



Question 5: What *Kind* of Gift Is It, and Do Special Rules Apply as a Result?

<http://www.ca-ilg.org/GiftsQuestion5>

*Note: The Fair Political Practices Commission revised the regulations related to gifts of travel for travel occurring after January 1, 2014. The information in this document is relevant to travel occurring **prior to January 1, 2014**. More information regarding the regulatory revisions can be found at <http://www.ca-ilg.org/TravelRelatedGiftExceptions>.*

Under some circumstances, certain kinds of gestures are subject to special rules. This includes the following:

- Home hospitality
- Informational materials
- Inheritances
- Emergency leave credits
- Disaster relief assistance
- Personalized plaques and trophies
- Wedding gifts
- Travel
- Tickets/Free Admissions
- Behested payments
- Campaign contributions

It's important to keep in mind that even if these special rules mean that a gesture is not, for example, subject to the gift limit, accepting it may obligate the official to step aside from any decision-making process that involves the gift-giver.¹

Gifts of Home Hospitality

The concept of gift is very broad and includes meals, beverages² and free lodging.³

There is an exception, however, for gestures that an official receives in someone's home. Consequently, an official need not track the value of food, beverages and occasional lodging he receives in someone's home⁴ as long as the host is present and is someone with whom the official has a "relationship, connection or association *unconnected* to the official's position".⁵ The hospitality must be provided as part of that relationship.⁶

The host must foot the bill for the hospitality.⁷ Assuming that the host is indeed footing the bill for the hospitality is OK, unless the official is informed otherwise or it is clear from the circumstances that someone else is paying.⁸ The concept of "home" includes covers activities with the host at his or her vacation home/time share or on a boat or recreational vehicle.⁹

California's Basic Gift Rules

The goal underlying California's gift rules is to prevent either the perception or the reality of gifts influencing public officials' actions. This is because public agency actions should always promote the *public's* interests, as opposed to narrow personal or political interests.

As a result, California public officials must:

1. **Report gifts worth \$50 or more on their [Statement of Economic Interests](#).**¹⁰ Gifts from a single source must be added up over the course of a calendar year. An official's reporting obligation is triggered when the combined value of a series of gestures from a single gift-giver reaches \$50 or more.
2. **Not receive gifts that exceed \$440 from a single source per calendar year.**¹¹ This limit can be exceeded by accepting a single large gesture or a series of gestures over the course of a calendar year from the same gift-giver that total more than \$440.¹²
3. **Having accepted gifts may keep a public official from participating in the decision-making process.** If a public official accepts gestures with a value of more than \$440 from a single gift-giver in the twelve months preceding the official's involvement in a decision affecting that gift giver, the official may have to disqualify himself from participating in that decision-making process.¹³

More detail on these rules is available at www.ca-ilg.org/GiftCenter. These rules apply to elected officials, top level managers and others who are covered in the agency's local conflict of interest code or make governmental decisions.¹⁴

Putting aside what the rules allow, public officials are well-advised to look beyond what the law allows in any situation involving a nice gesture. This includes considering how residents will view a public official's actions.

Providing such hospitality cannot be part of the host's compensation arrangement (that is to say, the host cannot be paid to extend hospitality).¹⁵ The host also may not deduct such costs on his or her taxes.¹⁶

So if one attends a dinner or party at the home of a friend who happens to be a local developer and suspects that the developer's company is paying for the catering, the home hospitality exception would not apply. The value of what was received at the event would be determined by the type of event it was; for example, a fundraiser, invitation-only event, testimonial dinner, etc. (Note that if the official and the host met and became friends as a result of his/her role as an official, the host would not qualify for the exception in any event.)

Informational Materials

The gift rules also recognize the benefits of public officials' receiving information that helps them better serve the public. As a result, informational materials are not subject to gift limit and reporting requirements.¹⁷ Informational material is anything that serves primarily to convey information and is provided to assist a public official in the performance of his or her official duties.¹⁸

This includes books, reports, electronic media, periodicals, maps, free or discounted admission to educational conferences and on-site demonstrations or tours.¹⁹ (Note that for models, pictures and similar items with a value in excess of \$440, the official has the burden of demonstrating that the item is indeed informational).²⁰

For the tours, demonstrations and admission to conferences, the FPPC examines the following factors in determining whether the activity is of a bona fide informational nature:

1. Whether the activities will primarily convey information relevant to the performance of the official's duties;
2. Whether the activities are specifically designed for public officials;
3. Whether the activities are formally structured to convey information to the officials;²¹ and
4. Whether the activities appear extravagant in value or nature in relationship to the information conveyed.²²

In applying these criteria, the Fair Political Practices Commission has also examined whether there are indications that the travel serves other recreational purposes.²³

Transportation relating to informational activities is subject to a number of parameters. Such transportation is not a gift when it is:

- Integral to the information being presented (for example, an aerial tour);
- Provided to access the site of the tour, demonstration or inspection and the site is not legally accessible to the public; or
- To or from a site when there is no reasonable, publicly available commercial transportation to the site and the transportation provided is limited to that segment for which public transportation is not available.²⁴

Otherwise, the transportation is subject to the travel rules discussed below.

