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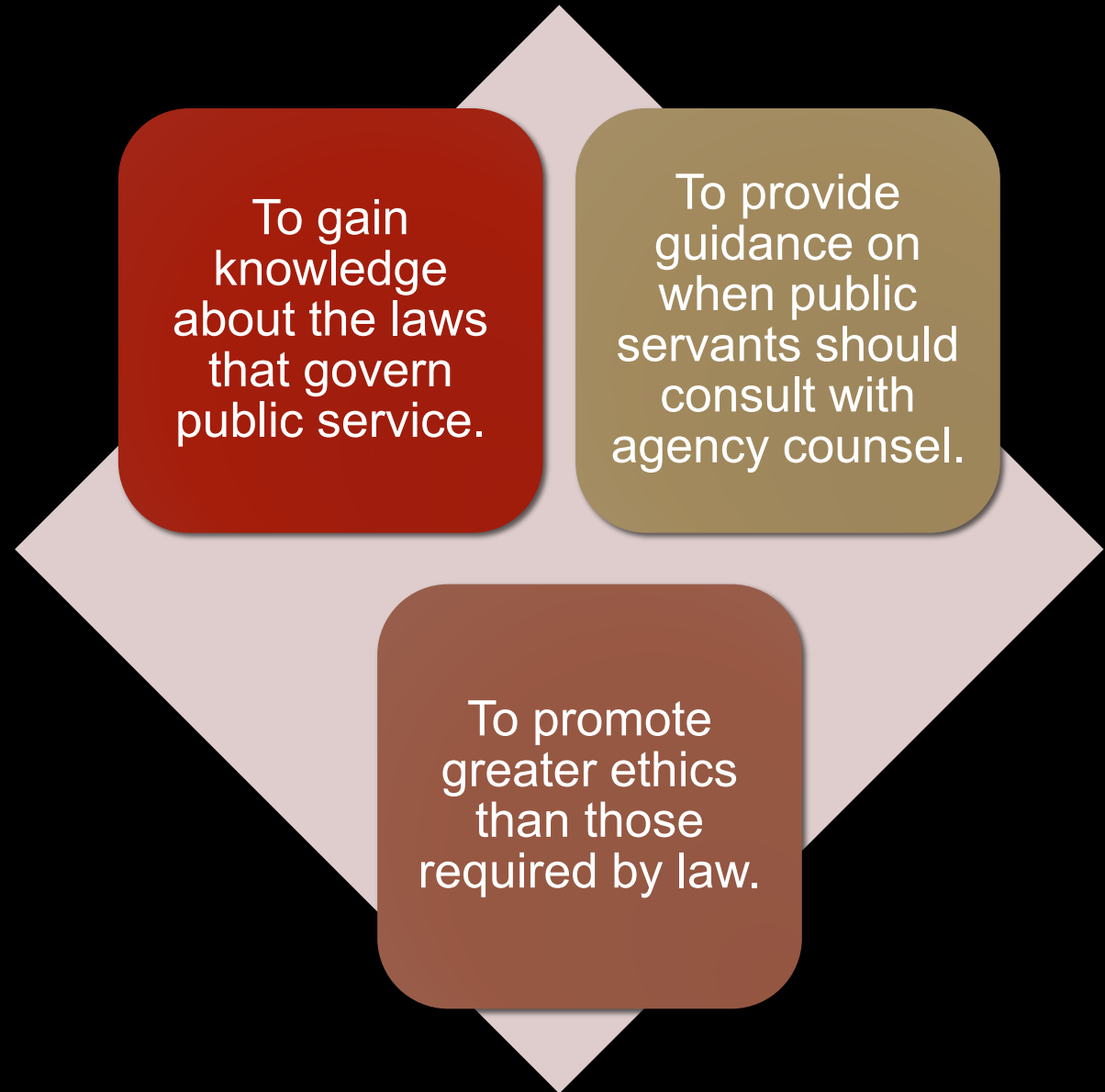


Conflicts of Interest

Presented for the
2025 ACHRO/EEO Conference

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Training Objectives:



Part I: Principles of Public Service

HOW DOES A PUBLIC OFFICIAL, INCLUDING AN EMPLOYEE, SERVE THE PUBLIC INTEREST?

Impact of Conflicts on Administrators and Employees in General

Most Districts have an institutional code of ethics and/or conduct, which require administrators and employees to act ethically in the use of District resources and relationships with District vendors.

