

California's Open Government and Ethics Requirements

AB 1234 Training and Discussions on Transparency and
Good Conduct for Public Officials

Chula Vista City Council Workshop
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Presentation Outline

I. Open Government

- Brown Act
- Public Records Act
- Financial Disclosure (Form 700)

II. Ethics Overview

- Conflicts of Interest
- [BREAK]
- Temptations
- Fair Process

III. Training Exercise

IV. Questions & Answers

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LMG Quote# 1

"Oh, sweetheart, you don't need law
school. Law school is for people who are
boring and ugly and serious. And you,
button, are none of those things."
(2001)

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I. Open Government



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The Ralph M. Brown Act Cal. Govt. Code §§ 54950, et. seq.

Core Principles

- Local agencies can only deliberate and take actions at public meetings
- Public must be notified in advance of all meetings and matters to be considered
- Public must be given access to information and opportunity to provide input to decisions-makers
- Exceptions are limited

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Application: Who is Subject to the Act?

- Applies to all local "legislative bodies" and their members
 - City Councils and County Boards
 - Boards and commissions
 - Sub-Committees of a legislative body, with limited exceptions
 - Regional Boards
 - BIDS and PBIDs per Streets and Highway Code
- Does not govern conduct of City staff

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Definition of "Meeting"

- Any congregation of a majority of the members
 - at the same time and place
 - to hear, discuss or deliberate
 - an issue in the subject matter jurisdiction of the body
- No action is required; "Mere" discussions qualify
- Includes informal gatherings, with or without public attendance or City sponsorship

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What Else is a Meeting?

- Other forms of communication constituting a "meeting" include:
 - Writings: Written communication, including e-mails, between a majority of the members
 - Serial Communications: a chain of communications from member A to member B, then member A or B to member C (until a quorum of members contacted)
 - Intermediary Communications: communications between employees or agents on behalf of a majority of members

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- Examples of Each:

- Email between two Planning Commissioners regarding their support for a project, with copies to two other Planning Commissioners
- One City Councilmember to another: "I've talked with so and so and he thinks. . ."
- A department head tells a City Council person that two other City Councilmembers are "onboard" with a pending item.

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Meeting Exceptions

- + ■ Not a "meeting" if a majority of members attend:
 - Conference open to the public
 - Open and publicized local public meeting
 - Open, noticed meeting of another legislative body
 - Social or ceremonial event
 - Open, noticed meeting of a standing committee (but can't participate)
- Gray area: seek legal advice first
 - Often advisable to notice the meeting or limit attendance to less than majority
- Quorum still can't discuss city business

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Meeting Exceptions (cont'd)

- + ■ Memoranda from City Manager or City Attorney to all City Council Members
- Communications for purposes of calling a special meeting or setting an agenda
- Individual contacts or conversations between less than a majority of members and a member of the public

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LMG QUOTE # 2

"I want the truth."
"You can't handle the truth."

(1997)

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Meeting Rules

1. Proper Notice

- In Advance
 - 72 hours Regular Meeting
 - 24 hours Special Meeting
- Indicate location and time
- Description of Items to be Discussed
- Posted and Mailed to Those Requesting
- City Council Agendas must also be posted on internet

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Meeting Rules

2. Qualified Location

- Must be held within the jurisdictional boundaries of the City, unless a specific exemption applies
 - Comply with a law or court order
 - Inspect property outside of city
 - Multiagency meeting
 - No meeting facility within the jurisdiction
 - Meeting with federal or state officials on a legislative or regulatory issue
 - A facility outside of the City, which is the topic of discussion
 - Closed session at legal counsel's office regarding pending litigation when it would reduce legal fees or costs
- Location must be ADA accessible.
- Remote attendance by teleconference possible.
- City Charter §308 also governs meeting location.

