



MEETING DATE

DEC 14 2011

AGENDA ITEM
#11

GIFT REPORTING AND PROHIBITION RULES

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CCCERA General Counsel
December 14, 2011



The Political Reform Act

- The Political Reform Act imposes limits and reporting obligations on gifts received by:
 - Retirement Board Members, chief or principal investment officers or chief financial managers (Section 87200 filers)
 - Designated employees and advisors of the retirement system required to file statements of economic interests under CCCERA's conflict-of-interest code

Government Code
Sections 81000-91014



The FPPC

The Fair Political Practices Commission (“FPPC”) is the agency charged with administering the Act. The FPPC adopts rules and regulations, issues advice letters, and imposes penalties for violations.

The FPPC has published a helpful fact sheet regarding gifts, see <http://www.fppc.ca.gov/factsheets/LocalOfficialsFactSheet.pdf>

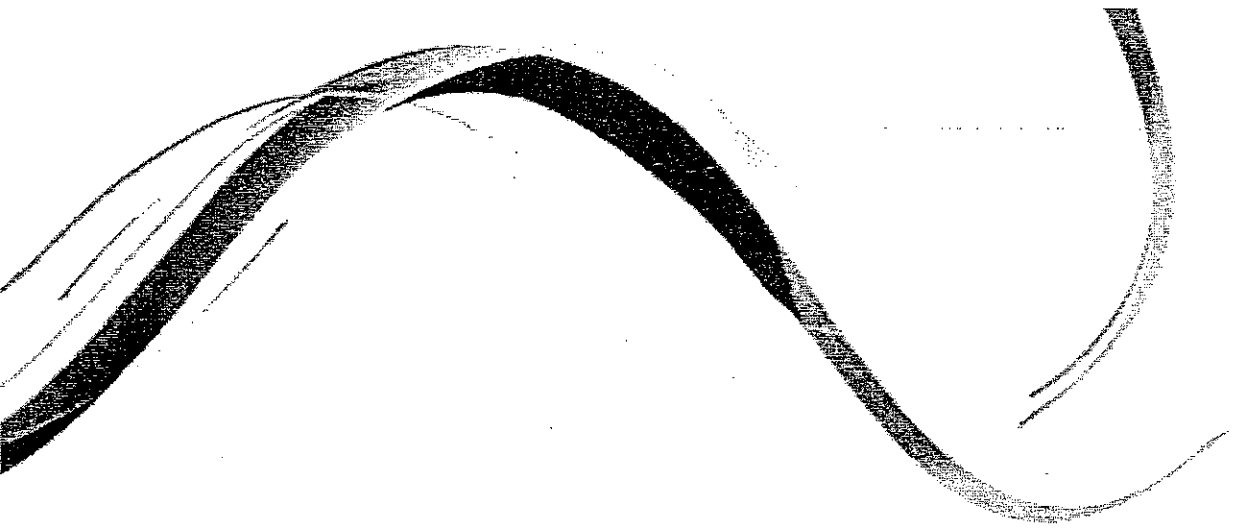
More information available at www.fppc.ca.gov
& (866) ASK- FPPC



Gift Prohibition

You may not accept gifts
from any single source
totaling more than \$420 in
a calendar year.