Compliance Strategy: Questions for Public Officials to Ask About Nice Gestures

One way to analyze one's likely obligations under California's gift rules is to ask:

1. [Did I or my family receive something of value?](#)
2. [What's its value?](#)
3. [Who gave it to me?](#)
4. [Did I do something in exchange for what I received?](#)
5. [What kind of gift is it and do special rules apply as a result?](#)
6. [Which of the permitted courses of action do I want to take with respect to the gift?](#)

Explanations of each of questions are available at www.ca-ilg.org/GiftCenter.

Inheritances

Inheritances are also exempt from the gift limits and reporting requirement.²⁵ Inheritances usually involve the disbursement of estate assets following the death of the prior owner.²⁶

The FPPC has also acknowledged, however, that federal tax policy permits limited distributions from an estate during the life of the testator. As a result, the FPPC was willing to find that a distribution of assets from the estate of a relative, made during the relative's lifetime to avoid estate taxes, does not constitute reportable "gifts" and are not subject to gift limits.²⁷

Note however that if such inheritance is a reportable interest or is converted into a reportable interest (for example, converting cash into a stock investment), then the interest must be disclosed on the official's Form 700.²⁸

Emergency Leave Credits

Emergency leave credits donated to an official through his or her employer's emergency leave program are exempt from the gift limits and reporting requirements.²⁹ To qualify for the exception, the leave program must be available to all employees in the same job classification or position as the public official.³⁰ "Leave credits" include vacation and sick or compensatory time off.³¹ The exemption does not extend to donations of cash.³²

Disaster Relief Assistance

The provision of food, shelter or similar assistance received by the official through a disaster relief program will not be considered a gift subject to the reporting requirements or gift limits.³⁶ The assistance must be received from a governmental agency or 501(c)(3) nonprofit organization.³⁷ The assistance must be available to members of the public regardless of official status.³⁸

What's a "Gift" for Purposes of the Rules?

The concept is broad. A public official receives a gift for purposes of California's gift rules (see summary on page 2) any time the official receives anything that

- ✓ Has a monetary value and
- ✓ Provides the official with a personal benefit
- ✓ For which the official doesn't pay full value.³³

Gifts can be:

- ✓ Tangible or intangible
- ✓ Real property or personal property;
- ✓ Goods or services.³⁴

Under some circumstances, gifts than an official's family receives are considered gifts to the official for purposes of California's gift rules.

Note that the Fair Political Practices Commission has recognized a variety of [exceptions](#) to what constitutes a gift.³⁵

Personalized Plaques

A personalized plaque or trophy with a value of less than \$250 is not a gift that needs to be reported or counted towards one's gift limit from that particular source.³⁹ Typically plaques are presented during an event; officials should be alert to the need to analyze

whether the other benefits they received in attending the event need to be reported or are subject to the gift limits. See discussion of ticket rules below.

Wedding Gifts

The general rule is that an official must report wedding gifts, but such gifts are not subject to the annual limits.⁴⁰

There is also an issue of how much the official should report. The usual rule is when a gift is given to an official and his or her spouse or child, the gift is considered a gift to the official for purposes of the reporting requirement and gift limit.⁴¹ However, there is a special rule for wedding gifts says the official must report only *half* the value of the gift.⁴² The assumption is that wedding gifts usually are for the couple, so reporting half the value represents the reporting official's share.

Ticket Rules

Political and Nonprofit 501(c)(3) Fundraisers

Officials may receive *two* free tickets to political and 501(c)(3) fundraising events without needing to worry about California's gift rules, provided that the official receives them directly from the nonprofit organization.⁴³ The FPPC rules say these tickets have "no value."

Additional Tickets or Tickets for Other Kinds of Fundraisers

If an official receives more than two free tickets to a 501(c)(3) event or receives the tickets from a source other than the nonprofit, or if the event is for a different kind of fundraiser (not nonprofit or political), the official must determine how to value the tickets.

If the official were paying face value for the ticket, typically the ticket value has two parts: the part that represents the donation to the event organizer; and the cost of putting on the event. The latter cost is the one to focus on for the purposes of California's gift rules.

If the organization sponsoring the event says what portion of the ticket price is the donation, the public official can reduce the value of the ticket by the amount of the donation to determine the value of the ticket(s) for the purposes of California's gift rules.⁴⁴

Otherwise, the value of the benefit the official receives is the per-guest share of the cost of food, entertainment and any other items provided to all guests at the event.⁴⁵ Other specific benefits attendees receive (for example, golf greens fees) are valued at fair

market value.⁴⁶ This is the same approach for valuing attendance at invitation-only events.

