



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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# Fourth Quarter Update

Conflict of Interest, Revolving Door, and Statement of Economic Interests

## Regulations adopted by the Commission

The following are regulatory changes approved by the Commission during the past quarter concerning conflict of interest, revolving door, or statement of economic interests. To receive updates for all regulations before the Commission, please sign up for our [mailing list here](#).

None.

## Advice Letters

The following are advice letters issued by the Commission's Legal Division during the past quarter concerning questions about conflicts of interest, revolving door, or statement of economic interests. To receive the monthly report with all advice letters issued, please sign up for our [mailing list here](#).

### Conflict of Interest

#### **Celeste T. Rodriguez**

[I-23-134](#)

Under the Act, city mayor is disqualified from participating in any decisions related to the City's Downtown Master Plan because it is reasonably foreseeable the financial effect on the official's real property interest located 200-300 feet from the Proposed Master Plan is material under applicable regulations. Additionally, the facts presented do not establish that the "public generally exception" applies, and the decisions cannot be "segmented" under Regulation 18706, due to each decision's relationship to enhancing the Downtown Master Plan Area in close proximity to the official's property. Lastly, the "legally required participation" exception does not permit an official to cast a tie-breaking vote if the official is otherwise disqualified.

#### **Elisa Mikiten**

[A-23-149](#)

The Act does not prohibit a planning commissioner from taking part in decisions concerning the design standards of a development within 500-1000 feet of her residence. Based on the facts provided, the decisions will not impact the viability of the development, which has already been approved by the City Council, and it is not reasonably foreseeable the design standard decisions will have a material financial effect on her residence, which has no view of the development, has no direct vehicle access to the development, and is separated from the development by nine residential lots and a baseball field.

#### **Stephen P. Deitsch**

[A-23-151](#)

The Act prohibits a council member from taking part in the City's decision to revise its short-term vacation rental ordinance due to his source of income interest in his radio station business' client (a vacation rental property management company that purchases advertising). Based on the facts presented, it is reasonably foreseeable that the client's gross revenues, assets/liabilities or

expenses would be affected in the amounts set forth in Regulation 18702.1(a)(2) and (3). Moreover, the public generally exception would not be applicable as the decision would have a disproportionate effect on the client due to the large number of properties it manages. (Regulation 18703(c).)

**Taylor Anderson**

**[A-23-129](#)**

Under the Act, Councilmember is not prohibited from taking part in governmental decisions related to the City’s Open Channel Project, where the proposed improvements maintain the same general uses of the space such that it is not reasonably foreseeable the Project would have a material financial effect on the Councilmember’s property or other financial interests. To the extent that the Project will be directed at the parcel with a park and waterway approximately 800 feet from the Councilmember’s property, with necessary construction only on a small portion of parcel adjacent to the Councilmember’s property, the distance to the construction site is the appropriate measurement to determine the applicable materiality standard for the property under Regulation 18702.2.

**Heather S. Baker**

**[I-23-147](#)**

Under the Act, Mayor is potentially disqualified from taking part in City Council decisions pertaining to a Rent Control Ordinance and Tenant Protections Ordinance, where the Mayor owns several rental properties, at least some of which are subject to those ordinances. However, because the Mayor owns 3 or fewer rental properties, the public generally exception pertaining to governmental decisions involving rental properties will apply to permit his participation so long as the ordinances apply to all other residential rental property and the Mayor has no other interest impacted by the decision other than the interests resulting from the rental properties.

**Katherine Wisinski**

**[A-23-155](#)**

Planning Commissioner with a residence in a residential golfing community, and approximately 920 feet from a site that includes a shuttered golf course clubhouse, has a disqualifying financial interest in the decision to repurpose the clubhouse as a restaurant and bar as well as in the decision to construct a new pool, cabana, restrooms, and a full-service spa, lounge, and wine bar building on the site. It is reasonably foreseeable these decisions would have a material financial effect on the official’s property resulting from the impact on the area’s amenities and a possible change to the market value of the residence. (Regulation 18702.2(a)(8).)

**Keith F. Collins**

**[A-23-162](#)**

The Councilmember’s adult daughter is not a “dependent” child and not “immediate family” for purposes of determining a financial interest for an official under Section 82029. Therefore, the Councilmember does not have a financial interest in the decisions involving the Uptown Specific Plan area merely because a business that employs her adult daughter is located within its boundaries.

## Revolving Door

### **Mitch Weiss**

[I-23-142](#)

The Act's one-year ban does not prohibit a former public official, seeking employment with a registered state lobbyist, from meeting with staff and officials of other agencies whose budgets, personnel, and other operations are not directed or controlled by the official's former state employer to discuss programs, projects, or funding issues, including projects that will or might request an allocation of funds from the former agency. However, the permanent ban may apply to proceeding in which the former official previously participated.