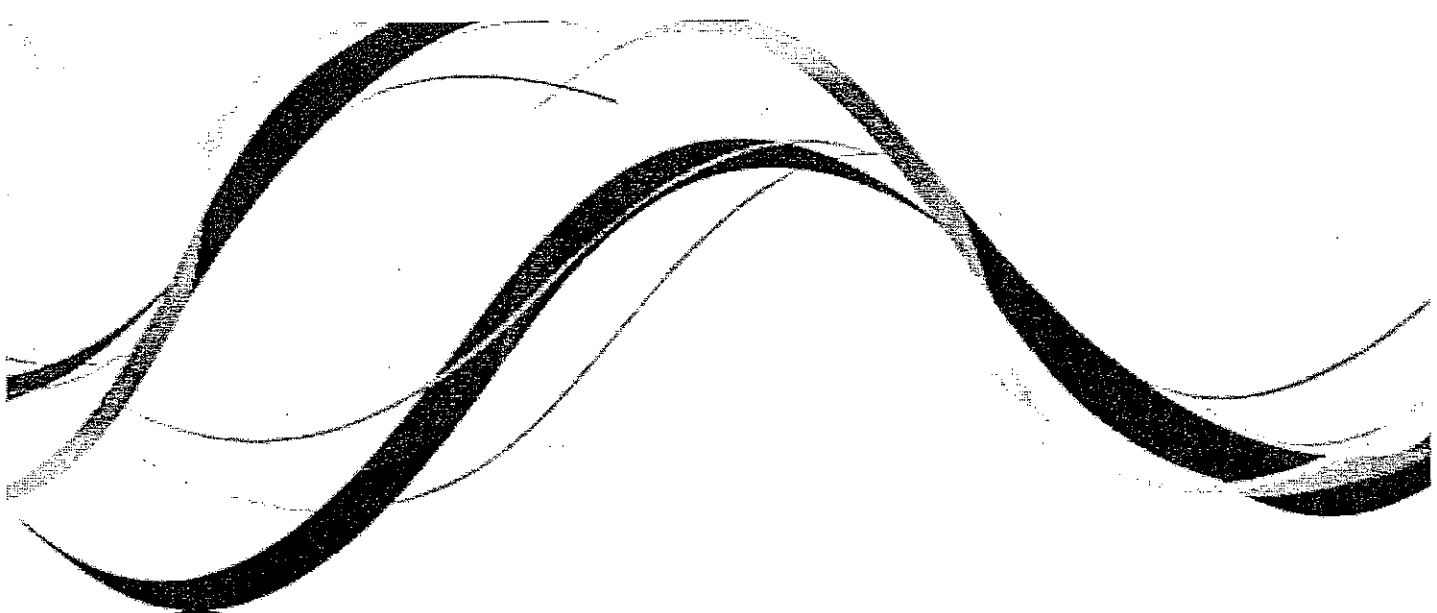
(Govt. Code Section 89503;
FPPC Regulation 18940.2.)



Gift Reporting

If you accept gifts from any single source totaling \$50 or more in a calendar year, you must report it and identify the source.

FPPC Form 700 – Statement of
Economic Interest



What is a “Gift”?

A “gift” is any payment or other benefit provided to you or your family that confers a personal benefit for which you do not provide goods or services of equal or greater value.

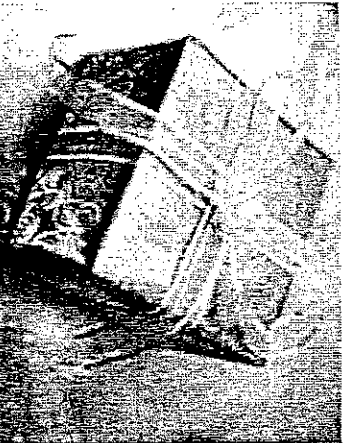
A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public.

(Section 82028.)

(See FPPC Regulation 18946 for valuation guidelines.)

Examples of Gifts

- Gift basket, artwork, wine, chocolates
- Food, beverages
- Tickets or passes to events, including free or discounted admission to events (such as sporting and entertainment events, amusement parks)
- Round of golf, spa treatment
- Lodging, travel, spa treatment
- Discounts, rebates (unless offered in the regular course of business to members of the public without regard to official status)

