

CODE OF

Ethical

Conduct

For LACERA Boards and Staff

PREAMBLE

The Los Angeles County Employees Retirement Association (LACERA) is a public pension plan organized under the County Employees Retirement Law of 1937. (California Government Code Section 31450, et seq.) All investments of LACERA are the responsibility of the Board of Investments. The management and administration of LACERA are vested in the Board of Retirement.

Members of the LACERA Boards hold positions of public trust. Article XVI, Section 17 of the California Constitution charges LACERA Board members with the responsibility of administering the affairs of LACERA “in a manner that will assure prompt delivery of benefits and related services to LACERA’s participants and their beneficiaries,” and further mandates LACERA Board members to “discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries.”

The members of the LACERA Boards are mindful of the positions of trust and confidence they hold. They adopt this Code of Ethical Conduct to ensure the proper administration of LACERA, and to foster unquestioned public confidence in LACERA’s institutional integrity as a prudently-managed and fiducially-governed public pension system, operated for the sole and exclusive purpose of providing benefits to LACERA’s participants and beneficiaries.

TABLE OF CONTENTS

INTRODUCTORY INFORMATION

- 4 Purpose and Scope
- 4 Fiduciary Duty
- 5 Enforcement

STANDARDS OF ETHICAL CONDUCT FOR LACERA BOARDS AND STAFF

- 7 Ethical Standards
- 7 Prohibited Transactions
- 8 Nepotism
- 9 Gifts: General Restrictions and Prohibitions
- 9 Conflict of Interest and Disclosure Code

RULES AND LAWS FOR LACERA BOARDS AND DESIGNATED STAFF

- 11 Fiduciary Duty
- 11 Conflicts of Interest
- 11 Incompatible Activities
- 11 Gifts
- 11 Honoraria
- 12 Public Disclosure of Economic Interests
- 12 Communications with Service Providers and Other Non-LACERA Persons and Entities

Appendix to Code of Ethics Legal Foundations

- 12 Fiduciary Duty
- 12 Conflicts of Interest
- 16 Incompatible Activities
- 17 Limitation on the Acceptance of Gifts
- 18 Prohibition on Acceptance of Honoraria
- 19 Public disclosure of Economic Interests

Addendum to Code of Ethics

- 20 Introduction
- 21 Gifts
- 24 Honoraria
- 26 Travel Payments
- 29 Loans

CODE OF

Ethical

Conduct

INTRODUCTORY INFORMATION

PURPOSE AND SCOPE

This policy defines the standard of professional and ethical conduct expected of LACERA Board members and staff. These provisions are based on legal and fiduciary concepts. However, this policy should not be relied upon as an exclusive or comprehensive list of the legal or fiduciary requirements of conduct. This policy is intended to be used as a guideline for conduct and the basis for evaluation of that conduct.

This policy does not attempt to specify every possible activity that might be inappropriate or prohibited under applicable laws and regulations. This policy shall not be construed as the sole provision of laws and administrative rules which must be observed by each LACERA Board member and staff. Nothing in this policy shall exempt any person from any federal, state, or county law or regulation. The standards of conduct set forth in this policy are in addition to any such law or regulation.

FIDUCIARY DUTY

Under the statutes governing LACERA the Fund is a trust fund to be administered solely in the interest of the participants and their beneficiaries.

Board Fiduciary Responsibilities

As required by the California Constitution, each member of the LACERA Boards shall discharge his or her duties solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries.

Each member of the LACERA Boards shall exercise his or her duties with the care, skill, prudence, and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with matters of the type would use in the conduct of an enterprise with a like character and like aims.

Each member of the LACERA Boards shall diligently attend to the business of the Board on which he or she serves, and shall not leave to the other members of the Board control over the administration of the affairs of such Board.

Staff Fiduciary Responsibilities

LACERA staff supports the LACERA Boards in the fulfillment of all their duties, including their fiduciary duty to LACERA's participants and their beneficiaries. All LACERA staff must comply with all relevant federal and state laws, and

LACERA policies regulating conduct, and must avoid any conduct which is, or may be perceived to be, detrimental to LACERA and its members and beneficiaries.

ENFORCEMENT

LACERA's Chief Executive Officer (CEO) is responsible for communicating, implementing and enforcing this Code with respect to LACERA staff. The Board Chair will enforce this policy with respect to Board Members and the CEO in accordance with Board administrative policies and applicable laws.

Any person with knowledge of a violation of this Code shall report such information to appropriate supervisory personnel, the CEO, or the Board Chair, as applicable.

Violations of any of the provisions of the Code may result in termination of employment or other disciplinary action as the situation may warrant. Disciplinary actions involving board members are to be handled in accordance with Board administrative policies and applicable laws.

Questions on this matter should be referred to LACERA's Director of Human Resources, Internal Audit or the Legal Office.