Invitation-Only Events

In general, for other events local officials may be invited to the value of the free admission is calculated by determined by adding up the cost of all food, catering services, entertainment and items provided to attendees and then dividing that total by either the number of acceptances or attendees.⁴⁷ Note that, for purposes of this calculation, the value of “entertainment” includes only a feature show or performance; background music costs need not be included in the calculation.⁴⁸

If the official takes a guest, the per-person cost resulting from this calculation then gets multiplied by two (for the official and his or her guest) to determine the value of what the official receives.⁴⁹

A different rule applies if the official is performing a ceremonial role at the event.⁵⁰

Drop-In Visits

If the local official (and any accompanying guest) do not consume a meal at the event or stay for any entertainment, the value is generally considered to be zero.⁵¹ The exception is if the official (and guest) receive a specific item (in which case the value is the value of the item received).⁵² The concept of a “drop-in” visit assumes that the official consumes only minimal appetizers and drinks.⁵³

Ceremonial Roles

A public official and a guest may receive free admission to a facility, event or performance without it being a gift if the holder of the event has asked the official to play ceremonial role *on behalf of the official's agency*.⁵⁴ To be a “ceremonial role,” the act performed by the official is the focus of the event for a period of time (for example, presenting a proclamation or throwing out the first pitch).⁵⁵

In addition, the agency has certain disclosure requirements when its officials claim the benefit of this exception.⁵⁶ Agencies may adopt their own policies limiting or expanding the types of permissible ceremonial roles their officials can perform on the agency’s behalf.⁵⁷

Gifts of Travel

Any time a public official travels at a free or discounted rate, he or she must be aware of and understand how the travel rules apply. For purposes of this discussion, “travel” includes transportation, lodging, meals and/or other expenses associated with being on the road. Special rules relate to:

- What kind of travel gifts a public official may not accept at all;
- What kinds are subject to the usual gift reporting requirements and limits;
- What kinds may be reportable, but not subject to the annual limits; and
- What kinds are sufficiently incidental that the law doesn’t require reporting or limitations.

It can be easy to get bogged down in the analysis of whether a gift is reportable and/or subject to the annual dollar limit on gifts from a single source — in part because that may be the more immediate question in terms of one’s responsibilities. However, keep in mind that an equally important issue is whether accepting the gift will mean one must refrain from participating in any decisions involving the gift-giver — either under the law or in light of public perception.

Prohibited Gifts: Travel from Transportation Companies

When an official is offered free or discounted transportation, the official is well-advised to ask question 3: *Who* is offering me the travel? Different rules may apply to gifts of travel depending on who is the source of the gift.

If the gift of travel is from a transportation carrier, a public official should be especially careful. *State law forbids elected and appointed public officials from accepting free passes or discounted travel or shipping from transportation companies.*⁵⁸

The law dates back to California’s early history when railroad companies wielded considerable influence, some of which resulted from handing out free train trips and/or discounted shipping to public officials and decision-makers. In response, the state adopted an outright prohibition against public officials receiving gifts of transportation from transportation companies and common carriers.⁵⁹

This prohibition applies to any kind of travel — personal, business or on behalf of one’s public agency — to any location, near or far. The rule applies both to elected and appointed public officers but not to employees.⁶⁰

The penalty for accepting free transportation from transportation carriers is severe: forfeiture of office.

However, sometimes the rule doesn't apply. The chief exception is when the free or discounted travel is available to the general public (for example, frequent flyer programs) is given for reasons unrelated to the person's status as a public official.⁶¹

Gift Reporting Requirements and Gift Limits Under the Political Reform Act

Gifts of travel expenses (for example, airfare, lodging, meals and entertainment) from non-transportation companies are generally subject to the Political Reform Act's gift rules. This means:

- Gifts of travel must be reported on an official's Statement of Economic Interests;
- Travel gifts are subject to annual gift limits (\$440 per year for calendar years 2011 and 2012, for example); and
- Receiving a gift of travel worth more than \$440 (the 2011 and 2012 threshold) may also subject one to being disqualified from participating in a public agency decision involving the gift-giver.⁶²

In addition, special disclosure requirements and restrictions apply when someone makes a gift of travel to a public agency (see discussion under Question 3 relating to the source of the gift).⁶³

As with the rules related to travel passes from transportation companies, there are exceptions to at least two of the three rules listed earlier. Under certain circumstances, gifts of travel may not be subject to the disclosure requirements and under some circumstances, gifts of travel may not be subject to the annual monetary limit on gifts from a single source.