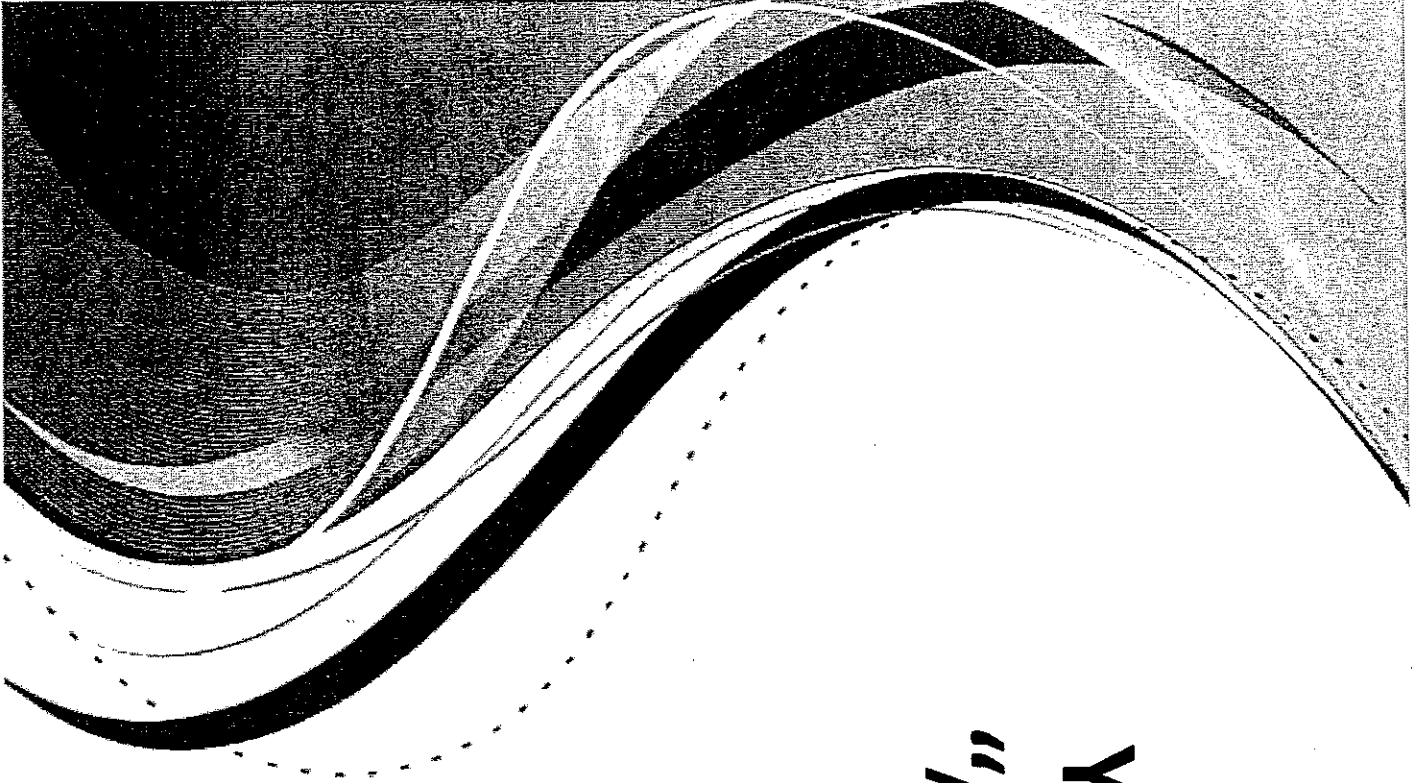


Ask: *Does it confer a personal benefit to me or my family for which I did not provide payment?*



Gifts to Family Members


- A gift made to **BOTH** an official and his or her family member (spouse, dependent minor child, and children up to age 23 who are students and not living on their own or providing a majority of their own support) is treated as a gift to the official for the full value of the gift. (FPPC Regulation 18944.)
- A gift given **SOLELY** to an official's family member will be treated as a gift to the official if the official receives a personal benefit from the gift, **UNLESS** the official can show that there is an established working or social relationship between the donor and the family member that is independent of the relationship between the donor and the official.
- For Section 87200 filers, a gift given to a family member is presumed to confer a personal benefit on a local official if it is made by a person who is or has been directly involved in a governmental decision within the last 12 months.
- An official receives a personal benefit if: (1) the gift reduces a financial obligation the official would typically have in providing for the ordinary care and support of his or her family member; (2) the official uses the gift, other than minimal use; or (3) the official exercises discretion and control over who will use the gift.
- Exception for wedding gifts - Wedding gifts are not subject to the gift limit but are reportable. (Regulation 18942(b)(2).)



**“YOU HAVE “RECEIVED” OR
“ACCEPTED” A GIFT WHEN:**

You have actual possession of the gift or when you take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person

(FPPC Regulation 18941)



WHAT IF I RETURNED OR PAID FOR THE GIFT?

- Gifts which you return (unused) to the donor are not subject to any gift limit and are not required to be disclosed on a Statement of Economic Interests (Form 700)
- Gifts for which you reimburse the donor, within 30 days of receipt, are also not subject to any gift limit and not required to be disclosed on a Statement of Economic Interests (Form 700)

(GC Section 82028(b)(2); FPPC Regulation 18943.)



