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Statement of Activities Incompatible with the Duties as an Officer or Employee of the Fair Political Practices Commission

(a) Introduction.

This statement of “incompatible activities” for officers and employees of the Fair Political Practices Commission (~~“FPPC(the “Commission”)~~ is ~~required by~~ made pursuant to Government Code ~~section~~Section 19990. ~~Although this~~¹ This statement ~~does not attempt to specify every possible limitation on such incompatible activities,~~ it is intended to provide guidance to officers and employees about what types of activities are incompatible with their duties to the ~~FPPCCommission~~ and the State of California (~~“state”~~).

Nothing in this statement shall exempt any person from applicable provisions of any other laws. ~~The~~ For example, the standards of conduct set forth in this ~~regulation~~policy are in addition to those prescribed in ~~FPPC’s~~the Political Reform Act (the “Act”) and the Commission’s Conflict-of-Interest Code.

~~Any questions about the~~ (b) Definitions.

~~The following definitions control~~ interpretation of this ~~statement should be directed to the employee’s division chief, or~~policy. Where terms used in ~~the ease~~this policy are not defined in this section, the definitions in the Act control the interpretation of ~~division chiefs, to the executive director.~~

(b) Definitions.~~this policy.~~

(1) ~~Act.~~ “Act” means the Political Reform Act~~Agency Official.~~ “Agency Official” has the same meaning as set forth in Section 82004 of the Act.

(2) ~~Commission.~~ “Commission” means the Fair Political Practices Commission.

(3) ~~Employee.~~ “Employee” ~~means~~refers to all civil service employees of the ~~commission~~Commission.

(4) ~~Gift.~~ “Gift” means any payment that confers a personal benefit on the recipient, ~~to the extent that consideration of equal or greater value is not received~~

¹ All statutory references are to the Government Code, unless otherwise indicated. All regulatory references are to the Commission’s regulations at Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

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and includes a rebate or discount in the price of anything of value unless the rebate or discount in the price of anything of value is made in the regular course of business to members of the public without regard to official status. The term “gift” does not include (A) informational material such as books, reports, pamphlets, calendars, or periodicals, (B) campaign contributions required to be reported under Chapter 4 of the Political Reform Act, (C) any devise or inheritance, or (D) personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).

(3) Gift. “Gift” has the same meaning as set forth in Section 82028 of the Act and Commission Regulations 18940 - 18950.4.

(4) Officer. “Officer” means the ~~executive director~~ Executive Director and the chiefs of each division of the ~~commission~~ Commission.

(5) Outside Employer. “Outside Employer” means any person who provides compensation for outside employment.

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~~(7)(6)~~ **Outside Employment.** “Outside employment” means any employment or business activity undertaken by an officer or employee ~~on his or her own time~~ for which he or she receives, or expects to receive, any form of income from a source other than the FPPCCCommission for services performed.

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~~(8) Person.~~ “Person” means ~~an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, or any other organization or group of persons acting in concert.~~

~~(9)(7)~~ **Person.** “Person” has the same meaning as set forth in Section 82047 of the Act.

~~(8)~~ **Private Gain or Advantage.** “Private gain or advantage” means the private gain or advantage for the officer, employee, or another person.

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~~(10)(9)~~ **Privileged Work Product.** “Privileged Work Product” means any data, confidential information, or other FPPCCCommission work product which is gathered ~~or prepared, or held~~ for internal agency use and not ~~for release available~~ to the public either pursuant to the Public Records Act (Sections §§ 6250 - 6276.48) or the Information Practices Act (Civil Code Sections 1798-1798), or other laws.

(c) General ~~prohibitions~~ Prohibitions.

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The following activities are deemed to be incompatible with the duties of FPPCCCommission officers or employees. ~~FPPCC pursuant to Section 19990.~~ Commission officers and employees are prohibited from knowingly:

- (1) Using the prestige or influence of the state or FPPCCCommission for the purpose of acquiring private gain or advantage.
- (2) Using state time, funds, facilities, equipment, supplies, or privileged work product for the purpose of acquiring private gain or advantage.
- (3) Using, or having access to, confidential information available by virtue of state employment for the purpose of acquiring private gain or advantage.
- (4) Providing access to confidential information to persons to whom issuance of this information has not been authorized.
- (5) Receiving or accepting money or any other consideration (including but not limited to entertainment, lodging, travel expenses, services or other items) from ~~anyone~~ any person other than the state for the performance of his or her job duties as ~~a state~~ an officer or employee, except as provided by this statement.
- (6) Performing an act in other than his or her capacity as ~~a state~~ an officer or employee knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by the officer or employee.

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(7) Receiving or accepting, directly or indirectly, any giftpayment, including a gift, money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from ~~anyone~~any person who is doing or is seeking to do business of any kind with the FPPCCommission or whose activities are regulated or controlled by the FPPCCommission under circumstances from which it reasonably could be substantiated that the giftpayment was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official ~~actions~~action performed by the officer or employee.