Executive administrator personnel and other designated personnel are also subject to the provisions of the Political Reform Act of 1974 (Govt. Code Sections 81000 et seq.).

Most Districts have Board Policy and/or Administrative Procedure regarding Conflicts of Interest.

Ethical Dilemmas



- Personal Cost Ethical Dilemmas. When doing the right thing may or will come at a significant personal cost to a Board member, administrator or the District.

- There can be a loss of:
 - political support,
 - prospects for reelection,
 - friendship, or
 - money, such as not being able to use something for financial gain.

A public official or employee is still required to do the right thing.

- Right-versus-Right Ethical Dilemmas. When there are two conflicting sets of “right” values.

Part II: Public Service Ethics Law

WHEN TO SEEK ADVICE FROM COUNSEL

Complexity of Ethics Laws

Administrators need to know when to ask District counsel about a situation.

Administrators should be able to identify potential ethical issues.

Many ethical issues are affected by multiple federal and state laws.

- Regulatory law,
- Fair Political Practices Commission decisions,
- Attorney General Opinions, and
- Case law.

Federal Law



- This presentation's focus is on state laws, but there are numerous federal laws that are used to hold administrators accountable.
- Federal law requires honest public service, which includes a duty of loyalty and honesty to the public, and violations can include up to 20 years in jail and \$250,000 in fines.
- Public officials, including designated employees, can be prosecuted for income tax fraud when they do not report gains on their IRS tax forms. [Designated employees are employees who make or participate in the making of decisions, which may foreseeably have a material effect on economic interests.]
- An administrator cannot threaten a business that the District will not do business with it unless the business gives money or gifts to the official.

"No bribes!" by jonesytheteacher is licensed under [CC BY-SA 2.0](#).

Laws Relating to Personal Financial Gain

Examples of Personal Financial Gain Laws:

- Laws prohibiting bribery;
- Financial interest disqualification laws;
- Requirements not to have an interest in a District contract; and
- Restrictions against employment after holding office.



Bribery

Public officials, including employees, may not ask for, take, or agree to take a benefit in exchange for an action as a public official, which is also known as a *quid pro quo*.

The benefit could be:

- Cash,
- Campaign contributions,
- A job,
- Gifts,
- Something not provided to others, or
- Trading votes.



Disqualification Requirements

The Political Reform Act states that when a public official, including an employee, has a financial interest in a determination before the public official that the public official may not participate in the determination, as this is a conflict of interest.



The Political Reform Act defines a “public official” as every member, officer, employee, or consultant of a local government agency. (Govt. Code § 82048.)



Conflict of Interest

The Fair Political Practices Commission indicates the following analysis should be used to determine whether there is a conflict of interest:

1. Whether someone paid the public official, including an employee, income;
2. Whether the determination involves property that the public official owns, leases, or has an interest in;
3. Whether the public official's employer has an interest in the determination;
4. Whether one of the public official's investments is involved in the determination;
5. Whether the determination involves a person who gave the public official a benefit; and
6. Whether the determination involves the finances of the public official's family.

1. Income

In general, people are often financially dependent on their employers.

Accordingly, a public official, including a designated employee must not participate in a determination if their employer is involved.

Threshold:

- A person has paid the public official \$500 or more within a year;
- \$500 or more has been paid within a year to a for-profit business that the public official or their spouse owns a 10% or more interest; or
- A person who has lent the public official \$500 or more within a year.

2. Real Property

The Political Reform Act: Public officials, including employees, may not participate in determinations if the determination would affect the public official's property value.

- Threshold:
 - Real property interests that are \$2,000 or more;
 - The determination may not affect property the public official or the family of the public official own; and
 - The interest in the property could be direct or indirect, by a spouse or dependent, or by the public official's business.
- Interests include:
 - Ownership,
 - Lease, and
 - Options to buy.



3. Employer

A public official, including an employee, may not participate in a determination if the determination would have a financial impact on a for-profit business where the public official works.



4. Investments

A public official, including an employee, may not participate in a decision that will have a monetary impact on an investment of \$2,000 for the public official, their spouse or registered domestic partner, or dependent child.



5. Gifts and 6. Family Finances

- For 2025-2026, a public official, including a designated employee, may not partake in a determination that affects someone who has given the public official \$630 in a year. (www.fppc.ca.gov.)
- Public officials, including designated employees, may not participate in determinations that have a financial impact of \$250 or more dollars on the personal finances of the public official's spouse, registered domestic partner, or dependent child.



