

1 Repeal and Readopt Regulation 18950.1 to read:

2 **§ 18950.1. Gift of Travel: Exceptions. Exception: Payments for Travel Made in**
3 **Conjunction with Official Agency Business.**

4 The following provisions shall apply to payments made for travel pursuant to
5 Government Code Sections 89501 through 89506:

6 (a) ~~Travel In Connection With Speeches, Panels, and Seminars.~~

7 (1) ~~Only a reportable payment is subject to the limitations on gifts specified in~~
8 ~~Government Code Section 89503. See California Code of Regulations, Title 2, Section 18950.3,~~
9 ~~to determine whether a payment in connection with a speech, panel, or seminar is reportable.~~

10 (2) ~~A payment made for travel, including actual transportation and related lodging and~~
11 ~~subsistence, is not subject to the prohibitions or limitations on honoraria and gifts specified in~~
12 ~~Government Code Sections 89501, 89502, or 89503 if:~~

13 (A) ~~The travel is reasonably related to a legislative or governmental purpose, or to an~~
14 ~~issue of state, national, or international public policy, and~~

15 (B) ~~The travel, including actual transportation and related lodging and subsistence, is in~~
16 ~~connection with a speech given by the official or candidate; the lodging and subsistence expenses~~
17 ~~are limited to the day immediately preceding, the day of, and the day immediately following the~~
18 ~~speech; and the travel is within the United States.~~

19 ~~Except as otherwise provided by California Code of Regulations, Title 2, Section~~
20 ~~18950.3, any payment made for travel specified in this subdivision (a)(2), shall be reported in~~
21 ~~accordance with Government Code Section 87207(c).~~

22 (b) ~~Travel Provided by Governmental Entity or Charity. A payment made for travel,~~
23 ~~including actual transportation and related lodging and subsistence, is not subject to the~~

1 prohibitions or limitations on honoraria and gifts specified in Government Code Sections 89501,
2 89502, or 89503 if:

3 (1) The travel is reasonably related to a legislative or governmental purpose, or to an
4 issue of state, national, or international public policy; and

5 (2) The payment is provided by a government, a governmental agency, a foreign
6 government, a governmental authority, a bona fide public or private educational institution,
7 defined in Section 203 of the Revenue and Taxation Code, or by a nonprofit organization that is
8 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person that
9 is domiciled outside the United States and that substantially satisfies the requirements for tax
10 exempt status under Section 501(c)(3) of the Internal Revenue Code.

11 Except as provided by California Code of Regulations, Title 2, Section 18950.3, any
12 payment made for transportation, lodging, and subsistence, specified by subdivision (b), shall be
13 reported in accordance with Government Code Section 87207(c).

14 (c) ~~Travel Paid From Campaign Funds.~~ A payment made for transportation and necessary
15 lodging and subsistence, which payment is made from campaign funds as permitted by
16 Government Code Section 89513, or which is a contribution, is not an honorarium or a gift.

17 (d) ~~Travel Provided By Official's Agency.~~ A payment made for transportation and
18 necessary lodging and subsistence, which payment is made by the agency of an official, is not an
19 honorarium or a gift.

20 (e) ~~Travel In Connection With Bona Fide Business.~~ A payment made for transportation,
21 lodging, and subsistence, which payment is reasonably necessary in connection with a bona fide
22 business, trade, or profession, and which satisfies the criteria for federal income tax deductions
23 for business expenses specified in Sections 162 and 274 of the Internal Revenue Code, is not an

1 ~~honorarium or gift unless the sole or predominant activity of the business, trade or profession is~~
2 ~~making speeches.~~

3 ~~Note: Authority cited: Section 83112, Government Code. Reference: Sections 86111, 87207 and~~
4 ~~89501 through 89506, Government Code.~~

5 This regulation identifies certain travel payments that do not confer a personal benefit on
6 an official and sets forth the terms under which these travel payments, when made by a source
7 other than a source identified in Regulation 18950(b)(2), are for the purpose of facilitating the
8 public’s business and are therefore not gifts or income because the payment is made for an
9 official agency purpose in lieu of a payment using agency funds. For purposes of this regulation,
10 “government employer” means the state agency as defined in Section 82049 or any local
11 government agency, or any subdivision, department, division, bureau, office board, or
12 commission of the foregoing as defined in Section 82041, who directs the employee in the
13 performance of his or her governmental duties.

14 (a) This regulation applies solely to a travel payment that meets all of the following
15 requirements:

16 (1) The payment is made directly to or coordinated with the government employer as set
17 forth in subdivision (b) below and not made to the employee using the travel;

18 (2) The payment is used for official agency business as specified in subdivision (c)
19 below;

20 (3) The government employer determines the official who will make use of the payment
21 as provided in subdivision (d) below;

22 (4) The payment provides no personal benefit to the official who makes use of the
23 payment as provided in subdivision (e) below;

1 (5) The duration of the travel is limited to that necessary to accomplish the purposes for
2 which the travel was provided as determined by the governmental employer using the same
3 standards imposed for travel paid with government funds.

4 (6) The government employer reports the payment as provided in subdivision (f) below.

