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Reporting Intermediaries

An intermediary is a middle person who gives a gift to an official that was paid for by another person.ⁱ Use of an intermediary in gift-giving may disguise the gift's true source, which frustrates the Political Reform Act's objective of promoting transparency in public agency decision-making.ⁱⁱ Consequently, for reporting purposes the source of a gift is the gift-giver as long as that person is not acting as an intermediary.ⁱⁱⁱ If an intermediary is involved, the identities of both the source and the intermediary must be reported.^{iv}

A person acting as an intermediary of a gift worth \$50 or more must disclose his or her identity and the identity of the source, including their full names, street addresses and business activities, to the recipient.^v In turn, the recipient must report the full name, street address and business activity of both the source and the intermediary on his or her [Statement of Economic Interests](#).^{vi} An official is permitted to presume the person who delivered the gift was the source unless: (1) another source was identified; (2) circumstances clearly indicate the person delivering the gift was not the actual source; or (3) the official receives a gift in response to solicitation of a payment from a source to an intermediary for purposes of making a gift to the official within twelve months of the solicitation (see number 6 below).^{vii}

A Fair Political Practices Commission rule expressly delineates six circumstances under which a source and intermediary exist. A person who makes a payment to a third party that is used directly or indirectly by the third party to make a gift to an official is the source, and the third party is the intermediary, under any of the following circumstances:^{viii}

1. The person directs and controls use of the payment at the time it is used by the third party to make a gift to the official.
2. The person and the third party agreed that the payment will be used to make a gift to the official.
3. The person identifies the official to the third party as the intended beneficiary of the payment before the third party makes a gift to the official.

4. The third party identifies the official to the person as the intended beneficiary of the payment before receiving the payment.
5. The person knows or has reason to know that the sole or primary purpose of the payment is to make gifts to officials.
6. An official or an official's agent solicits the payment from the person to the third party for purposes of making a gift to the official.

An official must report both the source and the intermediary if the official is aware that any of these circumstances exist with respect to a gift.^{ix}

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The Institute welcomes feedback on this resource:

- *Email: jspeers@ca-ilg.org Subject: *Reporting Intermediaries**

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ⁱ See 2 Cal. Code Regs. § 18945.

ⁱⁱ See Cal. Gov't Code § 81002.

ⁱⁱⁱ 2 Cal. Code Regs. § 18945(a).

^{iv} Cal. Gov't Code §§ 87210, 87313; *see also* 2 Cal. Code Regs § 18945.3 (restating the rule).

^v Cal. Gov't Code §§ 87210, 87313; *see also* 2 Cal. Code Regs § 18945.3 (restating the rule).

^{vi} Cal. Gov't Code §§ 87210, 87313; *see also* 2 Cal. Code Regs § 18945.3 (restating the rule).

^{vii} 2 Cal. Code Regs. § 18945(d).

^{viii} 2 Cal. Code Regs. § 18945(b)(1).

^{ix} See 2 Cal. Code Regs. § 18945(d).