

California Fair Political Practices Commission

Academic Scholarships Awarded to an Official or Immediate Family Member

Introduction

The Political Reform Act (the “Act”) defines “gift” as “any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.” The Act’s broad definition of gift has several exceptions to allow for day-to-day business and practicalities of public office. This fact sheet provides an overview of the rules applicable to academic scholarships received by officials and members of an official’s immediate family as well as general reporting guidance.

A. Scholarship Awarded to an Official

A scholarship awarded to an official generally meets the Act’s definition of a gift. However, Commission rules provide an exception for gifts awarded through a “bona fide competition.” Under this exception, if the eligibility criteria used by the donor to determine the scholarship recipient is broad enough to include a large pool of applicants, and the recipient earns the scholarship based upon merit, the scholarship is not considered to be a gift under the Act and is not subject to the gift limit. The value of the scholarship must still be reported as income on the official’s Statement of Economic Interest (Form 700) and the official may subsequently be disqualified from taking part in decisions with a financial effect on the source of the scholarship.

If a scholarship is awarded to the official based upon the official’s status as a public official rather than in a bona fide competition, the scholarship is subject to the Act’s applicable gift limit, must be reported as a gift on the official’s Statement of Economic Interests (Form 700), and will disqualify the official from taking part in decisions with a financial effect on the source of the scholarship.

Accordingly, most college scholarships may be accepted by an official and will not be subject to the Act’s gift limit. It would only be improper for an official to accept a college scholarship if there was an indication the scholarship was provided to the official based only upon the official’s status.

B. Scholarship Awarded to an Immediate Family Member

In most circumstances, a college scholarship awarded to an official’s immediate family member is not a gift to an official under the Act. Accordingly, the scholarship is not subject to the Act’s gift limit and it does not have to be reported on the official’s Statement of Economic Interest.

In limited circumstances, a scholarship awarded to an official’s immediate family member may be treated as a gift to the official. Under Commission rules, a scholarship awarded to an official’s immediate family member will be treated as a gift to the official if there is evidence to suggest the donor had a purpose to influence the official under any of the following three scenarios:

- The payment is made to a family member of a state agency official by a donor who is a lobbyist, lobbying firm, lobbyist employer, or other person required to file lobbying reports under the Act and is registered to lobby the official's agency.
- The payment is made to a family member of an official by a donor involved in an action or decision before the official's agency, in which the official will reasonably foreseeably participate or in which the official has participated within the last 12 months.
- The payment is made to a family member by a person who has a contract with the official's agency or by a person who engages in a business that regularly seeks contracts with or comes before the agency for the purpose of receiving a license, permit, or other entitlement and the official may reasonably foreseeably make or participate in a decision related to the person, or has participated in any decision related to the person within 12 months of the time the gift is made.

"Immediate family" includes dependent children as well as the official's spouse or registered domestic partner.

If any of the three scenarios described above apply, a scholarship is considered a gift to the official. But the bona fide competition exception discussed above still may apply so long as the eligibility criteria used by the donor to determine the scholarship recipient is broad enough to include a large pool of applicants, and the recipient earns the scholarship based upon merit. If the bona fide competition exception applies, the official's immediate family member may accept the scholarship, but the value of the scholarship must be reported as income on the official's Statement of Economic Interests (Form 700) and it will disqualify the official from taking part in decisions with a financial effect on the source of the scholarship.

In sum, most college scholarships awarded to immediate family members are not considered a gift to an official and are not subject to the Act's gift limit or subject to reporting. In instances where there is evidence to suggest a college scholarship may have been awarded to an immediate family member for the purpose of influencing an official, such as a scholarship awarded by a college in an official's jurisdiction that regularly appears before the official's agency, the scholarship may still be accepted so long as it is awarded through a bona fide competition and reported by the official as income.

The following Government Code sections and Title 2 regulations provide authority for the information in this document:

Government Code Sections

Section 82028
Section 82029
Section 82030

Title 2 Regulations

Regulation 18229
Regulation 18229.1
Regulation 18942
Regulation 18943