The CEO is also responsible for ensuring that a class is held periodically for all employees to reinforce and explain the provisions of and answer any questions pertaining to this Code of Ethical Conduct. Written opinions concerning the interpretation of this Code will be provided to LACERA staff members who file a written request with the CEO. Copies of all such opinions will be furnished to the LACERA Boards.





STANDARDS OF ETHICAL CONDUCT FOR LACERA BOARDS AND STAFF

CODE OF

Ethical

Conduct

STANDARDS OF ETHICAL CONDUCT

Ethical Standards

While performing everyday duties and responsibilities, the following standards apply:

- Recognize and be accountable for the fiduciary responsibility;
- Comply with all applicable laws and regulations;
- Conduct all LACERA business for the sole and exclusive benefit of the fund and its members and beneficiaries in a fair manner, and be honest in all business negotiations;
- Strive to provide the highest quality of performance and counsel;
- Avoid any activity which may be interpreted as a conflict of interest by others;
- Avoid not only exerting improper influence or being improperly influenced, but also avoid the appearance of impropriety;
- Exercise prudence and integrity in the management of funds;
- Communicate to an appropriate staff member information on actions which may constitute violations of the Code of Ethical Conduct, or the law, or conflicts of interest;
- Be responsible for maintaining professional competence;
- Maintain confidentiality of information so designated which is received or maintained by LACERA.

Prohibited Transactions

Each LACERA Board Member or staff member is prohibited from:

- Utilizing any property or resources of LACERA for personal gain;
- Falsifying or failing to record proper entries on any books or records of LACERA;
- Knowingly becoming a party to, or condoning, any illegal activity;
- Authorizing payment of any amount on behalf of LACERA, or for any purpose, other than that explicitly disclosed in the original request for payment;
- Directly or indirectly seeking or accepting gifts, money or property that would influence or appear to influence the conduct of duties;
- Engaging in or conducting outside activities of financial or personal interest that may conflict with the impartial and objective execution of LACERA business activities;
- Selling or providing goods or services to LACERA without disclosure;
- Utilizing the services of relatives or close personal associates for LACERA business without disclosing such relationship prior to execution and obtaining the approval of the CEO;
- Engaging in activities involving dishonesty, fraud, deceit or misrepresentation;
- Engaging in outside employment with any providers of supplies or

CODE OF

Ethical

Conduct

- services to LACERA; or
- Engaging in outside employment that would interfere with or hamper expected performance at LACERA; or
- Engaging in other activities which compromise or appear to compromise one's objectivity in the conduct of one's duties.

Nepotism

To prevent related-party conflicts of interest, LACERA may not employ a person who is related to:

- a board member,
- the chief executive officer,
- anyone reporting directly to the chief executive officer, or
- anyone serving as a division head.

This does not prevent the continued employment of a person who has already been working for LACERA in a full time and non-probationary capacity for thirty consecutive days prior to the date the board member or other individual described above acquired their position, or the related party became related. If a related party is retained under these circumstances, any actual or potential conflict of interest must still be corrected or sufficiently mitigated.

Related parties of other LACERA staff members may be considered for employment by LACERA provided the applicant possesses all the qualifications for employment. Such a related party may not be hired or assigned to a position which would either:

1. Create either a direct or indirect supervisor/subordinate relationship with a related party; or
2. Create either an actual conflict of interest or the appearance of a conflict of interest.

These criteria will also be considered when assigning, transferring, or promoting a staff member.

For purposes of this policy, related parties include:

- spouse, parent or grandparent, child or grandchild, or sibling,
- first degree aunt, uncle, niece, nephew or cousin,
- any "step" or "in-law" variant of the aforementioned relationships, and
- any member of the employee's household, whether or not related.

A LACERA Board member or staff member may not exercise discretionary authority to hire, evaluate or promote a related party.

Any actual, perceived, or anticipated related party conflict of interest or compromise of objectivity must be reported to appropriate LACERA management or the Board Chairman and corrected without delay.

Gifts: General Restrictions and Prohibitions

Board members and staff members are prohibited from soliciting any gift or any other consideration (including but not limited to money, service, gratuity, favor, entertainment, hospitality, loan, or other thing of value) from anyone who is doing or is seeking to do business of any kind with LACERA.

Board members and staff members are prohibited from accepting any gift from anyone who is doing or is seeking to do business of any kind with LACERA, when the gift is offered with a view toward securing favorable treatment in the awarding of any contract or agreement, or the making of any determination.

For staff members (not including Board members, who are governed by specific state laws), all gifts from a single source aggregating \$50 or more in any one calendar year shall be reported in writing by the staff member to the staff member's immediate supervisor.

In no event shall a Board member or staff member accept gifts from a single source during any calendar year totaling more than the gift limit set forth in Government Code Section 89503(c), a provision of the California Political Reform Act.

The payment or reimbursement of travel expenses, including lodging and meals, constitutes a gift, even if the travel is in connection with official LACERA business. Prior to accepting a gift of travel (including lodging and meals), Board members and staff members shall consult with the Legal Office to confirm that such acceptance is not prohibited by law.