Exceptions: Types of Travel That Need Not Be Disclosed and Are Not Subject to the Limits

The following types of travel payments are not subject to the dollar limitation (\$440 for the calendar years 2011 and 2012) on the receipt of gifts from a single source over the course of a year, and they need not be reported on an official's annual Statement of Economic Interests.

- **Travel Reimbursements From 501(c)(3) Organizations in Connection With Volunteer Service.** Travel payments by 501(c)(3) organizations need not be reported and are not subject to the annual gift dollar-amount limit when an official is providing services to the nonprofit that equal or exceed the value of that travel.
- **Employee Travel Expenses Paid by One's Public Agency as Part of One's Public Service (Including Speeches).** When public employees travel as part of

their work, such travel payments are not reportable as gifts or income on an employee's Statement of Economic Interests and are not subject to limits.⁶⁴ Note that the expenses are considered "necessary" by the Fair Political Practices Commission if they occur the day of the presentation, the day before and the day after.⁶⁵ Free admission, refreshments or similar non-cash nominal benefits one receives while attending an event at which one delivers a speech or participates in a panel or seminar are similarly exempt from gift limit and reporting requirements.⁶⁶ These travel expenses are not reportable as gifts on an employee's Statement of Economic Interests. This exception is *not* available for elected officials and top-level staff (see the paragraph on speech-related travel expenses — public agency attorneys refer to these individuals as "section 87200 filers"⁶⁷).⁶⁸

- **Travel Payments Provided to the Official in Connection With Campaign Activities.** When a supporter provides travel, such in-kind support must be reported in accordance with campaign disclosure requirements. It is not, however, subject to the gift limit, reporting and disqualification requirements.⁶⁹

Travel That Is Not Subject to Annual Limits but Must Be Disclosed in Some Way

- **Business Travel.** Travel in connection with an official's business or profession is not considered a gift to public officials and is not reportable or subject to the gift limits.⁷⁰ The business or profession must be "bona fide" (presumably meaning not contrived simply for the purpose of accepting travel payments), and the travel must be such that it would qualify as deductible under federal tax laws.⁷¹ These payments are more akin to *income* and should be reported as such on the official's Statement of Economic Interests.⁷²

Reminder About the Honoraria Prohibition

As one contemplates the special exceptions to the gift rules connected with travel to make presentations, one also needs to be aware of the general prohibition against accepting compensation for giving a speech, writing an article, or attending a public or private conference or other event.⁷³ For more information, visit the Fair Political Practices Commission website.⁷⁴

- **Travel Expenses for Those Who Give a Speech in the United States.** Similarly, the rules recognize that it can be useful for public officials to travel within the United States to make speeches on government or policy matters, as long as their travel doesn't exceed three days (the day of the speech, the day before and the day after).⁷⁵ However, unless the official pays for the travel and expenses out of his or her own pocket, the public is entitled to know how much of this kind of traveling an official does. As a result, the official must report the amount of travel

payments received on his or her Statement of Economic Interests.⁷⁶ Although the amounts are not subject to the annual gift limit,⁷⁷ these travel payments must be reported either on the travel reimbursement schedule (schedule E) or as gifts or income on one's Statement of Economic Interests.⁷⁸ Elected officials, local government department heads and public employees who file Statements of Economic Interests all fall within this rule.⁷⁹

- **Travel Expenses for Other Government-Related Trips.** Although not subject to annual dollar limits on gifts, certain types of travel payments must be reported either on a travel reimbursement schedule (schedule E) or as gifts or income on one's Statement of Economic Interests.⁸⁰ This includes any payment for travel which is:
 - Related to a legislative or governmental purpose or to an issue of state, national or international public policy; and
 - Paid for by a governmental, educational or 501(c)(3) charitable nonprofit organization.⁸¹
- **Travel and Meals Received in Conjunction With Nonprofit Service.** When a public official receives travel or meals in conjunction with service to a nonprofit organization (for example, in connection with association activities), the FPPC has opined that such payments may be reported as income (as opposed to gifts) if the official can show he or she provided services of equal or greater value to the association.⁸² An official could report it as a gift, according to the FPPC, but given the cost of travel, the official might quickly find him or herself at risk of exceeding the annual gift limit. Note that if the nonprofit is a 501(c)(3) organization under the tax laws, one can report the travel as either a gift or income under the rule that travel paid for by a 501(c)(3) is not subject to the annual dollar limits on gifts from a single source.⁸³
- **Travel in Connection With Campaign Activities.** Travel paid for by campaign funds are not reportable *as gifts* or subject to the annual dollar limits on gifts;⁸⁴ the same is true for payments for a candidate's travel in connection with campaign activities.⁸⁵ To fall within the latter category, the travel must be in direct connection with campaign activities,⁸⁶ which means, among other things, it must be travel to participate in either:
 - Candidate forums or similar voter gatherings;⁸⁷ or
 - Campaign strategy meetings with consultants or staff.⁸⁸

Each kind of travel must generally occur within six months of an election.⁸⁹ Such payments are still subject to disclosure requirements under the campaign finance portion of the Political Reform Act.⁹⁰

When an Official Asks for Gifts for Others: “Behested” Payments

Behested payments are donations made to a government agency or charity at the request of an elected official for a legislative, governmental or charitable purpose.⁹¹ Behested payments are not considered gifts to the official, but must be disclosed if donations from a single source in a calendar year equal or exceed \$5,000.⁹² These occur when an official asks a person or business to make a donation to the official’s favorite charity or to contribute to an agency project (for example, a skate park).