### **Yuvaraj Sivalingam**

[I-23-154](#)

The permanent ban applies to former state official in his private employment as a policy advisor with a law firm and prohibits his participation in a government decision if the matter is a "judicial, quasi-judicial or other proceeding" in which he previously "participated" as those terms are defined under the Act. However, the permanent ban does not apply to matters that involve the making of rules or policies of general applicability.

## Section 1090

### **Joshua Nelson**

[A-23-113](#)

So long as the decisions of Airport District would not allow favoritism toward Director who rents a hangar, and would not occur on terms tailored to the Director's particular circumstances, the noninterest exception set forth in Section 1091.5(a)(3) would apply, and Section 1090 would not prohibit the District from approving the decisions involving hangar improvement, a rate study, and a pilot incitive program, that may impact hangar rental rates. Under the Act, the Director will not have a conflict of interest in decisions involving the pilot incitive program, because, based on the facts presented, it does not appear reasonably foreseeable that the decision will have an effect on his personal finances of \$500 or more in any 12-month period. However, the Director will have a conflict of interest in any decisions involving hangar improvements and the rate study as it is reasonably foreseeable that the decision will have a financial effect on his personal finances of \$500 or more in any 12-month period.

### **Karen Goh**

[A-23-136](#)

City may enter into a contract with a nonprofit entity even though the Mayor is the President/CEO of the entity and compensated by the entity. Pursuant to Section 1091, the Mayor has a remote interest in the contract because the entity is a nonprofit. Therefore, as long as the Mayor states her interest on the record and recuses herself from the decision, the City may enter a contract with the entity.

### **Jill D.S. Maland**

[A-23-139](#)

Under the Act and Section 1090, Deputy Mayor does not have a disqualifying financial interest in potential contracts between the City and a public nonprofit university to lease city property for the expansion of a university program where the Deputy Mayor is employed by the University.

Under the Act, the deputy mayor does not have a source of income interest in the University because he receives a government salary, which is not “income” for purposes of the Act. Under Sections 1090 and 1091.5, the Deputy Mayor would have a “noninterest” in prospective contracts between the government entities, and the City would not be prohibited from contracting with the University and the Deputy Mayor would not be prohibited from participating in the decisions.

**Jose M. Sanchez**

[A-23-156](#)

Councilmember is prohibited under the Act from taking part in decisions concerning amended or renegotiated contracts between the City and utilities company, if he accepted employment with the company, because the company would be a named party in the governmental decisions, and it is reasonably foreseeable the decisions would have a material financial effect on the company. Moreover, the Councilmember would be disqualified because of the impermissible nexus between the decisions and income he receives from the company under Regulation 18702.3(b). Finally, the Councilmember would have a prohibitory financial interest under Section 1090 in the contract decisions. However, the rule of necessity would apply to allow the City Council to amend or renegotiate the contracts at issue.

**Roxanne Diaz**

[A-23-161](#)

Councilmember who sold shares of stock in a waste management business does not have a financial interest under the Act in the City’s upcoming decisions on the waste services agreement with the business, as the sale proceeds meet the exemption from the definition of income under Section 82030(b)(12). Likewise, the Councilmember does not have a financial interest in the contract decisions under Section 1090 because the Councilmember is no longer a stockholder and the facts do not indicate any other financial ties between the Councilmember and the business.

**Gary S. Winuk**

[A-23-117](#)

Former state agency alternate board member is subject to the Act’s revolving door provisions. However, these provisions do not preclude the official from seeking employment with the former agency, as the bans do not apply where the future employment is with a state agency. The official is not prohibited under Section 1090 from seeking a position with her former agency, because the official did not participate, personally or presumptively as a board member, in any decisions or actions related to the position. The position was not vacant at the time the official left office, and the official only generally discussed her future interest in this type of position with staff. Also, the board did not take any action regarding the specific employment position other than making compensation decisions general to the class of positions.

**Kurt C. Wendlenner**

[A-23-121](#)

Section 1090 does not prohibit City from entering two proposed grant agreements with a contractor for youth programming services notwithstanding the fact that the City previously entered multiple grant agreements with same contractor to provide similar services. While the

prior grant agreements indicate that the contractor had duties to transact on behalf of the City and that the contractor is therefore subject to Section 1090, the facts provided indicate that the contractor did not participate in the making of the two proposed grants through its services under the prior grants.