LACERA's Conflict of Interest and Disclosure Code

In addition to the foregoing, Board Members and staff members who are listed as designated employees under the LACERA Conflict of Interest and Disclosure Code shall comply with the gift restrictions (including gifts of travel) and reporting requirements set forth in the California Political Reform Act (PRA), Government Code Sections 89500, et seq., as well as all other applicable provisions of the PRA, Government Code Section 81000, et seq. The CEO is responsible for ensuring all new employees are provided a copy of the LACERA Conflict of Interest and Disclosure Code upon employment.

CODE OF

Ethical

Conduct



RULES & LAWS FOR LACERA BOARDS AND DESIGNATED STAFF

CODE OF

Ethical

Conduct

RULES AND LAWS APPLICABLE SPECIFICALLY TO BOARD MEMBERS AND DESIGNATED STAFF:

Each member of a LACERA Board is subject to special legislation governing the following issues:

- **Fiduciary Duty**

The Boards' fiduciary duty is defined by the California Constitution, as previously discussed.

- **Conflicts of Interest**

Each member of the LACERA Boards shall comply with California Government Code Section 87100, which prohibits a LACERA Board member from attempting in any way to influence a LACERA decision in which the Board member has a financial interest.

Each member of the LACERA Boards shall abide by the provisions of California Government Code Sections 1090 through 1097, which prohibit a LACERA Board member from being financially interested in any contract made by the LACERA Board on which he or she serves.

- **Incompatible Activities**

A member of the LACERA Boards shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a member of a LACERA Board, or with the duties, functions, or responsibilities of the LACERA Board on which he or she serves. A LACERA Board member shall not perform any work, service, or counsel for compensation outside his or her Board responsibilities where any part of his or her efforts will be subject to approval by any other member of the Board on which he or she serves.

- **Gifts**

Each member of the LACERA Boards shall comply with the gift limitation provisions of the Ethics in Government Act of 1990. (California Government Code Section 89500, et seq.)

- **Honoraria**

Each member of the LACERA Boards shall comply with the provisions of the Ethics in Government Act of 1990 (California Government Code Section 89500, et seq.) prohibiting the acceptance of honoraria.



- **Public Disclosure of Economic Interests**

Each member of the Board of Investments shall comply with Article 2 (commencing with California Government Code Section 87200) of the California Political Reform Act of 1974, requiring the public disclosure of economic interests.

- **Communications with Service Providers and Other Non-LACERA Persons and Entities**

A Board member shall not correspond with a non-LACERA person or entity using LACERA letterhead unless the communication is authorized by the Board on which the member serves. Copies of all written communications from a Board member to a current service provider, or person or entity related to a current service provider, relating to LACERA's business (other than purely personal or social correspondence) shall be provided to the Chief Executive Officer for subsequent distribution to all members of the Board on which the member serves. A copy of any written communication (other than purely personal or social correspondence, routine announcements, generally distributed newsletters, and the like) received by a Board member from a current LACERA service provider, or person or entity related to a current service provider, shall be forwarded to the Chief Executive Officer for subsequent distribution to all members of the Board on which the member serves.

These laws are discussed in the following attachments to this policy:

- “Appendix to Code of Ethics: Legal Foundations”
- “Addendum to Code of Ethics: Gifts, Honoraria, Travel & Loans”

APPENDIX TO CODE OF ETHICS LEGAL FOUNDATIONS

Board of Retirement

Board of Investments

The Los Angeles County Employees Retirement Association

1. Fiduciary Duty

The California Constitution, the County Employees Retirement Law of 1937, and opinions reported by the California Appellate Courts all provide that members of the Board of Retirement and the Board of Investments are fiduciaries governed by recognized principles of trust law. The California Constitution, at Article XVI, Section 17, provides, in relevant part:

CODE OF

Ethical

Conduct

“[T]he retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:

“(a) The retirement board of a public pension or retirement system shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

“(b) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board’s duty to its participants and their beneficiaries shall take precedence over any other duty.”

The County Employees Retirement Law of 1937, Government Code Section 31450, et seq., likewise makes it clear members of the Boards of Retirement and Investments are fiduciaries.

Government Code Section 31588 provides that “[a] trust fund account to be designated as ‘employees retirement fund’ shall be opened upon the books of the retirement board... of any county adopting [a 37 Act] retirement system.” This code section further provides that “[t]he ‘employees retirement fund’ shall be a trust fund created or continued and administered in accordance with the provisions of [the 37 Act], solely for the benefit of the members and retired members of the system and their survivors and beneficiaries.”

To the same effect is Government Code Section 31595, providing that “[t]he assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.”

Government Code Section 31595 expressly imposes recognized duties of fiduciaries under common law:

“The board and its officers and employees shall discharge their duties with respect to the system:

“(a) Solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system.

“(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

“(c) Shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly prudent not to do so.”