If the payment equals or exceeds \$5,000, the official must complete the FPPC form ([Form 803](#)) within 30 days and should file it with their local filing officer. For more information, see [www.ca-ilg.org/behested payments](http://www.ca-ilg.org/behested_payments).

Campaign Contributions

Technically, campaign contributions fit within the definition of a gift (something received but not paid for). As such, they would be subject to the limitations on gifts were it not for a special exemption.⁹³ The exemption recognizes that those that receive campaign contributions must disclose such contributions under other provisions of the Political Reform Act.⁹⁴

Campaign contributions, including rebates or discounts received in connection with campaign activities, are not subject to the limitations on gifts.⁹⁵ However, campaign contributions must be reported in accordance with the law governing campaign disclosure.⁹⁶

About This Resource

This document is a service of the Institute for Local Government (ILG) whose mission is to promote good government at the local level with practical, impartial, and easy-to-use resources for California communities.

ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities and the California State Association of Counties. For more information and to access the Institute’s resources on gift rules public officials go to <http://www.ca-ilg.org/GiftCenter>.

As part of its mission of promoting good government at the local level, the Institute tries to help local officials understand those rules.

These informational materials, however, are not legal advice. Attorneys can and do disagree on how to interpret the rules in this area. In addition, the rules can and do change over time.

Officials are encouraged to consult with an attorney or relevant regulatory authorities for up-to-date information and advice on specific situations.

References and Resources

Note: The Fair Political Practices Commission Regulations are available from <http://www.fppc.ca.gov/index.php?id=496> (the gift regulations start at section 18940).

¹ See *Navas Advice Letter*, No. A-10-110 (2010) (finding that finance official's acceptance of scholarship that included travel expenses for a conference; although the *travel expenses* were not subject to the gift *limit*, it was nonetheless a gift. The FPPC advised the official to be alert and get additional advice should a situation arise in which the official would be making a decision that would affect the association to make sure the official stayed on the right side of the rules (an example might be the decision to pay association dues).

² See 2 Cal. Code Regs. § 18940.1(f) (payments for food are a gift).

³ *Ross Advice Letter*, No. A-10-082 (2010) (payment for mayor's lodging on trip to Singapore to represent US Conference of Mayors is a gift subject to the reporting requirements).

⁴ 2 Cal. Code Regs. § 18942(a)(7)(A).

⁵ 2 Cal. Code of Regs. §18942(a)(7)(A).

⁶ 2 Cal. Code of Regs. §18942.2.

⁷ 2 Cal. Code Regs. § 18942(a)(7)(A)(i).

⁸ 2 Cal. Code Regs. § 18942(a)(7)(B)(ii).

⁹ 2 Cal. Code of Regs. §18942.2 (definition of home hospitality).

¹⁰ Cal Gov't Code § 87207(a)(1); 2 Cal. Code Regs. § 18940(a) and (d) .

¹¹ Cal. Gov't Code § 89503; 2 Cal. Code Regs. §§ 18940(a), 18940.2 (the FPPC adjusts the limit biennially, and it will remain at \$440 until the end of 2012).

¹² If the limit is exceeded one has several options, any of which must be exercised within 30 days of receiving the gift. One may return the gift unused to the donor, reimburse the donor for all or a portion of the value of the gift or donate the gift, without claiming a tax deduction, to a 501(c)(3) charitable organization or government agency. 2 Cal. Code Regs. §18941(a)..

¹³ Cal. Gov't Code § 87103(e); 2 Cal. Code Regs. §§ 18940(a), (c), 18703.4. This is because public officials may not make, participate in making, or influence governmental decisions which affect their personal financial interests. Cal. Gov't Code § 87100. The law makes a judgment that one is financially self-interested in a decision when one accepts gifts exceeding the \$440 gift limit from someone affected by that decision. Cal. Gov't Code § 89503; 2 Cal. Code Regs. § 18940.2(a).

¹⁴ 2 Cal. Code of Regs. §§ 18940(d), 18730 (b)(8.1)(A) (application of the gift disclosure rules). See also 2 Cal. Code of Regs. §§ 18701(a), 18730 (b)(9)(A) (application of the disqualification/conflict of interest rules). See also §18940.1 (b)(definition of "Official").