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Meeting Rules

3. What You Can Talk About

- Only items listed and clearly described on timely posted agenda can be discussed or acted upon
 - Agenda must include a clear description of each item to be considered (generally need not exceed 20 words)
 - Should reference what is sought regarding the item (approval, direction, etc)
- If any question, better not to act

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EXAMPLES

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■ Good:

Resolution Approving Proposed Amendments to City Parks Master Plan to Add Recreation Facilities and Corresponding Amendments to City Master Fee Schedule to Increase Public Facilities Development Impact Fees

■ Not so good:

Parks and Park Fee Increases

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Meeting Rules

4. What You Cannot Talk About

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- Cannot consider, discuss, deliberate or take action on matters not on the agenda
- Otherwise, only appropriate action is to refer item to staff and/or for consideration on a future agenda
- Brief response, question or statement o.k.
- Limited Exceptions:
 - Majority vote determines an "emergency" exists; (e.g. crippling natural disaster, terrorist act, or major work stoppage); or
 - Two-thirds (4 of 5) vote determines the need to take immediate action exists and agency knowledge of need arose after the agenda was posted

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Meeting Rules

5. Subcommittees

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- The Act generally applies to all boards, commissions, committees and other bodies created by charter, resolution or formal action of a legislative body
- Applies whether the body is permanent or temporary, advisory or decision making
- Limited Exception – A true "Ad Hoc" Subcommittee
 - Comprised solely of less than a quorum of the members of the appointing body; and
 - Does not have continuing jurisdiction over a particular subject matter
 - Cannot have members of other legislative bodies or other 3rd parties
 - Limited duration: ideally 6 months or less
- Many gray areas. Seek City Attorney advice

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Closed Session: The Exception, Not the Rule

- + ■ The Act limits what can be discussed behind closed doors to specified topics and circumstances
 - License/Permit Determination for rehabbed criminal (§54956.7)
 - Real Property Negotiations – Price and Terms (§54956.8)
 - Existing Litigation [§54956.9(a)]
 - Anticipated Litigation [§54956.9(b)]
 - Liability Claims (§54956.95)
 - Threat to Public Safety/Services [§54957(a)]
 - Public Employee Appointment/Employment/Performance Evaluation/Discipline/Dismissal/Release [§54957(b)]
 - Labor Negotiations (§54957.6)

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Closed Session: Not Available to Most Boards and Commissions

- + ■ General Rule for Most Boards and Commissions: No legal basis for closed session
- Closed Session may be used in very limited circumstances by:
 - Mobile Home Rent Review Commission
 - Planning Commission
 - Civil Service Commission
 - Board of Appeals
 - Board of Ethics
- To discuss final decisions legal challenges or remands
- Only go in on advice from legal counsel

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Closed Session: Confidentiality

- + ■ Confidential information obtained during closed session cannot be disclosed outside the session
 - Confidential information includes City negotiating positions in real estate and labor talks, and City vulnerabilities or settlement positions in litigation
- Only a majority vote of the legislative body can authorize disclosure
- Penalties for unauthorized disclosure include referral to the grand jury, injunctive relief, and disciplinary action

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Rights of the Public:

1. Attendance

- Public must be allowed to attend, observe and speak at meetings
- Cannot be required to register, or fulfill any "condition precedent" to attendance; name and address can be requested, but no obligation to provide
- Allowed to record the meeting with audio or video recorder; take photographs

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Rights of the Public:

2. Access to Materials

- Allowed to review agendas and other documents distributed to a majority of the board
- If distributed less than 72 hours prior to meeting, documents must be made available at public location

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Rights of the Public:

3. Public Comment

- Regular Meeting
 - Agenda Items: Comment must be allowed; reasonable time limits can be adopted
 - Non-agenda Items: Agenda must provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public within its purview
 - No action or discussion can occur
 - Can refer to staff for information; request a report back; request item be placed on future agenda

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Rights of the Public: Public Comment (cont'd)

- Special Meeting
 - Must allow comment on agenda items
 - Comment on non-agenda items is permissible but not required
- Criticisms and Complaints
 - Must be allowed
 - Disruptive behavior does not have to be tolerated
- Important to Treat everyone the same. 24