In 1985, the California Supreme Court, in a case entitled *Hittle v. Santa Barbara County Employees Retirement Assn.*, 39 Cal.3d 374, specifically held that members of a 37 Act retirement board are trustees subject to all of the fiduciary duties applicable to any other trustee. The Court opined:

“‘[P]ension plans create a trust relationship between pensioner beneficiaries and the trustees of pension funds who administer retirement benefits... and the trustees must exercise their fiduciary trust in good faith and must deal fairly with the pensioners-beneficiaries. [Citations omitted.]’ (Citation, original italics.)”

“The [retirement board] officials, by the acceptance of their appointment, are voluntary trustees, within the meaning of Civil Code section 2216 and 2222, of the retirement plans available to the beneficiary-members of the Association. (Cf. *Hannon Engineering, Inc. v. Reim*, supra, 126 Cal.App.3d at pp. 425-426.) As such, the [pension board] officers are charged with the fiduciary relationship described in Civil Code section 2228: ‘In all matters connected with his trust, a trustee is bound to act in the highest good faith toward his beneficiary, and may not obtain any advantage therein over the latter by the slightest misrepresentation, concealment, threat, or adverse pressure of any kind.’” [Citation.]

2. Conflicts of Interest

The Political Reform Act of 1974 (Government Code Section 81000, et seq.) was adopted by the voters as an initiative measure on June 4, 1974. Chapter 7 of the Act deals with conflicts of interests. The heart of Chapter 7 is Section 87100:

“No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”

In *Commission on Cal. State Government Organization & Economy v. Fair Political Practices Com.* (1977) 75 Cal.App.3d 716, the Court of Appeal noted that the conflict laws operate without regard to actual corruption or actual governmental loss. They establish an objective standard directed not only at dishonor, but at conduct that tempts dishonor. They are preventive, acting upon tendencies as well as prohibited results. Thus, noted the Court, a violation of the conflict of interest laws occurs not only when the public official participates in the decision, but when he influences it directly or indirectly.

As noted above, the disqualifying provisions apply when a government official has a “financial interest.” The phrase “financial interest,” as used in the Political Reform Act, is defined in Government Code Section 87103, and by regulations adopted by the Fair Political Practices Commission to guide public officials in complying with the Act. A public official will have a disqualifying financial interest when all the following are present:

1. It is reasonably foreseeable that the decision will have a financial effect;
2. The anticipated financial effect is on the financial interest of the official;
3. The anticipated financial effect is material; and
4. The decision’s financial effect on the official’s financial interest is distinguishable from its effect on the public generally.

In addition to the foregoing, Section 87103 provides that an official will have a disqualifying financial interest in any of the following:

1. Any business entity in which the official has a direct or indirect investment worth \$1,000 or more,
2. Any real property in which the official has a direct or indirect interest worth \$1,000 or more,
3. Any source of income (other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status) aggregating \$250* or more in value provided to, received by, or promised to the official within 12 months prior to the time the decision is made,
4. Any business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management,
5. Any donor (or intermediary or agent thereof) of a gift or gifts aggregating \$250* or more in value provided to, received by, or promised to the official within 12 months prior to the time when the decision is made.

In addition to the conflict of interest provisions of the Political Reform Act, Government Code Section 1090 through 1097 prohibits public officials from being financially interested in contracts entered into by the agency. Section 1090 provides:

*The \$250 gift limitation is indexed and adjusted biennially by the Fair Political Practices Commission. For the period January 1, 1999 through December 31, 2000, the limit has been set at \$300. Regulation No. 18940.1.

“Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.

“As used in this article, ‘district’ means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.”

The purpose of the conflict of interest prohibition in Section 1090 is to remove or limit the possibility of any personal influence either directly or indirectly which might bear on an official’s decision, as well as to avoid contracts which are actually obtained through fraud or dishonest conduct. (*Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191.)

Government Code Section 1091 provides an official will not be deemed to be “financially interested,” within the meaning of Section 1090, if the official:

1. Has only a “remote interest” in the subject matter of the contract;
2. Discloses this interest; and
3. Abstains from participating in or attempting to influence the decision to enter the contract.

Finally, it should be noted the Retirement Act contains a specific conflict of interest provision applicable to officers and employees of LACERA:

“A member or employee of the board shall not become an endorser, surety, or obligor on, or have any personal interest, direct or indirect, in the making of any investment for the board, or in the gains or profits accruing therefrom, unless permitted by [the Retirement Act]. He shall not directly or indirectly, for himself or as an agent or partner of others, borrow or use any of the funds or deposits of the retirement system, except to make such current and necessary payments as are authorized by the board.” (Government Code Section 31528.)

3. Incompatible Activities

In order to prevent a division of loyalties, both the common law and California statute prohibit the holding of incompatible offices. The California courts have developed a common law doctrine of incompatible offices which essentially prevents a person from holding two public offices which are incompatible. As explained by the California Attorney General, at 48 Ops. Cal. Atty. Gen. 80, 84:

CODE OF

Ethical

Conduct

“The time honored maxim, that no man can serve two masters, supports the mandate of sound policy that a ‘public officer is impliedly bound to exercise the powers conferred on him with disinterested skill, zeal, and diligence...’ [Citation.] Fidelity in public office must be maintained, and the law does not permit a public officer to place himself in a position in which he might be tempted by his own private interests to disregard the interests of the public.” [Citations.]