¹⁵ 2 Cal. Code Regs. § 18942(a)(7)(A)(iii).

¹⁶ 2 Cal. Code Regs. § 18942(a)(7)(A)(ii).

¹⁷ Cal Gov't Code § 82028(b)(1); 2 Cal. Code Regs. § 18942(a)(1).

¹⁸ Cal. Gov't Code § 18942.1.

¹⁹ Cal. Gov't Code § 18942.1(a)-(c).

²⁰ 2 Cal. Code Regs. § 18942.1(b).

²¹ See *In re Spellman*, 1 FPPC Ops. 6 (1975); *Briggs Advice Letter*, No. A-93-210; see also *Federighi Advice Letter*, A-07-139 (2007).

²² *Barker Advice Letter*, No. I-93-186 (1993).

²³ See *Ross Advice Letter*, No. A-10-082 (2010) (finding free admission to a US Conference of Mayors conference was informational).

²⁴ 2 Cal. Code Regs. § 18942.1(c).

²⁵ Cal. Gov't Code § 82028(b)(5); 2 Cal. Code Regs. § 18942(a)(5).

²⁶ *Persons Advice Letter*, No. A-07-054 (2007).

²⁷ *Persons Advice Letter*, No. A-07-054 (2007) (note that the relative was a great aunt, which was not one of the relatives listed in the FPPC's list of relatives at that time).

- ²⁸ *Eland Advice Letter*, No. I-09-048 (2009).
- ²⁹ 2 Cal. Code Regs. § 18942(a)(9).
- ³⁰ 2 Cal. Code Regs. § 18942(a)(9).
- ³¹ 2 Cal. Code Regs. § 18942(a)(9).
- ³² 2 Cal. Code Regs. § 18942(a)(9).
- ³³ *See generally* 2 Cal. Code Regs. § 18940(a).
- ³⁴ 2 Cal. Code Regs. § 18940(a).
- ³⁵ 2 Cal. Code Regs. § 18942.
- ³⁶ 2 Cal. Code Regs. § 18942(a)(10).
- ³⁷ 2 Cal. Code Regs. § 18942(a)(10).
- ³⁸ 2 Cal. Code Regs. § 18942(a)(10).
- ³⁹ Cal. Gov't Code § 82028(b)(6); 2 Cal. Code Regs. § 18942(a)(6). *See also* 2 Cal. Code Regs. § 18942(a)(13) (prizes in competitions unrelated to official status not a gift).
- ⁴⁰ Cal. Gov't Code § 89503(e)(2); 2 Cal. Code Regs. § 18942(b)(2).
- ⁴¹ 2 Cal. Code Regs. § 18943 (family member includes the official's spouse and dependent children).
- ⁴² 2 Cal. Code Regs. § 18946.3.
- ⁴³ 2 Cal. Code of Regs. § 18946.4(b) (nonprofit fundraisers) and (c) (political fundraisers).
- ⁴⁴ 2 Cal. Code of Regs. § 18946.4(a)(1) (the "nondeductible portion").
- ⁴⁵ 2 Cal. Code of Regs. § 18946.4(a)(2).
- ⁴⁶ *See* 2 Cal. Code of Regs. § 18946.4(a)(2).
- ⁴⁷ 2 Cal. Code of Regs. § 18946.2(c).
- ⁴⁸ 2 Cal. Code of Regs. § 18946.2(f) (may be intended to be "(g)").
- ⁴⁹ 2 Cal. Code of Regs. § 18946.2(b),(c).
- ⁵⁰ 2 Cal. Code of Regs. §§ 18946.3 (definition of ceremonial role and requirements public agency must satisfy for participation to qualify as a "ceremonial role"), 18942(12) (exception to gift rules for events at which an official performs a ceremonial role — exception also extends to one guest and any supporting staff).
- ⁵¹ 2 Cal. Code of Regs. § 18946.2(e).
- ⁵² 2 Cal. Code of Regs. § 18946.2(e).
- ⁵³ 2 Cal. Code of Regs. § 18946.2(e).
- ⁵⁴ 2 Cal. Code of Regs. § 18942(a)(12) (exception to gift rules for events at which an official performs a ceremonial role — exception also extends to one guest and any supporting staff).
- ⁵⁵ 2 Cal. Code of Regs. § 18942.3 (definition of ceremonial role and requirements public agency must satisfy for participation to qualify as a "ceremonial role").
- ⁵⁶ 2 Cal. Code of Regs. § 18942.3.
- ⁵⁷ 2 Cal. Code of Regs. §§ 18942.3.
- ⁵⁸ *See* Cal. Const. art. XII, § 7 ("A transportation company may not grant free passes or discounts to anyone holding an office in this state . . .").
- ⁵⁹ Joseph R. Grodin, Calvin R. Massey, and Richard B. Cunningham, *The California State Constitution: A Reference Guide* (Greenwood Press: 1993) at 209.
- ⁶⁰ *See* 3 Cal. Op. Att'y Gen. 318 (1944).
- ⁶¹ 74 Cal. Op. Att'y Gen. 26 (1991).
- ⁶² Cal. Govt. Code §§ 87100, 87103(e).
- ⁶³ 2 Cal. Code Regs. § 18944.2 (see section 18944.2(d) relating to travel gifts to public agencies).
- ⁶⁴ Cal. Gov't Code § 89506(d)(2); 2 Cal. Code Regs. § 18950.1(d) ("Travel Provided by Official's Agency. A payment made for transportation and necessary lodging and subsistence, which payment is made by the agency of an official, is not an honorarium or gift."). *See also* Cal. Gov't Code § 82030(b)(2) ("(b)'Income' also does not include: . . . (2) Salary and reimbursement for expenses or per diem, and social security, disability, or other similar benefit payments received from a state, local, or federal government agency and reimbursement for travel expenses")
- ⁶⁵ 2 Cal. Code Regs. § 18950.3(a)(2). Note that the regulations also exclude payments from nongovernmental entities that are given to a public agency and are "earmarked" for use by a particular official. 2 Cal. Code Regs. § 18950.3(b)(2) (finding such a payment is not a payment from a public