5 (b) The payment must be made directly to the government employer or by arranging with
6 the government employer any payments for transportation and lodging that are made directly to
7 the provider of those services. Food may be accepted if the travel includes attendance at an
8 event where food is provided as part of the event. All other payments for food must be made to
9 the government employer pursuant to the employer's per diem travel policy. No cash payments
10 shall be made directly to the official. An employee may not claim a per diem meal payment for
11 any meal provided to the employee.

12 (c) The payment is used for official agency business when made under any of the
13 following circumstances:

14 (1) The payment is made pursuant to a provision in a contract that requires the
15 contracting party to pay any expenses associated with any required governmental travel resulting
16 from the governmental agency's participation in the contract and the payment is used for that
17 purpose.

18 (2) The payment is made for the travel expenses of an official for the purpose of
19 performing a regulatory inspection or auditing function that the governmental employer is
20 mandated to perform.

21 (3) The payment is made for the travel expenses of an official and the official is attending
22 solely for purposes of providing training or educational information directly related to the
23 governmental employer's functions or duties under the laws that it administers for individuals

1 who are affected by those laws, and the payment is made by an organization to provide such
2 training for its members.

3 (4) The payment is made for the travel expenses of an official to an educational
4 conference directly related to the governmental employer's functions or duties under the laws
5 that it administers, the official is a named presenter at the conference, and the payment is made
6 by the organizers of the event.

7 (5) The payment is made for the travel expenses of an official for the purpose of
8 receiving training directly related to the official's job duties and the payment is provided by an
9 educational organization formed for the purpose of providing such training.

10 (6) The payment is made for food provided to all attendees at a working group meeting in
11 which the agency official participates as a member of the working group under his or her
12 officially assigned job duties and the agency is required to provide an official to attend the
13 meeting.

14 (7) The payment is for travel expenses that are required to attend a location to view an in
15 place operation, structure, facility, or available product where the viewing would substantially
16 enhance an official's knowledge and understanding in making an informed decision to enter into
17 a contract regarding a similar operation, structure, facility or purchase the product pursuant to the
18 jurisdictional authority of the official's governmental employer.

19 (d) The governmental employer shall select the official who will make use of the
20 payment. If the payment is for expenses related to an oral presentation to either provide training
21 on a subject on which the governmental employer provides training, or discuss policy and
22 direction in implementing the functions of the governmental employer, the donor may request
23 the official who is most qualified to make the presentation.

1 (e) A payment made under any of the provisions of this regulation does not provide a
2 personal benefit and is not a gift to the official who uses the payment, provided the payment
3 complies with the following provisions:

4 (1) The travel is for purposes approved by the governmental employer under the same
5 requirements applicable to travel using its own funds, and the official is representing his or her
6 governmental employer in the course and scope of his or her official duties.

7 (2) Except as provided in (g) below, the travel expenses are limited to no more than the
8 expenses allowable for travel for agency business that would reasonably be paid at agency
9 expense.

10 (f) The payment is reported on a form prescribed by the Commission and maintained by
11 the governmental employer as a public record subject to inspection and copying under Section
12 81008(a) and signed by the authoring official. Additionally, within 30 days after the end of a
13 quarter year in which aggregated travel payment received by the governmental employer since
14 the last required filing total \$2,500 or more, a copy of the form(s) or a summary of the
15 information must be filed with the Commission (or, in the case of the Commission, the office of
16 the Attorney General). If the governmental employer maintains a website, it shall also post a
17 copy of the form or a summary of the information on the form on its website in a prominent
18 fashion. A local jurisdiction may require additional filing at the local level for agencies within
19 its jurisdiction. The form, or summary of information, must include the following information:

20 (1) A date the travel occurred and an itemized breakdown of the amount paid for
21 transportation, lodging, and food.

22 (2) The name of the transportation provider, the type of transportation, and the name of
23 the business where the lodging was provided.

1 (3) The location of the travel.

2 (4) The name and address of the donor. If the donor is not an individual, the report must
3 also describe the business activity, or the nature and interests of the donor. If the donor raised
4 funds from another person for the specific purpose of making the payment to the agency, the
5 report must contain the name of each person and the amount given by each person.

6 (5) The purpose of the travel, and department and position or title the official who used
7 the payment and the name of any elected or appointed official who uses the payment.

8 (g) Nothing contained herein shall restrict a payment for any lodging or food if the
9 lodging and food is provided at a site where the official attends a widely attended meeting or
10 conference and the value is substantially equivalent in value to the lodging or food typically
11 made available to the other attendees.

12 (h) Limitations on Application of this Regulation. The exception for a travel payment
13 provided under this regulation does not apply if the payment is made for travel by:

14 (1) A state or local elected officer as defined in Section 82020, or an official specified in
15 Section 87200, unless the transportation, lodging, and food is directly related to the official's
16 public duties, is for a purpose that would otherwise be paid for with the agency's funds, is
17 authorized in the same manner as transportation, lodging, and food using the agency's own
18 funds, and otherwise meets the requirements of subdivision (a) of this regulation.

19 (2) Acceptance of a pass or discount from a transportation company by a public
20 official prohibited under Article XII, Section 7 of the California Constitution.

21 NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 82028, 82030,
22 82044, 86111, 87100, 87103, 87207, 87302 and 89501 through 89506, Government Code.