

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

§ 18944.1. Gifts: Agency Provided Tickets or Passes.

(a) Gift Exemption. A ticket or pass provided to an official by his or her agency and distributed and used in accordance with a policy adopted by the agency is not a gift under the Political Reform Act if all of the following criteria are met:

(1) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency that incorporates all of the provisions of subdivision (b) and is maintained as a public record as required in subdivision (c).

(2) The distribution of the ticket or pass is reported pursuant to subdivision (d).

(3) The ticket or pass is not earmarked by an outside source for use by a specific agency official.

(4) The agency determines, in its sole discretion, who uses the ticket or pass.

(b) Agency Ticket/Pass Distribution Policy. Any distribution of a ticket or pass under this regulation to, or at the behest of, an agency official must be made pursuant to a written agency ticket distribution policy, duly adopted by the legislative or governing body of the agency or, if none, the agency head that contains, at a minimum, all of the following:

(1) A provision setting forth the public purposes of the agency for which tickets or passes may be distributed.

(2) A provision requiring that the distribution of any ticket or pass to, or at the behest of, an agency official accomplishes a stated public purpose of the agency.

(3) A provision prohibiting the transfer of any ticket received by an agency official pursuant to the distribution policy except to members of the official's immediate family or no more than one guest solely for their attendance at the event.

(4) A provision prohibiting the disproportionate use of tickets or passes by a member of the governing body, chief administrative officer of the agency, political appointee, or department head.

(c) Public Record. The policy must be maintained as a public record and is subject to inspection and copying under Section 81008. The agency must post the policy on its website within 30 days of adoption or amendment and send to the Commission by e-mail the agency's website link that displays the policy so that the Commission may post the link.

(d) Reporting. Within 45 days of distribution of a ticket or pass, the distribution must be reported on a form provided by the Commission.

(1) Except as provided in subdivision (d)(2), the information must include the following:

(A) The name of the official receiving the ticket or pass;

(B) A description of the event;

(C) The date of the event;

(D) The fair value of the ticket or pass as that term is defined in Regulation 18946, subdivision (d)(1);

(E) The number of tickets or passes provided to each person;

(F) If the ticket or pass is behested, the name of the official who behested the ticket;

(G) If the ticket was transferred to a person meeting the requirements of paragraph (b)(3), the relationship of the transferee;

(H) A description of the public purpose under which the distribution was made; and

(1) A written inspection report of findings and recommendations by the official receiving the ticket or pass if received for the oversight or inspection of facilities.

(2) If the ticket or pass is distributed to a department or other unit of the agency, and not used by a member of the governing body, the chief administrative officer of the agency, political appointee, or department head, the agency may report the name of the department or other unit of the agency receiving the ticket or pass and the number of tickets or passes provided to the department or unit in lieu of reporting the name of the individual employee as otherwise required in subdivision (d)(1).

(3) The forms must be maintained as public records and are subject to inspection and copying under Section 81008(a). The agency must post the form, or a summary of the information on the form, on its website and send to the Commission by e-mail the agency's website link that displays the form so that the Commission may post the website link.

(e) Public Purpose. For purposes of subdivision (b)(2), the agency determines whether the distribution of tickets or passes serves a legitimate public purpose of the agency, consistent with state law. However, a ticket or pass distributed to an official for his or her personal use, other than a member of the governing body, the chief administrative officer of the agency, political appointee, or department head, to support general employee morale, retention, or to reward public service is deemed to serve a public purpose. For purposes of this paragraph, "personal use" is limited to the official and his or her family, or no more than one guest.

(f) Application. This regulation applies solely to a ticket or pass, as those terms are defined in Regulation 18946, to an event or function provided by an agency to an official of the agency, or at the behest of an official of that agency. The provisions of this regulation apply only

to the benefits the official receives from the ticket or pass that are provided to all members of the public with the same class of ticket or pass. This regulation does not apply to the following:

(1) An admission provided to a school, college, or university district official, coach, athletic director, or employee to attend an amateur event performed by students, which are neither gifts nor income.

(2) An admission identified in Regulation 18942(a)(13) relating to an official performing a ceremonial role.

(g) Ticket or Pass Received as Income. A ticket or pass is not subject to the provisions of this regulation, and not a gift for purposes of the Act, if it is taxable income to the official.

(h) Reimbursement. A ticket or pass is not subject to the provisions of this regulation, and not a gift for purposes of the Act, if the official reimburses the agency for the ticket within 30 days of receipt.

Note: Authority cited: Section 83112, Government Code. Reference: Section 82028, Government Code.

HISTORY

1. Renumbering of former section 18726.7 to section 18944.1 with amendment of section heading filed 6-22-94; operative 6-22-94 (Register 94, No. 25).
2. Change without regulatory effect relocating section filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of first paragraph and subsections (a)-(b) and (d)-(e) filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
4. Repealer and new section filed 1-8-2009; operative 2-7-2009. 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) (Register 2009, No. 2).

5. Repealer of subsection (a), subsection relettering and amendment of newly designated subsections (a)(1), (a)(2)(A)(iii)-(b), (c) and (e) filed 9-27-2010; operative 10-27-2010.

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) (Register 2010, No. 40).

6. Amendment of section heading and section filed 1-23-2012. Pursuant to California Code of Regulations, title 2, section 18313(e), FPPC has designated an effective date of 1-1-2012.

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 2012, No. 4).

7. Amendment filed 1-14-2016; operative 2-13-2016, pursuant to title 2, section 18312(e) of the California Code of Regulations. 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 2016, No. 3).

8. Amendment of section heading and repealer and new section filed 6-20-2019; operative 7-20-2019 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 2019, No. 25).