Additional gift exceptions:

The following are not subject to any gift limit and are not required to be disclosed on a Statement of Economic Interests (Form 700):


- Gifts from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b) (3); Regulation 18942(a)(3).) (Proposed Regs add former spouses.)
- Gifts approximately equal in value exchanged between you and another individual on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. “Gifts exchanged” includes food, beverages, entertainment, and nominal benefits provided at the occasion by the honoree or another individual, other than a lobbyist, hosting the event. (Regulation 18942(a)(8).)
- Informational material provided to assist you in the performance of your official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)



- **CCCERA CLIENT
CONFERENCES AND SEMINARS**
- **NON-CLIENT
CONFERENCES AND SEMINARS**

Travel, lodging,
meals,
incidentals





Group Gift (Formerly: A Gift From Multiple Donors)

If a gift is received from multiple donors, only the name of any donor whose share of the gift \$50 or more need be reported.

Key: track each donor for aggregation with any other gift made by that donor

(FPPC Regulation § 18945.4, recently re-numbered 18945.2 and revised).



BOARD POLICY:

- Retirement Board members and designated staff who receive gifts of \$75.00 or more in the current calendar year from any source conducting business or seeking to conduct business with the CCCERA Board, immediately before the Board considers an item involving that donor, must disclose on the record the receipt of the gift, the donor's name, and the nature and value of the gift. (CCCERA Code of Fiduciary Conduct, at ¶ 3.)
- Same rule when the gift was received by CCCERA; the Retirement Administrator must disclose on the record the donor's name, and the nature and value of the gift(s). (Note special FPPC disclosure rules regarding gifts to the agency)



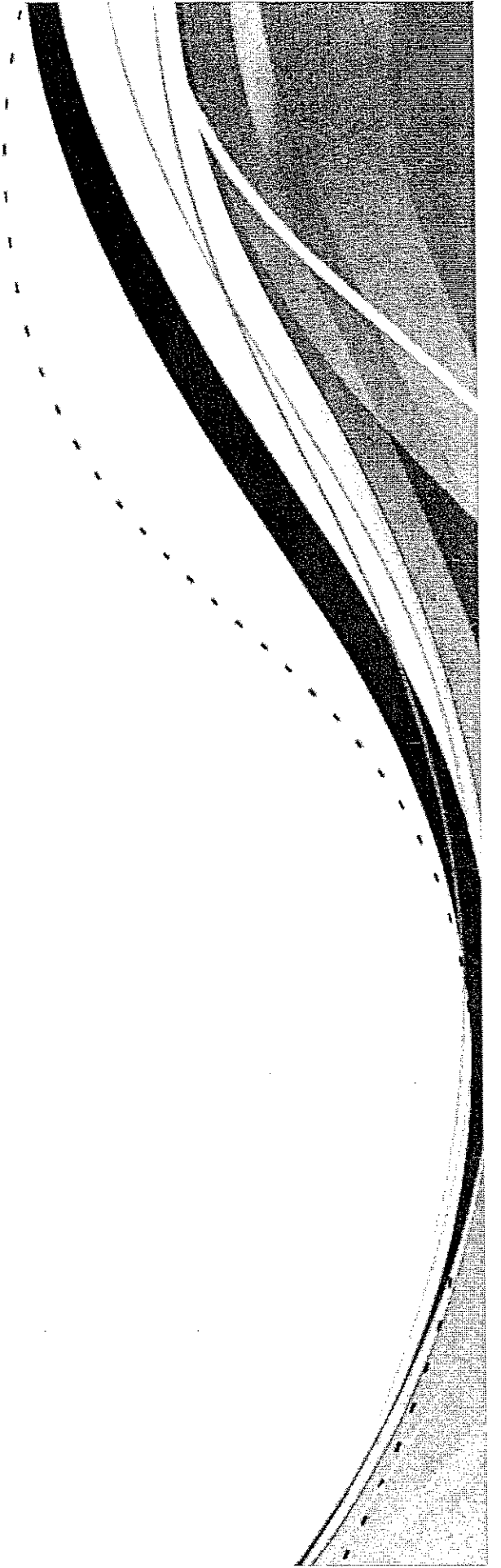
Proposed FPPC Regulations

- Exclude gifts given by former spouses, step children
- Exclude reciprocal exchanges from the definition of gift (but reciprocal gifts must be of equivalent value)
- Exclude prize or award won unrelated to official capacity (but gift must be reported as income)
- Exclude bereavement offerings, acts of neighborliness, and benefits exchanged between people “on a date or in a dating relationship” unless the gift donor is a lobbyist or someone who may contract with CCCERA within 12 months

Summary

- Keep in mind what is prohibited (more than \$420)
- Keep in mind what is reportable to the FPPC (\$50 or more)
- Keep in mind what is discloseable to the board (\$75.00 or more)





QUESTIONS?