Violations of the Brown Act: - Remedies and Penalties -

- Civil Remedies
 - Can be brought by any interested person or DA
 - Invalidation Action: to void past acts
 - Injunctive or Declaratory Relief: to prevent future violations
 - Procedural requirements allow opportunity to cure and correct action taken
 - Costs and attorneys' fees may be awarded against agency; City may recover fees if lawsuit is frivolous.
- Criminal Penalties
 - Member may be subject to misdemeanor penalties if:
 - Attends meeting at which action taken violates the Act; and
 - Intends to deprive public of information
 - "Action taken" includes a collective decision, commitment or promise by a majority 25

LMG QUOTE #3

"Mister Hart, here is a dime. Take it, call your mother, and tell her there is serious doubt about you ever becoming a lawyer."
(1973)

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Emerging Area: Social Media and the Brown Act

- Increased Risk of "Serial" Meetings
- Increased Risk of Bias "Pre-determination" and Due-Process violations
- Emails, Texts, Tweets or Posts during meetings deny Public Access to Decision Making Process
- Brown Act applies, but no case law exists to clarify how and when

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Practice Tips for Brown Act Compliance

1. Avoid sharing info about another council/committee/commission member's views;
2. Do not direct or cc emails to a quorum or more of your council/board colleagues, or "reply all" on city business;
3. Refrain from public statements (including use of social media) that state final positions on matters pending before you;
4. Review Agendas in advance of meeting and think about Brown Act parameters;
5. Don't discuss items not on agenda; instead, refer them to staff for future discussions with consensus of your board;
6. Don't forget to allow for public input
7. When in doubt, don't act;
8. Seek advice from City Attorney's office in advance whenever possible.

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Conclusion

Essence of Brown Act

- City Council, Board & Commission business must be conducted at Public Meetings.
- All persons have a right to be notified of, attend and participate in the meetings.
- Compliance is key to earning and keeping public trust. Takes knowledge, discipline and integrity.

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Additional Resources

- Attorney General Website:
ag.ca.gov/publications/brownact2003.pdf
- League of California Cities Publication:
"Open & Public IV: A Guide to the Ralph M. Brown Act"
www.cacities.org/resources/publications
- Contact City Attorney or City Clerk
<http://cvin Insider/CVDepartments/CityClerk/documents/Handbook.pdf>

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Public Records Act

(Government Code Sections 6250 thru 6270)

Core Principles

- The Public has the right to see records related to the public business- "Document Transparency"
- Right to Information concerning conduct of people's business considered "fundamentally and necessary" right of every person
- A "record" is any "writing" (broadly defined) containing information related to the conduct of the public's business, retained in course of business

Examples: Staff reports, memoranda, letters, maps, spread sheets, emails, Form 700s, even your AB1234 Certificate

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Public Records Act Exceptions

- Exceptions are limited and Narrowly Construed
 - GC 6254 lists exceptions such as: draft documents, personnel files, privileged documents (i.e. attorney-client privilege), police reports/rap sheets, financial data submitted by private parties for licenses/permits, trade secrets
 - GC 6255 involves a balancing of competing interests - public benefit of disclosure v. need or rights to privacy
 - Don't have to produce/provide records that don't exist or where request is "unduly burdensome"
 - Can Redact Private/Confidential Information
 - "Deliberative Process" Records may also be exempt

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Public Records Act Responsiveness Required

- A response must be provided within 10 days of request.
- Additional time may be allowed if Record requested voluminous, difficult to assemble or require attorney review.
- Additional duties include:
 - Provide record more quickly if you can
 - help requester formulate effective request
 - Explain why records withheld
 - Can charge reasonable copy fees before providing records, but inspection is free
 - Can't charge for staff time unless creating a record that doesn't exist and requester agrees in advance

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Public Records Act Practical Tips

1. Be prepared to promptly disclose records if requested
2. Communicate carefully, especially in emails
3. Don't assume communications made via private email or cell phone are private if they relate to City Business