The courts have thus held that an individual “may not simultaneously hold two public offices where the functions of the offices concerned are inherently inconsistent, as where there are conflicting interests, or where the nature of the duties of the two offices is such as to render it improper due to considerations of public policy for one person to retain both.” (Eldridge v. Sierra View Local Hospital District (1990) 224 Cal.App.3d 311, 319.)

A public officer who, during his or her incumbency, is elected or appointed to a second public office which is incompatible with the first office, automatically vacates and terminates his or her right to hold the first office upon entering the duties of the second office. In other words, assumption of the second, incompatible office results in the automatic vacation of the first office. (People ex rel. Chapman v. Rapsey (1940) 16 Cal.2d 636, 644.)

Statutory prohibitions against incompatible activities and the holding of incompatible offices are contained in Government Code Section 1126, which provides, in relevant part:

“...[A] local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed.

The officer or employee shall not perform any work, service, or counsel for compensation outside of his or her local agency employment where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of his or her employing body, unless otherwise approved in the manner prescribed...”

4. Limitation on the Acceptance of Gifts

As noted in Section 2 above (Conflicts of Interest), the Political Reform Act provides that an official will be deemed to have a financial interest in any donor of gifts aggregating \$250 (indexed and adjusted, effective January 1, 1999 to \$300) or more in the 12-month period prior to the time a government decision is made.

CODE OF

Ethical

Conduct

In 1990, the California Legislature enacted the “Ethics in Government Act of 1990,” which was added as Chapter 9.5 (commencing with Government Code Section 89500) of the Political Reform Act. Among other things, the Ethics in Government Act, at Government Code Section 89503, limits the acceptance of gifts by state and local public officials. Members of the Board of Investments are covered by subsection (a) of Section 89503, which provides:

“(a) No elected state officer, elected officer of a local government agency, or other individual specified in Section 87200 shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars (\$250).”*

Section 87200 covers, inter alia, “public officials who manage public investments,” which include members of the Board of Investments. Members of the Board of Retirement are “designated employees” under LACERA’s Conflict of Interest Code, and thus are covered by subsection (c) of Section 89503, which provides:

“(c) No ... designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty (\$250)* if the... employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.”

There are numerous exceptions to the gift limitation provisions. These exceptions are set forth in the Act and the regulations adopted by the Fair Political Practices Commission. In addition, the Fair Political Practices Commission has provided guidance regarding compliance with the gift limitation provisions in its January 1999 publication entitled “Limitations and Restrictions on Gifts, Honoraria, Travel and Loans.” (See Addendum, p. 22.)

5. Prohibition on Acceptance of Honoraria

The Ethics in Government Act (Chapter 9.5 of the Political Reform Act) also prohibits the acceptance of honoraria.

Members of the Board of Investments, as officials who manage public investments, are prohibited from accepting honoraria from any source. Members of the Board of Retirement, as “designated employees” under LACERA’s Conflict of Interest Code, are prohibited from accepting honoraria from any source they would have to report income or gifts from on their statements of economic interest. An “honorarium” is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Government Code Section 89501; FPPC Regulation 18931.)

*The \$250 gift limitation is indexed and adjusted biennially by the Fair Political Practices Commission. For the period January 1, 1999 through December 31, 2000, the limit has been set at \$300. Regulation No. 18940.1.

“Speech given” means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (FPPC Regulation 18931.1.)

An “article published” means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (FPPC Regulation 18931.2.)

“Attendance” means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (FPPC Regulation 18931.3.)

The Act and the FPPC regulations provide certain exceptions to the provisions on honoraria. In addition, the Fair Political Practices Commission has provided guidance for complying with the honoraria prohibition in its January 1999 publication entitled “Limitations and Restrictions on Gifts, Honoraria, Travel and Loans.” (See Addendum, p. 24.)

6. Public Disclosure of Economic Interests

The Political Reform Act requires public officials at all levels of government to publicly disclose their private economic interests and to disqualify themselves from participating in a decision in which they have a financial interest. The disqualification requirements are discussed the Conflicts of Interest section. Article 2 (commencing with Government Code Section 87200) and Article 3 (commencing with Government Code Section 87300) of Chapter 7 of the Political Reform Act contain the provisions relating to the disclosure of economic interests. Members of the Board of Investments must file an initial statement of economic interests (called “Assuming Office Statement) within 30 days after assuming office. (Government Code Section 87202.) Members of the Board of Retirement must file an Assuming Office Statement within 30 days after assuming office. Thereafter, each Board member must file an annual statement during their term of office. Board members must file a Leaving Office Statement within 30 days after leaving office. (Government Code Sections 87204, 87302.)