A photograph of a desk with a closed laptop, a pen, and some papers.

Contracts

Public officials, including employees, must be cautious in issues involving contacts.

When someone is an employee, the contract can still be made when the employee disqualifies themselves from all aspects of the contract-making process.

Contractual Conflict of Interest (Govt. Code §§ 1090 and 1091.)

Specifically, public officials, including employees:

- Cannot be financially interested in any contract made by them in their official capacity;; and
- Cannot be purchasers at any sale or vendors at any purchase made by them in their official capacity.
- Unless:
 - The public official, including a public employee, has only a remote interest in the contract;
 - The interest is disclosed; and
 - The public official does not attempt to influence the decision.





Penalties for Violations:

- The contract is void;
- The public official, including an employee, may not be paid for good, services, or property that were the subject of the contract;
- The public official, including an employee, may be guilty of a felony;
- There may be fines;
- There may be jail time; and
- The public official may lose their office or employment.

Part III: No Special Benefits

PUBLIC SERVANTS SHOULD BE TREATED LIKE EVERYONE ELSE.



Special Benefits from Others:

- Gifts, including holiday gifts;
- Meals;
- Tickets to entertainment;
- Trips;
- Compensation to give a speech;
- Compensation to write an article;
- Compensation to attend a meeting other than a board meeting;
- Loans;
- Cheaper transportation; and
- Free travel upgrades.

Gifts Generally

A gift is anything that a public official, including a designated employee, receives that the public official did not pay for, or anything the public official receives more than that for which the public official paid.

Exclusions:

- Informational items;
- Personalized trophies under \$250;
- Non-excessive hospitality gifts when the person is at their home;
- Gifts from family and long-term personal friends;
- An equal exchange of gifts for birthdays and holidays;
- Tickets to an event the public official is at on behalf of the District;
- Small gifts from neighbors; and
- Gifts made while dating.



Requirements

Public officials, including designated officials, must report on a Statement of Economic Interests form gifts that are from 1 source that amount to \$50 or more in a calendar year.

For 2025-2026, the maximum amount of gifts a public official may take from someone is \$630 in a calendar year.
([https://www.fppc.ca.gov/.](https://www.fppc.ca.gov/))



Consequences

- Not following the gifting limits and not reporting can incur a penalty of \$5,000 per violation, or a civil penalty, which can be up to a maximum of 3 times the amount of the gift.
- The Fair Political Practices Commission has an enforcement process, and an attorney to help guide the public official during this process will be approximately \$5,000.00.
- When a private person brings the lawsuit, the public official may also be responsible for that person's attorney's fees.



Honoraria Ban



- Honoraria is payment for a public official, including designated employees, giving a speech, writing an article, or going to a meeting.
- Usually, public officials, included designated employees, should not accept payments for making a speech, publishing a factual article, attending a conference, going to a convention, attending a meeting, going to a social event, or attending a meal.
- There are exceptions for:
 - Speeches and articles that are made with businesses that is not related to the public service, unless the main service of the business(es) is making speeches.

What to do with Honoraria:

- Within 30 days, return it unused to the sender or deliver it to the State Controller.
- When someone offers to make a payment to a tax-exempt non-profit, instead of an honorarium, this may be acceptable. The donation:
 - Must be directly sent to nonprofit;
 - The official, including a designated employee, may not be identified regarding the payment; and
 - The official may have to still report it.



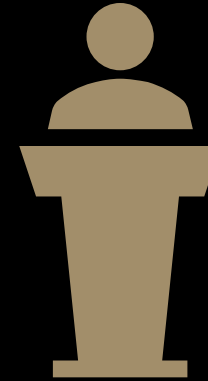
Personal Loans

- Public officials, including designated employees, may not borrow more than \$250 from employees or contractors for the District.
- Public officials, including designated employees, must disclose loans over \$500 on a Statement of Economic Interests, including the:
 - terms
 - date
 - amount
 - time to pay the loan back
 - interest
 - payment due dates, and
 - payment amounts.

Public Resources



A public official, including an employee, may not use public resources for personal or political purposes.



Personal and political use of public resources is not allowed.

Using the District's Equipment, Employees, and Other Resources

- Public officials, including employees, cannot use the District's equipment, employees, or office supplies for personal purposes.
- This means the public official should avoid using the District's credit card.