agency). See also Fair Political Practices Commission, [*Limitations and Restrictions on Gifts, Honoraria, Travel and Loans: A Fact Sheet for Local Elected Officers and Candidates for Local Elective Offices, Local Officials Specified in Government Code Section 87200, Judicial Candidates, Designated Employees of Local Government Agencies*](#), at 10-11 (March 2012).

⁶⁶ 2 Cal. Code Regs. § 18942(a)(11) (“(a) For purposes of Section 82028, none of the following is a gift and none is subject to any limitation on gifts: . . . (11) Free admission and refreshments and similar non-cash nominal benefits provided to a filer at an event at which the filer gives a speech, participates in a panel or seminar, or provides a similar service, and transportation and any necessary lodging and subsistence that is exempt under Regulation 18950.3. These items are not payments and need not be reported by the filer.”).

⁶⁷ “Section 87200 filers” are:

. . . members of planning commissions, members of the board of supervisors, district attorneys, county counsels, county treasurers, and chief administrative officers of counties, mayors, city managers, city attorneys, city treasurers, chief administrative officers and members of city councils of cities, and other public officials who manage public investments, and to candidates for any of these offices at any election.

Cal. Gov’t Code § 87200.

⁶⁸ See Fair Political Practices Commission, [*Limitations and Restrictions on Gifts, Honoraria, Travel and Loans: A Fact Sheet for Local Elected Officers and Candidates for Local Elective Offices, Local Officials Specified in Government Code Section 87200, Judicial Candidates, Designated Employees of Local Government Agencies*](#), at 10-11 (March 2012).

⁶⁹ 2 Cal. Code Regs. §§ 18950.1(c), 18950.4.

⁷⁰ 2 Cal. Code Regs. § 18950.1(e).

⁷¹ 2 Cal. Code Regs. § 18950.1(d).

⁷² Fair Political Practices Commission, [*Limitations and Restrictions on Gifts, Honoraria, Travel and Loans: A Fact Sheet for Local Elected Officers and Candidates for Local Elective Offices, Local Officials Specified in Government Code Section 87200, Judicial Candidates, Designated Employees of Local Government Agencies*](#), at 10 (March 2012) (noting these payments should be reported as part of salary, wages, and other income reported on Schedules A-2 or C of Form 700).

⁷³ Cal. Gov’t Code §§ 89501, 89502.

⁷⁴ See Fair Political Practices Commission, [*Limitations and Restrictions on Gifts, Honoraria, Travel and Loans, A Fact Sheet for Local Elected Officers and Candidates for Local Elective Offices, Local Officials Specified in Government Code Section 87200, Judicial Candidates and Designated Employees of Local Government Agencies*](#), at 8-9 (2012).

⁷⁵ 2 Cal. Code Regs. § 18950.1(a)(2) (“A payment made for travel, including actual transportation and related lodging and subsistence, is not subject to the to the prohibition or limitation on honoraria and gifts specified in Government Code Sections 89501, 89502, or 89503 if: (A) The travel is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, and (B) The travel, including actual transportation and related lodging and subsistence, is in connection with a speech given by the official or candidate; the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech; and the travel is within the United States.”).

⁷⁶ See 2 Cal. Code Regs. § 18950.1(a)(2) (“Except as otherwise provided by . . . Section 18950.3, any payment for travel specified in this subdivision (a)(2), shall be reported in accordance with Government Code Section 87207(c) [providing for travel payments to be reported on a separate travel schedule].”)