CODE OF

Ethical

Conduct

ADDENDUM TO CODE OF ETHICS

Gifts, Honoraria, Travel & Loans

A Fact Sheet For:

- Local Elected Officers & Candidates for Local Elective Offices
- Local Officials Specified in Government Code Section 87200
- Designated Employees of Local Government Agencies

Introduction

The Political Reform Act¹ imposes limits on gifts and prohibits honoraria payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200², excluding judges;
 - Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency’s conflict of interest code); and
 - Candidates³ for any of these offices or positions. (Section 89502 and 89503.)
- This addendum summarizes the major provisions of the Act concerning gifts, honoraria, and travel. You should not, however, rely on the addendum alone to ensure compliance with the Act. If you have any questions, contact the Fair Political Practices Commission at (916) 322-5660 or visit the FPPC website at www.fppc.ca.gov.

¹Government Code Sections 81000-91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

²Local officials specified in Government Code Section 87200 include members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, and other public officials who manage public investments.

³For purposes of the gift limit and honoraria prohibition, you become a “candidate” when you file a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If you are an unsuccessful candidate, you will no longer be subject to the gift limit and honoraria prohibition when you are eligible to terminate your campaign filing obligations and have filed a statement of termination (Form 416), or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)

I. GIFTS

The Gift Limit

If you are a local elected officer, a candidate for local elective office, or a local official specified in Government Code Section 87200, you may not accept gifts from any single source totaling more than \$300 in a calendar year. (Section 89503.)⁴

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept gifts from any single source totaling more than \$300 in a calendar year if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89503(c).)

What is a "Gift?"

Under the Act, a gift is any payment or other benefit provided to you 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 without regard to your official status. (Section 82028.)

Except as discussed below, you have "received" or "accepted" a gift when you know that 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. (Regulation 18941.)

Exceptions to the Definition of "Gift"

The Act and Commission regulations provide exceptions for certain types of gifts. (Section 82028; Regulations 18940-18946.5.) The following are not subject to any gift limit and are not required to be disclosed on a statement of economic interests (Form 700):

1. Gifts which you return unused to the donor, or for which you reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18943.)

⁴The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 1999-2000, the gift limit is \$300. (Section 89503; Regulation 18940.2). Gifts aggregating \$50 or more must be disclosed and gifts aggregating \$300 or more received by an official may subject the official to disqualification with respect to the source (Section 87103(e)). Designated employees should consult the "disclosure category" portion of their agency's conflict of interest code to determine if a particular source of income or gifts must be disclosed. Some conflict of interest codes require very limited disclosure of income and gifts. If your agency's conflict of interest code requires you to disclose income and gifts only from specified sources, gifts from sources which are not required to be disclosed are not subject to the \$300 gift limit.

CODE OF

Ethical

Conduct

2. Gifts which you donate unused to a nonprofit, tax-exempt (501(c)(3)) organization or a government agency within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028 (b)(2); Regulation 18943.)
3. 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).)
4. Gifts of hospitality involving food, drink or occasional lodging which you receive in an individual's home when the individual or a member of his or her family is present. (Regulation 18942(a)(7).)
5. Gifts approximately equal in value exchanged between you and another individual on holidays, birthdays, or similar occasions. (Regulation 18942(a)(8).)
6. 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.
 "Informational material" may also include scale models, pictorial representations, maps, and other such items, provided that if the item's fair market value is more than \$300, you have the burden of demonstrating the item is informational. In addition, on-site demonstrations, tours, or inspections designed specifically for public officials are considered informational material, but this exception does not apply to meals or to transportation to the site unless the transportation is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)
7. A bequest or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)
8. Campaign contributions, including rebates or discounts received in connection with campaign activities. (Section 82028(b)(4); Regulation 18942(a)(4).) However, campaign contributions must be reported in accordance with the campaign disclosure provisions of the Act.
9. Personalized plaques and trophies with an individual value of less than \$250. (Section 82028(b)(6); Regulation 18942(a)(6).)
10. Tickets to attend fundraisers for campaign committees or other candidates, and tickets to fundraisers for organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. (Regulation 18946.4.)
11. Free admission, refreshments, and similar non-cash nominal benefits provided to you at an event at which you give a speech, participate in a panel or seminar, or provide a similar service. Transportation within California and any necessary lodging and subsistence provided directly in connection with

the speech, panel, seminar, or service are also not considered gifts. (Regulation 18942(a)(11).)

