received, or would have received, similar terms. There can be no special tailoring of a contract’s terms, no discretion in determining what consideration a particular official must relinquish or may receive.

(*Lexin, supra*, at p. 1088 [citations and quotations omitted].)

In this case, the facts provided state that no school interested in performing clinical rotations at the veteran’s home has been turned away or denied access to the program. The veteran’s home has accommodated all the schools that have responded to the mailer. Moreover, a contract between the Department and the College would not prevent any other school from performing its clinical rotations at the veteran’s home. Thus, the facts provided indicate that there is no preferential treatment involved: the Department’s public service of training opportunities to the College nursing program, and likewise the College’s public service of clinical nursing rotations to the Department’s veteran’s home, is given under the same terms and conditions as if Ms. Novak were not employed by either the Department or the College.

Accordingly, the noninterest exception under Section 1091.5(a)(3) applies, and Director Novak may take part in the Department's consideration and potential approval of the Department's contract with the College.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

/s/ John M. Feser Jr.

By: John M. Feser Jr.
Senior Counsel, Legal Division

JF:aja