

1 **§ 18704.1.[Renumbered from Regulation 18702.1] Determining When A Public Official is**  
2 **Making a Governmental Decision.**

3 (a) A public official "makes a governmental decision," except as provided in ~~2-Cal. Code~~  
4 ~~Regs. section 18702.4~~ Regulation 18704.4, when the official, acting within the authority of his or  
5 her office or position:

6 (1) Votes on a matter;

7 (2) Appoints a person;

8 (3) Obligates or commits his or her agency to any course of action;

9 (4) Enters into any contractual agreement on behalf of his or her agency;

10 (5) Determines not to act, within the meaning of subdivisions (a)(1), (a)(2), (a)(3), or  
11 (a)(4), ~~above~~, unless such determination is made because of his or her financial interest. When  
12 the determination not to act occurs because of the official's financial interest, the official's  
13 determination may be accompanied by an oral or written disclosure of the financial interest.

14 (b) When an official with a disqualifying conflict of interest abstains from making a  
15 governmental decision in an open session of the agency and the official remains on the dais or in  
16 his or her designated seat during deliberations of the governmental decision in which he or she is  
17 disqualified, his or her presence shall not be counted toward achieving a quorum.

18 (c) During a closed meeting of the agency, a disqualified official shall not be present  
19 when the decision is considered or knowingly obtain or review a recording or any other  
20 nonpublic information regarding the governmental decision.

21 (d) Notwithstanding subdivision (a) of this regulation, to determine if a public official  
22 who holds an office specified in ~~Government Code section~~ Section 87200 is making,  
23 participating in making, or using or attempting to use his or her official position to influence a  
24 governmental decision relating to an agenda item which is noticed for a meeting subject to the  
25 provisions of the Bagley-Keene Act (~~Government Code section~~ Section 11120 et seq.) or the  
26 Brown Act (~~Government Code section~~ Section 54950 et seq.) apply ~~2-Cal. Code Regs. sections~~  
27 ~~18702.1(a)(1)-(a)(4)~~;

1 ~~18702.2, 18702.3, 18702.4, and 18702.5~~ Regulations 18704.1(a)(1)-(a)(4), 18704.2, 18704.3,  
2 18704.4, and 18704.5.

3 Comment: Nothing in this section authorizes or prohibits an agency by local rule or custom from  
4 requiring a disqualified member to step down from the dais and/or leave the chambers.

5 Note: Authority cited: Section 83112, Government Code. Reference: Sections 81002, 81003,  
6 87100, 87101, 87105 and 87200, Government Code.

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