12. Passes or tickets which provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that you do not use and do not give to another person. (Regulation 18946.1.)
13. Gifts provided directly to members of your family unless you receive direct benefit from the gift or you exercise discretion and control over the use or disposition of the gift. (Regulation 18944.) (Note: In most cases, the full amount of a gift made to you and your spouse must be counted for purposes of disclosure and the gift limits. However, see the discussion below regarding wedding gifts.)
14. Gifts provided to your government agency. This may include passes or tickets to facilities, goods, or services, travel payments, and other benefits. However, certain conditions must be met before a gift received by an official through his or her agency would not be considered a gift to the official. (Regulations 18944.1–18944.2.) Contact the FPPC Legal Division at (916) 322-5660 for detailed information or visit the FPPC website at www.fppc.ca.gov.
15. Generally, payments made by a third party to co-sponsor an event that is principally legislative, governmental or charitable in nature. Payments made by a single source totaling \$5,000 or more in a calendar year for this type of event must be reported if the payments are made at the behest of (at the request of, or in consultation or coordination with) an elected official. The report must be made to the elected official's agency, and then forwarded to the office that maintains the elected official's campaign disclosure statements. (Section 82015(b).)
16. Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity (501(c)(3)) and must be available to the general public. (Regulation 18942(a)(10).)

Other Gift Exceptions Which May Be Reportable

The following exceptions are also applicable to gifts, but you may be required to report these items on a statement of economic interests (Form 700) and they can subject you to disqualification:

1. Certain payments for transportation, lodging, and subsistence are not subject to gift limits but may be reportable. Travel payments are discussed below.
2. Wedding gifts are not subject to the gift limit, but are reportable. For purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse, unless the gift is intended exclusively for the use and enjoyment

CODE OF

Ethical

Conduct

of one spouse, in which case the entire value of the gift is attributable to that individual. (Regulation 18946.3.)

3. A prize or award received in a bona fide competition not related to your official status is not subject to the gift limit, but must be reported as income if the value of the prize or award is \$250 or more.
4. Passes or tickets which provide admission or access to facilities, goods, services, or other benefits are reportable and subject to the gift limit if you use them or give them to another person.
 - The value of a pass or ticket which provides one-time admission is the face value of the pass or ticket, or the price which would be offered to the general public. (Regulation 18946.1(a).)
 - The value of a pass or ticket which provides repeated admission or access to facilities, goods, services, or other benefits is the fair market value of your actual use of the pass or ticket, including guests who accompany you and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person to whom you transfer the privilege or use of the pass or tickets. (Regulation 18946.1(b).)

II. HONORARIA

The Honoraria Prohibition

If you are a local elected officer, a candidate for local elective office, or a local official specified in Government Code Section 87200, you may not accept honoraria payments. (Section 89502.)

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept honoraria payments from any source if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89502(c).)

What is an "Honorarium?"

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Section 89501; Regulation 18931.)

A "speech given" means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An “article published” means a non-fictional written work that: 1) is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

“Attendance” means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

Exceptions to the Prohibition on Honoraria

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501; Regulations 18930-18935.) The payments described below are not prohibited and are not required to be disclosed on a statement of economic interests (Form 700):

1. An honorarium which you return unused to the donor or the donor’s agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)
2. An honorarium which is delivered to your government agency within 30 days for donation to the agency’s general fund or equivalent account for which you do not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)
3. A payment which is not delivered to you but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:
 - You may not make the donation a condition for your speech, article, or attendance;
 - You may not claim the donation as a deduction for income tax purposes;
 - You may not be identified to the non-profit organization in connection with the donation; and
 - The donation may have no reasonably foreseeable financial effect on you or on any member of your immediate family. (Regulation 18932.5.)
4. A payment received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment which would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)
5. Items 6, 8, 9, and 11 under “Exceptions to the Definition of Gift” discussed earlier in this addendum.

Honoraria Exceptions Which May Be Reportable

The following payments are not considered “honoraria,” but may be reportable and can subject a public official to disqualification:

1. Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1 – 18931.2.) However, such payments are reportable income.
2. Income earned for your personal services if the services are provided in connection with a bona fide business, trade, or profession – such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting – and the services are customarily provided in connection with the business, trade, or profession.

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, you must meet certain criteria to establish that you are practicing a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching post) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932-18932.3.)

Earned income is required to be reported. Contact the FPPC Legal Division for detailed information at (916) 322-5660 or visit the FPPC website at www.fppc.ca.gov.

3. Free admission, food, beverages, and other non-cash nominal benefits provided to you at any public or private conference, convention, meeting social event, meal, or similar gathering, whether or not you provide any substantive service at the event. (Regulation 18932.4(f).) Although these items are not considered honoraria, they may be reportable gifts and subject to the gift limit.
4. Certain payments for transportation, lodging, and subsistence are not considered honoraria but may be reportable and subject to the gift limit. (Sections 89501(c) and 89506.) Travel payments are discussed below.

III. TRAVEL PAYMENTS

The Act and Commission regulations provide exceptions to the gift limit and honoraria prohibition for certain types of travel payments. (Section 89506; Regulations 18950 – 18950.4.)

The term “travel payment” includes payments, advances, or reimbursements for travel, includes payments, advances, or reimbursements for travel, including actual transportation and related lodging and subsistence. (Section 89501(c).)