**Gary S. Winuk**

[A-23-126](#)

Section 1090 prohibits the chair of a district board from resigning and entering into an employment contract with the district to the extent that the board has engaged in planning or discussions about filling an employment position, including beginning a recruitment process under the presumption of participation in board actions. However, the board's actions to place the current CEO on leave, engage in litigation discussions/decisions regarding the position, and hire an acting CEO do not meet the criteria of having participated in the making of the future CEO employment contract. Moreover, the board member has not otherwise acted to influence the making of the future CEO contract to promote his personal financial interest in the position. Based on these facts, the contract would not be prohibited under Section 1090 if the board member resigned prior to the board's consideration of the employment position.

**David J. Ruderman**

[A-23-132](#)

A non-profit established by a city constitutes a government entity for purposes of the Act and Section 1090 where: (1) the impetus for formation of the entity originated with the city; (2) the entity's initial funding came from the city; (3) the non-profit's principal purposes are to provide services public agencies are legally authorized to perform and, in fact, traditionally have performed; and (4) the non-profit is treated as a public entity by other laws. Nonetheless, under Section 1090, the renewal of a month-to-month tenancy involving a tenant of the government-formed non-profit's building, who also serves as a director of the non-profit, does not constitute an impermissible renewal of a contract. Moreover, the Act does not prohibit the tenant from serving as a director but may prohibit the tenant from taking part in subsequent decisions that have a reasonably foreseeable financial effect on the tenant's personal finances.

**Douglas T. Sloan**

[A-23-133](#)

Under Section 1090, a city councilmember has a disqualifying financial interest in a potential contract between the city and a school district for the purchase of an auditorium where the councilmember owns a business that has conducted business regularly with the school district for 25 years. However, because the councilmember's business has been a supplier of goods or services to the potential contracting party for at least five years before her most recent election to office, the councilmember's financial interest is "remote" under Section 1091(b)(8) and the city may contract with the school district if the disqualified councilmember properly recuses herself.

**Brian Doyle**

[A-23-144](#)

A city official employed by a state university and a city official whose spouse is employed by the same university are not prohibited from participating in city decisions to annex the university's campus under the Act, because there are no facts showing that the decisions will affect either

employee's personal finances and the Act excludes salary and benefits from a governmental agency from the definition of income. As to the Section 1090 prohibitions and the contract decisions involved in the annexation process, the facts indicate that the noninterest exception for government salaries in Section 1091.5(a)(9) is applicable. The contracts are general to the state university's fees to be paid to the city as part of the annexation, do not directly involve the department that employs the officer or the officer's spouse, and will not affect the salary or benefits of the two positions.

### **Timothy Carmel**

[A-23-148](#)

A community services district board member who sits as a noncompensated officer on a nonprofit, as does the board member's spouse, has a noninterest in a decision affecting the nonprofit organization's bid for a swim facility on district property under Section 1091.5(a)(8) where the nonprofit has a purpose of building, funding, and operating a swim recreation facility and seeks to do so on land the district board manages. The decisions may be made so long as the board member's interests are noted on the record. The board member is similarly not prohibited from taking part in the decision under the Act, due to his or his spouse's role on the nonprofit, as there are no facts indicating the decision would affect their personal finances.

## Commission Opinions

None.

## Enforcement Matters

The following are summaries of significant enforcement actions approved by the Commission in the past quarter involving violations of the Act's conflicts of interest, revolving door, or statement of economic interests. To receive a monthly report of all enforcement actions, please sign up for our [mailing list here](#).

### Statement of Economic Interests Late Filer

**In the Matter of Vincent Andreotti; FPPC No. 23/521.** Staff: James M. Lindsay, Chief of Enforcement and Amber Rodriguez, Political Reform Consultant. Vincent Andreotti, a Member for the Rice Commission, failed to timely file a 2020 Annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Fine: \$800 (Tier Two).**

**In the Matter of Ariel Kelley; FPPC No. 23/707.** Staff: James M. Lindsay, Chief of Enforcement and Taylor Culberson, Staff Services Analyst. Ariel Kelley, Alternate Commissioner for the Transmission Agency of Northern California, failed to timely file the Assuming Office Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). **Fine: \$200 (Tier One).**

## Statement of Economic Interests Late Reporter

**In the Matter of Loretta Sanchez, FPPC No. 19/1315.** Staff: Marissa Corona, Commission Counsel and George Aradi, Special Investigator. The respondent was represented by Wylie A. Aitken. Loretta Sanchez was a candidate for Orange County District 3 Supervisor in the March 12, 2019 Special Election. Loretta Sanchez failed to timely report a source of income on their Candidate Statement of Economic Interest, in violation of Government Code Sections 87201 and 87207 (1 count). **Fine: \$100 (Tier One).**

## Legislation

None.