Not Attending Conferences

- A public official, including an employee, cannot state that they are going to a conference and then miss most or all of the sessions.
- The public money was for a public purpose of a public official obtaining new knowledge that better helps the agency the public official works for.
- Further, the public official did not truthfully represent their purpose in going to the conference.



Using Public Resources for Political Reasons

Public officials, including employees, cannot use the public agency's equipment or employees for political reasons, including:

- campaigning for other officials
- seeking to win against another official, or
- campaigning regarding ballot measures.

Consequences for Violations:

- Civil penalties of up to \$1,000 a day and the value of the resource multiplied by 3;
- A 2-to-4 year prison term;
- Disqualification from public office;
- Federal income tax evasion prosecution; and
- Administrative and civil penalties per the Political Reform Act.

Mass Mailing

Board members may not use the public's money to advertise for themselves or promote their accomplishments to the voters. Accordingly, District communications, in general, should not feature board members.



Penalties:

Criminal misdemeanor for knowing or willful violations;

Fines 3 times the amount of the cost of the mailing or \$10,000, whichever is higher;

Administrative fines up to \$5,000 per violation; and/or

May have to reimburse attorney's fees if there is private individual lawsuit.

Fair Process Laws

- Public officials, including employees, should be fair, especially in decision-making and contracting.
- Fair Process laws include:
 - common law bias prohibitions,
 - campaign contributions,
 - holding multiple public offices, and
 - Disqualification from participating in decisions affecting family members (anti-nepotism laws).

Disqualification from Participating in Decisions Affecting Family Members

Also known as anti-nepotism laws.

Public officials, including employees, must disqualify themselves from participating in decisions that will increase or decrease their immediate family's expenses, income, assets, or liabilities.

Immediate family includes one's spouse, domestic partner, and/or dependent children.

Common Law Conflict of Interest

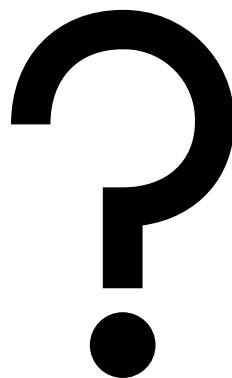
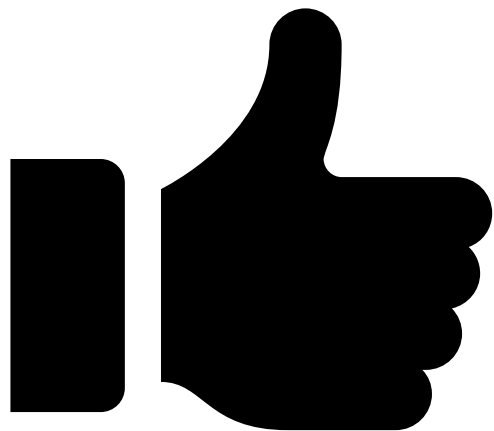
California courts have also recognized a “common law” conflict of interest that is considerably broader.

The common law conflict-of-interest principles are founded upon “[t]he truism that a person cannot serve two masters simultaneously.” (Thomson v. Call (1985) 38 Cal.3d 633, 637.)

Common Law Conflict of Interest (Cont'd.)

- The California Attorney General has observed that “the common law doctrine against conflicts of interest...prohibits public officials from placing themselves in a position where their private, personal interests may conflict with their official duties.” (64 Ops.Cal.Atty.Gen. 795, 797 (1981); 70 Ops.Cal.Atty.Gen. 45, 47 (1987).)
- Similarly, California courts have focused on the absolute fidelity a public employee owes its employer, and the common law doctrine prohibits public officials from placing themselves in a position where their private, personal interests may conflict with their official duties. (Clark v. City of Hermosa Beach (1996) 48 Cal.App.4th 1152, 1171.)

The California Supreme Court noted that “[w]here public and private interests diverge, the full and fair representation of the public interest is jeopardized.” (Lexin v. Superior Court (2010) 47 Cal.4th 1050, 1073.)



Any Questions or Advice?

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Additional resources:

- Attorney General's webpage at <https://oag.ca.gov/>.
- The Fair Political Practices Commission webpage at www.fppc.ca.gov.
- The Institute for Local Government at <https://www.ca-ilg.org/ethics-education-and-training-ab-1234>.