⁷⁷ See 2 Cal. Code Regs. § 18950.1(a)(2) (“A payment made for travel, including actual transportation and related lodging and subsistence, is not subject to the prohibitions or limitations on honoraria and gifts specified in Government Code Sections 89501, 89502, or 89503 . . .” if the travel satisfies the requirements of being relating to a governmental purpose of policy and is connection with a speech.)

⁷⁸ Cal. Gov’t Code § 87207(c); 2 Cal. Code Regs. § 18950.1(a)(2); Fair Political Practices Commission, [*Limitations and Restrictions on Gifts, Honoraria, Travel and Loans: A Fact Sheet for Local Elected*](#)

[Officers and Candidates for Local Elective Offices, Local Officials Specified in Government Code Section 87200, Judicial Candidates, Designated Employees of Local Government Agencies](#), at 10 (2012).

⁷⁹ Cal. Gov't Code § 89506(a)(1).

⁸⁰ Cal. Gov't Code § 87207(c); 2 Cal. Code Regs. § 18950.1(b); Fair Political Practices Commission, [Limitations and Restrictions on Gifts, Honoraria, Travel and Loans: A Fact Sheet for Local Elected Officers and Candidates for Local Elective Offices, Local Officials Specified in Government Code Section 87200, Judicial Candidates, Designated Employees of Local Government Agencies](#), at 10 (2012).

⁸¹ Cal. Gov't Code §§ 89506(a)(2); 2 Cal. Code Regs. § 18950.1(b). *See also* Cal. Gov't Code § 82030(b)(2) (“(b) ‘Income’ also does not include: . . . (2) . . . reimbursement for travel expenses and per diem received from a bona fide nonprofit entity exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.”)

⁸² *Aranda Advice Letter*, No. I-11-059 (2011) (relating to California Special District Association activities), *Benninghoven Advice Letter*, No. I-93-298 (1993) (relating to service in connection with League of California Cities’ activities).

⁸³ *See* Cal. Code of Regs. §§ 18950.1(b).

⁸⁴ *See* Cal. Code of Regs. §§ 18950.1(c) (“A payment for transportation and necessary lodging and subsistence, which payment is made from campaign funds as permitted by Government Code Section 89513, or which is a contribution, is not an honorarium or a gift.”), 18950.4. *See also* Fair Political Practices Commission, [Limitations and Restrictions on Gifts, Honoraria, Travel and Loans: A Fact Sheet for Local Elected Officers and Candidates for Local Elective Offices, Local Officials Specified in Government Code Section 87200, Judicial Candidates, Designated Employees of Local Government Agencies](#), at 10 (2012).

⁸⁵ *See* Cal. Code of Regs. 18950.4.

⁸⁶ *See* Cal. Code of Regs. § 18950.4.

⁸⁷ *See* Cal. Code of Regs. § 18950.4(a)(1)(A) (“Participation in candidate forums, debates or similar voter gatherings at which he or she makes a speech . . .”).

⁸⁸ *See* Cal. Code of Regs. § 18950.4(a)(1)(B) (“Attendance at meetings with campaign staff or political consultants to develop or implement campaign strategy”).

⁸⁹ *See* Cal. Code of Regs. § 18950.4(a)(2) (“A payment made to an elected officer or candidate for necessary transportation to, or lodging and subsistence at, an event described in subdivision (a)(1)(A) or subdivision (a)(1)(B), but not made within the six month period prior to the election in which the elected officer or candidate is being voted upon, shall be considered gifts unless it is clear from the surrounding circumstances that the payment is made directly in connection with campaign activities”).

⁹⁰ *See* Fair Political Practices Commission, [Limitations and Restrictions on Gifts, Honoraria, Travel and Loans: A Fact Sheet for Local Elected Officers and Candidates for Local Elective Offices, Local Officials Specified in Government Code Section 87200, Judicial Candidates, Designated Employees of Local Government Agencies](#), at 10 (2012).

⁹¹ Gov't Code § 82015; Fair Political Practices Commission, [Limitations and Restrictions on Gifts, Honoraria, Travel and Loans](#), at 6 (2012).

⁹² *Id.*

⁹³ *See* Cal. Gov't Code § 82028; Cal. Code of Regs. § 18942(a)(4). *See also* Cal. Code of Regs. § 18942(a)(11) (payments for travel for campaign activities).

⁹⁴ *See* Cal. Gov't Code § 84100 and following; 2 Cal. Code Regs. § 18401 and following.

⁹⁵ Cal. Gov't Code § 82028(b)(4); 2 Cal. Code Regs. § 18942(a)(4); Fair Political Practices Commission, [Limitations and Restrictions on Gifts, Honoraria, Travel and Loans](#), at 3 (2012).

⁹⁶ *Id.*