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LMG QUOTE # 4

"Stand up.... Your father is passing."
(1962)

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Form 700 Financial Disclosure

[Government Code Section 7200]

- + ■ Public Officials (elected, appointed officials and manager level employees) are required to disclose specified financial information
- This is done on a Form 700
- The Form 700 must be completed and filed with City Clerk when assuming office, yearly, and upon leaving office
- Available to the Public on City's Website

Form 700 Reporting Requirements

- + ■ Must report the following:
 - Income (except govt. income)
 - Real Property (except primary residence)
 - Investments
 - Business Positions
 - Loans (except institutional loans)
 - Gifts (more than \$50 from any one giver/calendar year)
 - Travel Payments
 - Business entity ownership - 10% interests or greater
- Rules can be complex. Consult Form Instructions or FPPC for guidance

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ETHICS

+ "The minute you read something you can't understand, you almost can be sure that it was drawn up by a lawyer"

Will Rogers

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ETHICS

"People who try hard to do the right thing always seem mad."

Stephen King, The Stand

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LMG QUOTE #5

"You're gonna need a bigger boat"
(1975)

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ETHICS

- Ethics involves the rules (whether they are laws or guiding principles) by which we conduct ourselves.
- Ethics rules try to capture values. Universal values include: fairness, loyalty, compassion, trustworthiness, responsibility, and respect.
- There are many laws which govern the conduct of public officials and they try to capture those universal values.

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ETHICS

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- Three Concepts to keep in mind when acting:
 - Put the public's interest above your own
 - Obtain no personal gain from your position
 - Treat people fairly
- Recusal v. Participation (a balancing act)
 - As elected or appointed official you are in place to do the public's business
 - Recusal required for actual conflicts

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ETHICS

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We are going to cover some of the ethical laws covering:

1. Conflicts of Interest-Holding Office
2. Conflicts of Interest-Bias
3. Conflicts of Interest-Financial Interests
4. Temptations (Personal Advantages/Perks)
5. Fair Process
6. CVMC 2.01 [Code of Ethics]

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LMG QUOTE #6

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"Uh. . . Everything that guy just said is bull****....Thank you"

(1997)

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Conflicts of Interest-Holding Office

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- GC1099 (Incompatible Offices)
- GC 1126 (Incompatible Activities)

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Incompatible Offices (Government Code Section 1099)

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- GC 1099 prohibits a person from simultaneously holding two public offices that are incompatible
- First step: Are there two public offices?
 - Does not apply to employment
- Second step: Are they incompatible?

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Incompatible Activities (Government Code Section 1126)

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- GC 1126: A local agency officer or employee shall not engage in any employment or activity for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee.
- The local agency may define what is prohibited and prohibit such employment/activity
- GC 1126 does not apply to elective office such as councilmember
- Commonly used to regulate City employee's outside employment

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Conflicts of Interest Bias

- "Common law"
- "Nepotism"

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Common Law

- The "common law doctrine against conflicts of interests" seeks to prohibit a division of loyalty, involving the public officer's duty to the public and his or her personal interests
- Applies when you are making a decision or taking an action where your personal interest is placed above your duty of loyalty to the public
- Commonly seen where public official's financial interest may be involved, a family member, friend, or close group is involved in action
- Subjective and Objective

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Common Law

Practice Tips:

- A self audit of one's personal interest is required in determining if a conflict exists
- A lot of times, this is mixed with "appearance" issues-- Ask yourself, what would the headlines read?

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Nepotism

- Nepotism is favoritism based on familial relationship.
- Implicates "common law bias" which would require recusal
- Generally, should not participate in matters which involve family members

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Conflicts of Interests Financial Interest

- GC 1090(prohibited interest in contract)
- Political Reform Act (GC 87100-prohibited financial interests)

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LMG QUOTE #7

"Daddy's a litigator. Those are the scariest kinds of lawyers. He's so good he gets paid five hundred dollars an hour just to fight with people, but he fights with me for free 'cause I'm his daughter."