Travel Payments Not Subject to Limits and Reporting

The following types of travel payments are not subject to any limit and are not reportable on a statement of economic interests (Form 700):

1. Transportation within California provided to you directly in connection with an event at which you give a speech, participate in a panel or seminar, or provide a similar service. (Regulation 18950.3.)
2. Free admission, refreshments, and similar non-cash nominal benefits provided to you during the entire event (inside or outside California) at which you give a speech, participate in a panel or seminar, or provide a similar service. (Regulation 18950.3.)
3. Necessary lodging and subsistence (inside or outside California) including meals and beverages, provided to you directly in connection with an event at which you give a speech, participate in a panel or seminar, or provide a similar service. However, in most cases, the exclusion for meals and beverages is limited to those provided on the day of the activity. (Regulation 18950.3.)
4. Travel payments provided to you by your government agency or by any state, local, or federal government agency which would be considered income and not a gift (i.e., payments for which you provide equal or greater consideration). (Section 89506(d)(2); Regulation 18950.1(d).)
5. Reimbursements for travel expenses provided to you by a bona fide nonprofit, tax-exempt (501(c)(3)) entity for which you provide equal or greater consideration. (Section 82030(b)(2).)
6. Travel payments provided to you directly in connection with campaign activities. However, these payments must be reported in accordance with the campaign disclosure provisions of the Act. (Regulations 18950.1(c); 18950.4.)
7. Any payment which is excluded from the definition of “gift” as described earlier in this fact sheet.

Reportable Travel Payments Not Subject to Limit

The following travel payments are not subject to the gift limit, but may be reportable on a statement of economic interests (Form 700, Schedule F):

1. Travel that is reasonably necessary in connection with a bona fide business, trade, or profession, and that satisfies the criteria for federal income tax deductions for business expenses specified in Sections 162 and 274 of the

CODE OF

Ethical

Conduct

Internal Revenue Code. (Section 89506(d)(3); Regulation 18950.1(e).) For reporting purposes, these travel payments would be considered part of the salary, wages, and other income received from the business entity and would be reported on Schedule C of Form 700.

2. Travel within the United States that is reasonably related to a legislative or governmental purpose – or to an issue of state, national, or international public policy – in connection with an event at which you give a speech, participate in a panel or seminar, or provide a similar service. Lodging and subsistence expenses in this case are limited to the day immediately preceding, the day of, and the day immediately following the speech, panel, or other service. (Section 89506(a)(1); Regulation 18950.1(a)(2).)

Note that this exception is different than travel payments described earlier. Under the circumstances described in this paragraph, transportation outside California but within the United States is not subject to the \$300 gift limit, but is reportable and can subject a public official to disqualification. On the other hand, transportation inside California in connection with a speech is neither limited nor reportable. (Regulation 18950.3.)

In addition, the lodging and subsistence payments described in this paragraph can be provided both the day before and the day after a speech without being subject to the \$300 limit. However, lodging and subsistence payments are reportable unless they are received directly in connection with the event.

3. Travel not in connection with giving a speech, participating in a panel or seminar, or providing a similar service, but which is reasonably related to a legislative or governmental purpose – or to an issue of state, national, or international public policy – and which is provided by:
 - a) A government, governmental agency, foreign government, or government authority;
 - b) A bona fide public or private educational institution defined in Section 203 of the Revenue and Taxation Code;
 - c) A nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or
 - d) A foreign organization that substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code. (Section 89506 (a)(2); Regulation 18950.1(b).)

IV. LOANS

Limitations on Loans from Agency Officials, Consultants, and Contractors

If you are an elected official or an official specified in Section 87200 (see footnote 2 on page 20), you may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of your government agency or an agency over which your agency exercises direction and control. (Section 87460(a) and (b).)

In addition, you may not receive a personal loan that exceeds \$250 at any given time from any individual or entity that has a contract with your government agency or an agency over which your agency exercises direction and control. (Section 87460(c) and (d).)

Loan Terms

If you are an elected official, you may not receive a personal loan of \$500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

The following loans are not subject to these limits and documentation requirements:

1. Loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to official status.
2. Loans received by an elected officer's or candidate's campaign committee.
3. Loans received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless he or she is acting as an agent or intermediary for another person not covered by this exemption.
4. Loans made, or offered in writing, prior to January 1, 1998.

Loans as Gifts

Under the following circumstances, a personal loan received by any public official (elected and other officials specified in Section 87200, as well as any other local government official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations.

CODE OF

Ethical

Conduct

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:
 - The date the loan was made;
 - The date the last payment of \$100 or more was made on the loan, or
 - The date upon which the official has made payments aggregating to less than \$250 during the previous 12 months.

The following loans will not become gifts to an official:

1. A loan made to an elected officer's or candidate's campaign committee.
2. A loan described above on which the creditor has taken reasonable action to collect the balance due.
3. A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
4. A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.
5. A loan that would not be considered a gift (e.g., loans from certain family members). (Section 87462.)

CODE OF

Ethical

Conduct

CODE OF

Ethical

Conduct

LACERA

300 N. Lake Ave.
Pasadena, CA 91101-4199
800-786-6464
www.lacera.com