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(8) Not devoting his or her full time, attention, and efforts to his or her ~~state~~ office or employment during his or her hours of duty as a state an officer or employee, subject to any other laws, rules, or regulations as pertains thereto.

(d) Specific ~~prohibitions~~ Prohibitions.

Consistent with this policy, Commission officers and employees shall comply with the following:

(1) Travel

(A) An ~~officer or~~ employee ~~shall not~~ may only accept a payment for FPPC Commission travel expenses (including travel, lodging, and meals) from ~~anyone other than the FPPC or the a local, state~~ when:

~~(i) such acceptance is not permissible under the gift provisions, or federal agency with the prior approval of the Act, or~~

~~(ii) the employee's division chief. With respect to a payment is made for FPPC Commission travel expenses incurred for the purposes of attending (including travel, lodging, and meals) from any other person, the employee training, rather than for speech making purposes may only accept the payments after the division chief has obtained approval from the Executive Director.~~

~~(B) Each An officer or employee shall be responsible~~ may accept a payment for Commission travel expenses (including travel, lodging, and meals) only, with the Act's reporting requirements for gifts prior approval of travel received in connection with his or her FPPC-related duties, the Executive Director.

(2) Communications Policy

(A) Contact with Government Officials: Authorized Comments

An Except as otherwise provided by law, an officer or employee shall not ~~initiate contact with~~ communicate with any person (including any state administrators or legislative personnel, local government agency, or members of the press) and purport to be speaking for the purpose of presenting the FPPC's Commission regarding the Commission's official policy or position on legislation or amendments thereto or initiative or referendum petitions, unless such act is a part of the officer's or employee's official duties. This prohibition does not preclude officers or employees, as private citizens, from contacting legislative or administrative personnel. officer's or employee's official duties.

(B) Contact with the Media:

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~~When~~ **(B) Publishing Opinions:** Unless otherwise provided by law, when publishing any writing or making a media statement or public speech in which any connection with the FPPC Commission is apparent, an officer or employee must provide an appropriate disclaimer explicitly indicating expressly stating that the views expressed are those solely of the officer or employee and do not necessarily reflect the views of the FPPC Commission, unless ~~the writing, statement, or speech~~ such act it is a part of the officer's or employee's FPPC official duties ~~and is consistent with FPPC press policy.~~

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(3) Outside employment

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~~(A)~~ No officer or employee may engage in the following outside employment ~~where such:~~

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(A) Employment that will result in either of the following:

(i) The officer or employee failing to devote his or her full time, attention, and efforts to his or her state office or employment violates during his or her hours of duty as a officer or employee, or

(ii) Violation of the impartial, effective administration and implementation of the Political Reform Act as mandated by section Section 83111 of the Act.

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~~(i) Outside employment~~ (B) Employment with any person, ~~organization or business entity of any type~~ that contracts with the FPPC Commission for any purpose, or ~~which that~~ has financial dealings of any kind with the FPPC Commission.

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~~(ii) Outside employment~~(C) Employment with any person who is a state candidate, an elected state officer, a legislative official, a lobbyist, a lobbying firm, a ~~lobbyist employer~~, a committee or any person listed in ~~section~~Section 87200 of the Act.

~~(iii) Outside employment in a political campaign for~~(D) (i)
Paid Lobbying Activity: Employment as a lobbyist, or otherwise for the purpose of attempting to influence legislative or administrative action.

(ii) Unpaid Lobbying Activity: In addition, an officer or employee may not attempt to influence legislative or administration action if he or she is representing a state candidate, an elected state officer, a legislative official, a lobbyist, a lobbying firm, a lobbyist employer, a committee or any person listed in Section 87200, or any person that makes contributions or expenditures for political purposes, whether the representation is with or without compensation.

(E) Employment with a candidate or committee in connection with any primary, general, special or recall election held in this state including the campaign of any candidate for President and any other candidate for federal office when the election to federal office is held in California.

~~(B) Each officer or employee shall be responsible for complying with the Act's reporting requirements for non-FPPC income received.~~

~~(4) Gifts~~

~~(A) An officer or employee shall not knowingly accept or solicit any gift, loan, or other financial favor totaling more than \$10 in any calendar month from or to any state candidate, lobbyist, elected state officer, legislative official, agency official, or any person listed in section 87200 of the Act, except that this prohibition shall not apply to other employees of this agency. A gift is not "accepted" by an officer or employee if the officer or employee returns the gift to the donor or the donor's agent or intermediary within 30 days from the time at which the officer or employee first knew that the gift was available for his or her benefit.~~

~~(B) Notwithstanding section A, employees may accept the following items from persons listed in section A:~~

- ~~(i) Occasional home meals, and lodging in a home on a social basis.~~
- ~~(ii) Transportation in a noncommercial vehicle.~~

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~~(iii) Intra state travel, necessary meals and accommodations, and other nominal benefits which are not reportable under 2 California Code of Regulations section 18950.3 and which are provided directly in connection with a panel, seminar or similar event at which an employee makes a speech or like appearance.~~