(1995)

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Government Code section 1090

- Government Code section 1090 deals with the making of a contract and prohibits self-dealing
- Basic rule: Officer or employee may not make or participate in making a contract in their official capacity if financially interested
- Recusal is insufficient. Contract is void. Participation may be criminal offense and require resignation.
- If there is a "remote interest" the contract can be made, but officer/employee must recuse him/herself and not participate in any manner.

Practice Tip:

- Ask yourself-Will I personally gain or benefit from this contract?
- This is a tricky area. Seek advice in advance

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Political Reform Act ("PRA")

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- Under the PRA, a "Public Official" may not take part in any governmental decision in which the official has a disqualifying economic interest.
- A Public Official has a conflict of interest when it is reasonably foreseeable that the decision will have a material financial effect on his or her specified economic interests covered
- If there is a conflict recusal is required.

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PRA –Economic Interest

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- THIS IS WHERE YOU SHOULD BEGIN YOUR INQUIRY
- Economic Interests include:
 - Business Entities-Over \$2,000 interest or Management position
 - Real Property Interest- Over \$2,000 (or within 500 feet of subject of decision)
 - Sources of Income-Over \$500 within 12 months of decision
 - Sources of Gifts: Over \$440 within 12 months of decision
 - Personal Financial Effects-Personal incomes, expenses, assets, or liabilities of the official or immediate family
 - Exception: Campaign contributions to City Councilmembers are not gift. Other Board and Commission members must consider if in excess of \$250

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Political Reform Act (Government Code Section 87100)

- The PPPC has created a multi-part test to determine if a conflict exists
- The steps include:
 - Is it "reasonably foreseeable" that the decision will have a financial effect on any of the public official's financial interest? If yes, proceed to Step 2. If no, there is no conflict. "Reasonably foreseeable" is defined in Regulation 18701.
 - Will the "reasonably foreseeable" financial effect be material? If yes, then proceed to Step 3. If no, there is no conflict. Materiality standards are found in Regulation 18702.
 - Can the public official demonstrate that the material financial effect on the public official's financial interest is indistinguishable from the effect on the public generally? If yes, then there is no conflict. If no, then proceed to Step 4. "Public generally" is defined in Regulation 18707.
 - If, after applying the "three step analysis" and determining the public official has a conflict of interest, absent an exception, he or she may not participate. Exceptions: a public official may participate, notwithstanding the conflict, if participation is legally required pursuant to Government Code section 87101 and Regulation 18705.

PRA

■ Practice Tips:

1. Know your economic interests
2. Ask yourself--does the decision impact in any way my economic interests?
3. If it does, recuse yourself
4. When in doubt, see assistance or consider recusal
5. Remember making a decision is more than voting, it is includes influencing that decision
6. If recusing oneself prior to matter being discussed, state basis for recusal and leave room.

LMG QUOTE # 8

"You're out of order! You're out of order!
The whole trial is out of order!"
(1979)

Temptations

- Bribery
- Misuse of Funds/Gift of Public Funds
- Mass Mailings
- Gifts
- Honoraria
- Travel/Lodging/Reimbursement Expenses
- Travel Passes
- Loans
- Campaign Contributions
- Behests

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Bribery (PC 68)

- Bribery means requesting, accepting, or agreeing to receive money or any other consideration in exchange for your vote or action on any matter.
- It is a felony, carries prison time (2-4 years), fines, and loss of office and ban from holding office again. May also result in loss of retirement (PEPRA).

Also, a violation of Federal law, which includes up to 15 years in Federal Prison

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Misuse of Funds/Gift of public funds (PC 424/GC 8314/Cal.Const. Art XVI, §6)

- Penal Code section 424 and Government Code section 8314 make it unlawful to use "public funds" for personal or campaign activities
- May be charged as felony/misdemeanor and violations may result in jail/prison, fines, and bar to holding office
- Public funds include: money, equipment, supplies, compensated staff time, use of telephones, computers, fax machines, ect
- California Constitution Article XVI, Section 6, prohibits gifts of public funds.

