



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioners Cardenas, Hatch, Hayward, and Wilson

From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel

Subject: Advice Letter Report and Commission Review

Date: January 3, 2020

The following advice letters have been issued since the December Advice Letter Report. The Commission may review and discuss the following letters and may act to withdraw the advice provided. Full copies of FPPC Advice Letters, including those listed below, are available at: <http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Campaign

Taylor Kovach

[A-19-220](#)

City council candidate may make committee expenditures to pay an invoice for hair and makeup services for a campaign photoshoot given that the photoshoot was undertaken for the sole purpose of creating campaign literature. Thus, the expenditure of campaign funds is directly related to a political, legislative, or governmental purpose.

Conflict of Interest

Dennis A. Mederos, Esq.

[I-19-164](#)

Vice mayor has a potentially disqualifying economic interest in his law firm, law office, and clients. The vice mayor may be prohibited from decisions involving a health care district and its campus, which is within 500 feet from his office, if the decisions, have a foreseeable and material financial effect on his interests. However, a determination of a conflict of interest can be made only on a decision by decision basis.

Andrew Morris

[A-19-223](#)

A councilmember who has a source of income interest in a client may appoint the client to the planning commission, if the client agrees to forego any stipend and the appointment is made with the express condition that the appointee will not receive any stipend. Under these circumstances, the appointment would not have a reasonably foreseeable material effect on the councilmember's interest in the client.

James R. Sutton

[I-19-226](#)

Where a public official has received \$500 or more from a business, the official has an interest in the business as a source of income. Under Regulation 18700.1, an official with a source of income interest in a business entity also has an interest in any individual owning a 50 percent or greater interest in the entity or any individual who has the power to direct or cause the direction

of the business' management or policies. Where the public official has identified that a majority owner of the business may be impacted by a decision, the official will have a disqualifying source of income interest in the decision, unless the official can determine that the financial interest is not involved in the decision.

John A. Abaci[A-19-230](#)

Mayor may not take part in a decision that would permit (or prohibit) wireless network facilities to be installed in residential districts, given that such a decision would affect a company's ability to pursue an application to install such network facilities across the street from the mayor's residence. Because the potential network facilities would be located within 500 feet from the mayor's residence and no evidence was provided indicating the decision would have no measurable impact on the Mayor's property, the decision would have a reasonably foreseeable material financial effect on the Mayor's residential real property.

Revolving Door**Ronald Beals**[A-19-222](#)

A former chief counsel for an agency is not prohibited under the permanent ban from participating as a representative of a private party in proposed amendments to that agency's regulations. The adoption, amendment or repeal of regulations are proceedings that involve the formulation of prospective and general rules. This type of proceeding is not subject to the permanent ban.

Angela Brand[A-19-227](#)

As a former designated state employee, now working for a non-profit in the mental health sector, the one-year ban prohibits the former employee from communicating or appearing before the employee's former agency to influence administrative, legislative, or discretionary acts for one year from the date of permanent separation of state service. The permanent ban also prohibits the former employee from appearing or communicating in proceedings involving specific parties, such as a former grant and contract proceedings, in which the former employee previously participated while employed by the state.

Section 1090**Julia M. Lew**[A-19-178](#)

Section 1090 does not prohibit an official from performing services under a contract between the official's employer and agency for the removal of snow, so long as the contract was executed prior to the official's election to office. Further, Section 1090 does not prohibit the agency from executing a new contract or renewing an existing contract with the official's employer, if the official recuses himself from the decisions, because the rule of necessity applies.

Aaron Harp[A-19-201](#)

Section 1090 does not prohibit a councilmember from making a donation of storage sheds to the city for use as temporary homeless shelters. Additionally, after making the donation in question, the councilmember would not be prohibited from participating in future decisions involving the

city's temporary homeless shelter, future decisions related to the homeless or temporary shelters at other locations in the city by virtue of the fact that he made this donation to the city.

Elizabeth L. Martyn

[A-19-207](#)

Park district's governing board member, who also serves as an uncompensated reserve board member for an entity operating as a nonprofit, does not have an interest in the nonprofit for purposes of the Act and a contract involving the nonprofit. However, under Section 1090, the official must recuse himself from the decisions because his interest in the private entity is a remote interest in a nonprofit organization under Section 1091(b)(1).

Tom F. Schroeter, Esq.

[A-19-215\(a\)](#)

Section 1090 does not prohibit city council from assigning a land lease for its improved airport property to the buyer of the property improvements if the city council declines its right of first refusal to purchase the property improvements under an existing lease with a councilmember. The city may invoke the rule of necessity to determine whether to purchase the improvements or consent to the assignment of the lease to a third party. However, the financially interested councilmember must abstain from the decisions.

Gary S. Winuk

[A-19-224](#)

The conflict of interest provisions under the Act and Section 1090 do not prohibit spouses, one the County Director of Health Services and the other the Secretary of the California Health and Human Services Agency ("CHHS"), from participating in contracts between the County and constituent Departments of CHHS. Under the Act, neither spouse has an interest in their agencies as a source of income or as a business entity. In respect to Section 1090, each spouse has a noninterest under Section 1091.5(a)(9) in their government-entity employer because the specified contracts between the County and constituent Departments of CHHS because the contracts involve no direct financial gain to either spouse and they do not directly affect the specific departments that employ the spouses.

Randy Risner

[A-19-228](#)

Section 1090 prohibits councilmember, who serves on Housing Authority Board and is also a landlord, from entering a Section 8 housing assistance contract with the board permitting councilmember to accept Section 8 Choice voucher from a tenant, unless the remote interest exception in Section 1091(b)(12) applies. This exception permits a contract as to an existing tenant only where a Section 8 contract was in existence prior to the landlord becoming a public official and the contract will be renewed as to the same tenant. The exception permits such contacts as to a new tenant only if the public official is in a jurisdiction with a rental vacancy rate of less than 5 percent and the contract will be for a unit previously under a Section 8 contract.