~~(iv) Gifts of approximately equal value exchanged between an employee and an individual other than a lobbyist on birthdays, holidays, and similar occasions.~~

~~(v) Gifts from an employee's spouse, child, parent, grandparent, grandchild, brother, sister, parent in law, brother in law, sister in law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person, or from anyone other than a lobbyist living in the same household as the employee.~~

~~(vi) Occasional meals and incidental entertainment provided by a commissioner or another employee in connection with commission business.~~

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~~In case of doubt as to the propriety of accepting a gift, the doubt should be resolved against acceptance.~~

~~(C) Each officer or employee shall be responsible for complying with the Act's reporting requirements for reportable gifts received.~~

(5) Political activities

The commission affirms the rights of its employees to engage in political activities, except as necessary to preserve the integrity and impartiality of the commission and its actions. Employees may engage in political activities as follows:

~~(A) Commission identification. Each employee will take reasonable precautions to assure that the commission is not identified with his or her political activities.~~

~~(B) Political activities in commission offices or while representing the commission. No employee shall engage in any political activities in commission offices, on commission time or while representing the commission. This section does not apply to union activities protected by state law.~~

~~(C) Compensated campaign activities. No officer or employee shall be employed for compensation in any political campaign in accordance with section (d)(3)(A)(iii) of this statement. Reimbursement for expenses incurred while performing volunteer political activities shall not be considered employment for compensation with a political campaign so long as like the same reimbursement is provided to others performing like activities volunteers.~~

~~(D) State lobbying. When voluntarily influencing state legislative or administrative action~~
~~(F) In all other cases of outside employment, the officer or employee may represent himself or herself or another must notify the Executive Director and obtain written approval prior to taking outside employment or attempting to influence legislative or administration action on behalf of any other person or group which does.~~

~~(G) If anything in subdivision (d)(3) is in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling.~~

(4) Gifts, loans, or other financial gains

~~(A) Except as otherwise permitted by law, an officer or employee shall not employ a accept or solicit any gift, loan, or other financial gain totaling more than \$10 in any calendar month from any state candidate, lobbyist, or make contributions agency official.~~

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(B) In case of doubt as to the propriety of accepting a gift, loan, or expenditures for other financial gain, the doubt should be resolved against acceptance.

(5) Political activities

Unless otherwise prescribed by law, officers and employees may engage in political purposes. An officer or employee may not represent any person such as a state candidate, an elected state activities subject to the following limitations:

(A) Commission identification. Each officer, a legislative official, a lobbyist, a lobbying firm, a lobbyist employer, a committee or any person listed in section 87200 of or employee will assure that the Commission is not identified with his or her political activities, either in fact or by perception.

(B) Political activities in Commission offices or while representing the Commission. No officer or employee shall engage in any political activities in Commission offices, on Commission time, using Commission resources, or while representing the Commission.

(C) Notice and disqualification. It is the duty of each officer or employee to administer and implement the Act if such representation violates the in an impartial, and effective administration and implementation of the Political Reform Act way, as mandated by sectionSection 83111 of the Act. Further, in any circumstance where when his or her impartiality may be questioned, it is the affirmative duty of each officer or employee to notify his or her supervisor in writing. Division chiefs must notify the Executive Director of the Commission in writing; the Executive Director must notify the Chair. For example, notice is required in connection with any Commission matter that may affect a candidate or committee to which the officer or employee has made a contribution or provided volunteer services. The officer or employee may be required to abstain from that matter.

~~(E) Disqualification. Each employee shall promptly disqualify himself or herself from participating in any commission matter which would directly or significantly affect a campaign for or against which the staff member has made a contribution or provided volunteer services. It is the affirmative duty of each employee, when he or she has knowledge thereof, to promptly notify his or her supervisor in writing when a commission matter may affect a campaign for or against which the staff member has made a contribution or provided volunteer services.~~

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~~(F) Exceptions. Exceptions to the above restrictions on political activities may be granted when unusual circumstances so warrant. Exceptions may be granted by the executive director. The executive director will report to the commission at its next public meeting all exceptions granted.~~

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(e) Interpretation and exemption.

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Any questions about the interpretation of this statement should be directed to the employee's division chief, or in the case of division chiefs, to the Executive Director.

(1) Employees may appeal the determination of the division chief to the Executive Director.

(2) Division chiefs may appeal the determination of the Executive Director to the Chair of the Commission.

(f) Penalties for ~~violations~~ Violations of this statement. ~~Statement.~~

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If an ~~FPPC~~ officer or employee violates any provision of this statement, ~~he or she~~ will be liable for adverse the Commission may take any action authorized by law, including, but not limited to, ~~dismissal or removal from office.~~ Section 19572 or Section 19590.

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(f) Employee appeal rights:

Every FPPC officer or employee may use the FPPC's personnel complaint process to appeal (1) any determination made with respect to the provisions of this statement or (2) any disciplinary action taken pursuant to this statement.

Attachments

- 1. Current Section 82004, 82028, and 82047
- 2. Current Regulation 18942

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