All funds should be used for public purposes

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Mass Mailings (Government Code Section 89001)

- FPPC regulations prohibits mass mailings. Mass mailings are:
 1. Tangible item delivered, by any means, to a persons residence, place of business, or post office box;
 2. The tangible item either:
 - a. Features an elected officer affiliated with agency which produces or sends the mailing; or
 - b. Includes the name, office, photograph or other reference to an elected official with the agency that produces or sends the mailing;
 3. Any of the costs is paid for with public monies; and
 4. More than 200 substantially similar items are sent in a single calendar month.

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Gifts

- Must report gifts of over \$50 on form 700
- May not accept gift over \$440
 - Gift(s) over \$440 in 12 month period is a financial interest under the PRA and you may not vote on the matter
 - For elected officials a "campaign contribution" not a gift or income
 - For board and commission members "campaign contributions" over \$250 preclude participation in matter
- Exceptions:
 - Returned within 30 days
 - Gifts from family members
 - Gifts of hospitality
 - Equal value gifts (friends commonly exchange), but be wary

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Gifts

- PRA Prohibition-cannot accept gift(s) totaling more than \$440 in a calendar year
- PRA Recusal-may not participate if received gift(s) totaling \$440 12 months prior to item being considered
- PRA Reporting-must report gift(s) totaling at more than \$50 from a single source
- A "gift" is any payment or other benefit provided to an official that confers a personal benefit for which the official does not provide goods or services of equal or greater value
- A gift includes a rebate or discount in the price of anything unless the rebate or discount is made in the regular course of business to members of the public

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Gifts

Exceptions to Prohibition and Reporting Requirement:

- Gifts returned within 30 days
- Gifts from close relatives
- Unused tickets
- Informational material
- Personalized plaques
- Hospitality in a friend's home
- Two tickets to political or 501(c)(3) organization's fundraiser

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Gifts

Gifts exempt from Limit Prohibition, but are reportable:

- Wedding gifts
- Prizes that result from a bona fide competition
- Some gifts of travel within the United States (including travel within California) [Be aware of Cal. Const. Free Transportation Ban]

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Gifts

Practice Tips:

1. Keep track of items (Gifts) you are given. That way you have information to know: what you were given, by whom you were given, when you were given, and the value (including keeping aggregate total).
2. Be wary of gifts—How will the public see your receipt of the gift? Will it be seen as a bribe?

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Honoraria (Government Code Section 89502)

- Honoraria prohibited
- Honorarium is a payment for speech, article, or attendance at event such as conference or meeting
- Exception—If it is your job to give speeches

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Travel/Lodging/Reimbursement Expenses (Government Code Section 89506)

- General Rule: payment for travel, lodging, and reimbursement for expenses are considered gifts
- Not considered gifts and not reportable:
 - Payment from another state, local, or federal agency as part of the employee's official duties for education, training, interagency programs of purposes
 - Travel for official agency business paid by the agency.
 - Payment for travel that constitutes a campaign contribution-reported as required by campaign contribution rules

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Travel/Lodging/Reimbursement Expenses Government Code Section 89506

- No Considered gifts, but reportable:
 - Travel for legislative or governmental purpose or an issue of state, national, or international policy so long as:
 - (1) in connection with a speech given by official within the US; or
 - Provided by government agency (including foreign government), educational institution, or 501(c)(3) (including foreign organization this is like a 501(c)(3))

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Travel Passes (Cal. Const. Art. XII, §7)

- California Constitution prohibits gifts of travel to public officials by transportation companies
- Applies to public officers, not employees
- Applies to interstate or foreign carriers
- Applies regardless if travel is for personal or official business'
- Violation will result in forfeiture of office
- Dates back to days of California Southern Pacific Railroad's activities in 1900's.

