

1 **§ 18704.4.~~[Renumbered from Regulation 18702.4]~~ Exceptions.**

2 (a) Making or participating in making a governmental decision ~~shall~~ does not include:

3 (1) Actions of public officials which are solely ministerial, secretarial, manual, or
4 clerical;

5 (2) Appearances by a public official as a member of the general public before an agency
6 in the course of its prescribed governmental function to represent himself or herself on matters
7 related solely to the official's personal interests as defined in ~~Title 2, California Code of~~
8 ~~Regulations, section 18702.4(b)(1)~~ Regulation 18704.4; or

9 (3) Actions by public officials relating to their compensation or the terms or conditions of
10 their employment or contract. In the case of public officials who are "consultants," as defined in
11 ~~Title 2, California Code of Regulations, section 18701(a)(2)~~ Regulation 18704.6, this includes
12 actions by consultants relating to the terms or conditions of the contract pursuant to which they
13 provide services to the agency, so long as they are acting in their private capacity.

14 (b) Notwithstanding ~~Title 2, California Code of Regulations, section 18702.3(a)~~
15 Regulation 18704.3(a), an official is not attempting to use his or her official position to influence
16 a governmental decision of an agency covered by that subsection if the official:

17 (1) Appears in the same manner as any other member of the general public before an
18 agency in the course of its prescribed governmental function solely to represent himself or
19 herself on a matter which is related to his or her personal interests. An official's "personal
20 interests" include, but are not limited to:

21 (A) An interest in real property which is wholly owned by the official or members of his
22 or her immediate family.

23 (B) A business entity wholly owned by the official or members of his or her immediate
24 family.

25 (C) A business entity over which the official exercises sole direction and control, or over
26 which the official and his or her spouse jointly exercise sole direction and control.

27 (2) Communicates with the general public or the press.

28 (3) Negotiates his or her compensation or the terms and conditions of his or her

1 employment or contract.

2 (4) Prepares drawings or submissions of an architectural, engineering or similar nature to
3 be used by a client in connection with a proceeding before any agency. However, this provision
4 applies only if the official has no other direct oral or written contact with the agency with regard
5 to the client's proceeding before the agency except for necessary contact with agency staff
6 concerning the processing or evaluation of the drawings or submissions prepared by the official.

7 (5) Appears before a design or architectural review committee or similar body of which
8 he or she is a member to present drawings or submissions of an architectural, engineering or
9 similar nature which the official has prepared for a client if the following three criteria are met:

10 (A) The review committee's sole function is to review architectural or engineering plans
11 or designs and to make recommendations in that instance concerning those plans or designs to a
12 planning commission or other agency;

13 (B) The ordinance or other provision of law requires that the review committee include
14 architects, engineers or persons in related professions, and the official was appointed to the body
15 to fulfill this requirement; and

16 (C) The official is a sole practitioner.

17 (c) Academic Decisions.

18 (1) Except as provided in subsection (c)(2), neither disclosure of financial interests nor
19 disqualification is required under ~~Government Code sections~~ Section 87100, 87302, or any
20 Conflict of Interest Code, in connection with:

21 (A) Teaching decisions, including the selection by a teacher of books or other educational
22 materials for use within his or her own school or institution, and other decisions incidental to
23 teaching;

24 (B) Decisions made by a person who has teaching or research responsibilities at an
25 institution of higher education to pursue personally a course of academic study or research, to
26 apply for funds to finance such a project, to allocate financial and material resources for such
27 academic study or research, and all decisions relating to the manner or methodology with which
28 such study or research will be conducted. Provided, however, that the provisions of this

1 subsection (c)(1)(B) ~~shall~~ do not apply with respect to any decision made by the person in the
2 exercise of institution -or campus-wide administrative responsibilities respecting the approval or
3 review of any phase of academic research or study conducted at that institution or campus.

4 (2) Disclosure (consistent with ~~2-Cal.Code Regs. section~~ Regulation 18755) shall be
5 required under ~~Government Code section~~ Section 87302 or any Conflict of Interest Code in
6 connection with a decision made by a person or persons at an institution of higher education with
7 principal responsibility for a research project to undertake such research, if it is to be funded or
8 supported, in whole or in part, by a contract or grant (or other funds earmarked by the donor for a
9 specific research project or for a specific researcher) from a nongovernmental entity, but
10 disqualification may not be required under ~~Government Code sections~~ Sections 87100, 87302 or
11 any Conflict of Interest Code in connection with any such decision if the decision is
12 substantively reviewed by an independent committee established within the institution.

13 Note: Authority cited: Section 83112, Government Code. Reference: Section 87100,
14 Government Code.

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