

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18707. Disqualification Requirements.

(a) Public Meeting Decisions Involving Officials Specified in Section 87200. A public official in a position specified in Section 87200 and disqualified from a decision relating to an agenda item noticed for consideration at a public meeting subject to either the Bagley-Keene Act (Section 11120 et seq.) or the Brown Act (Section 54950 et seq.) must not take part in the decision. The official's recusal from the decision shall meet all of the following requirements:

(1) Form and Content of Public Identification. The official must publicly identify each type of financial interest held by the official that gives rise to the conflict of interest (i.e. business entity, real property, source of income, gift(s) or a personal financial effect).

(A) For each financial interest identified, the official must provide the following, as applicable:

(i) Name of the business entity, general description of the business' activity, and any position held.

(ii) Real property address, assessor's number, or identification that the property is the official's personal residence.

(iii) Name of the source of income.

(iv) Name of the source of a gift.

(v) The nature of the expense, liability, asset, or income affected.

(B) Identification must be oral and made part of the public record.

(2) Timing. Public identification of the financial interest must be made immediately prior to consideration of the agenda item. Partial absence from a meeting does not excuse the official's

public identification requirement. If an official leaves a meeting in advance of the agenda item in which the official is disqualified, the official must publicly identify the agenda item and the financial interest prior to leaving the meeting. An official first joining a meeting after the consideration of an agency item in which the official is disqualified must publicly identify the agenda item and the financial interest immediately upon joining the meeting.

(3) Recusal and Leaving the Room. The official must follow the recusal procedure, leave the room after the identification required by this regulation is made, and refrain from any participation in the decision. The official will not be counted toward achieving a quorum while the item is discussed.

(A) For an agenda item on a consent calendar (uncontested items), the official may remain in the room during the consent calendar.

(B) If an official has a personal interest in the agenda item as defined in Regulation 18704(d)(2) and wishes to speak or appear as a member of the general public, following the public identification of the financial interest and recusal the official may leave the dais and speak or observe from the area reserved for members of the public.

(4) Special Rules for Closed Session. The public identification must be made orally during the open session before the body goes into closed session and may be limited to a declaration that the official's recusal is because of a conflict of interest under Section 87100. The declaration will be made part of the official public record. The official must not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the governmental decision.

(b) Other Decisions. A public official disqualified from any decision other than a decision under subdivision (a) must not take part in the decision, and the official's recusal from the decision must meet the following requirements:

(1) If an official determines not to act because of a financial interest, the official's determination may be accompanied by an oral or written disclosure of the financial interest.

(2) The official's presence will not be counted toward achieving a quorum.

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

(4) An agency may adopt a local rule requiring the official to step down from the dais or leave the chambers.

(c) Confidential Information. Nothing in the provisions of this regulation is intended to cause an agency or public official to make any disclosure that would reveal the confidences of a closed session or any other privileged information as contemplated by law including, but not limited to, the recognized privileges found in Regulation 18740.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87101, 87103, 87105 and 87200, Government Code.

HISTORY

1. New section filed 6-22-2015; operative 7-22-2015. Submitted to OAL for filing and printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking

requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 26). For prior history, see Register 2015, No. 21.

2. Repealer and new section filed 7-23-2020; operative 8-22-2020 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2020, No. 30).

3. Amendment of subsections (a), (a)(3) and (b) filed 5-12-2021; operative 6-11-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2021, No. 20).