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Loans

- Loans must be disclosed on form 700
 - Exceptions-loans from commercial banks, lending institutions, or from close family members do not have to be disclosed
- Cannot receive loans greater than \$250 from city employees or from companies with whom the City contracts—Advice: Don't get such loans
- A personal loan of over \$500 to an elected official must in writing, set forth the date of loan, the amount, interest rate, collateral, and other terms.

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Campaign Contributions (Government Code Section 84308)

- No Officer of a Agency may solicit, accept, or direct a campaign contribution of \$250 or more while an item involving permit, license, or other entitlement is pending, 3 months after the final decision, or 12 months before the decision.
- This section does not apply to councilmembers unless they are sitting on board separate from City Council
- Participation may be permitted if the contribution is returned within 30 days of learning about the contribution and pending matter.

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Behests

- When a person donates for charitable, governmental, or legislative purposes on behalf of or in response to a solicitation
- Disclosure required
 - When it is a behest for elected officials
 - Donor makes payments totaling \$5000 or more in a calendar year
 - Charitable, legislative, or governmental purpose
 - Disclose within 30 days of donors payments on Form 803

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Fairness

- Hearings v. Legislation
- Competitive Bidding

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ETHICS Quasi-judicial v. Legislative

Quasi-judicial

- Involves acting as a trier of fact-like a jury
- Due Process-unbiased decision-maker and make decision evidence presented at hearing. Should not advocate position.
- Ex-parte Contacts-Discouraged. However, disclosure at a minimum.

Legislative

- Involves setting or recommending policy or adopting resolutions or ordinances
- Can advocate a position

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Public Contracts Competitive Bidding Requirements

- General Rule-No competitive bidding is required unless specifically required by statute, local rule, or policy.
- Competitive bidding generally requires:
 - Widely publicize
 - Provide same information to everyone
 - Apply evaluation criteria consistently
- Contract goes to lowest, responsive, responsible bidder

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Don't let the door hit you

- Post Employment Rules

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Post Employment

No Lobbying Rules

- GC 87406.3 provides Elected Officials and City Managers are prohibited for a period of one year after leaving office, from representing any other person, for compensation, by appearing before or communicating with their former agency to influence the decision of the agency in an administrative or legislative action
- CVMC 2.01.030(C)(6) provides a similar prohibition for Board and Commission members

No Influencing Prospective Employment

- GC 87407 provides no public official shall make, participate in making, or use his or her official position to influence, any governmental decision directly relating to any person with whom he or she is negotiating, or has any arrangement concerning prospective employment

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Post Employment

Practice Tips:

1. Be aware that after leaving office compensated lobbying prohibitions apply.
2. When participating in any matter before you, that you should not be seeking or have future employment relationship with the person or party before you.

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Decision Making

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CVMC 2.01 Code of Ethics

- In 2013 the City passed CVMC section 2.01 [Code of Ethics]
- It established a code of ethics which was divided into two categories- "Guiding Principles" and "Specific Prohibitions"
 - CVMC 2.01.030(A)- "Guiding Principles"
 - Guiding Principles were meant to be aspirational in nature and do not result in sanctions
 - Set high standards of behavior -Transcend standards required by law
 - Assist City Officials in their decision making process regarding ethical concern
 - CVMC 2.01.030(C)- "Specific Prohibitions"
 - Specific Prohibitions were meant to prohibit specific actions and, if violated, subject the City Official to a finding of misconduct

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CVMC 2.01 Code of Ethics

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Practice Tips:

1. Review the Code of Ethics.
2. If you follow the Guiding Principles, you will be in a position where you do not violate any ethics laws-They focus on ensuring that you do not place your interest above the public's and that you do not personally gain from your position
3. If in doubt, ask for help

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ETHICS

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"Good advice is something a man gives when he is too old to set a bad example."

- Françoise De La Rochefoucauld

Ask if you need help

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RESOURCES

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- Fair Political Practices Commission (FPPC): www.fppc.ca.gov
- California Attorney General: www.caag.ca.us
- Institute for Local Government: www.ca-ilg.org/AB1234Compliance

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