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

§ 18944. Payments Made to an Agency for Use by Agency Officials.

(a) Applicability. Except as limited below, this regulation identifies when a payment that is made to a state or local government agency, or any subdivision, department division, bureau, office board, or commission of the foregoing and used for official agency business is not a gift or income to any official of that agency. This regulation does not apply to a pass or ticket as described in Regulation 18944.1, which shall be governed by that regulation, or for travel expenses as described in Regulation 18950.1, which are governed by that regulation.

(b) Definitions.

(1) "Payment" means a payment as defined in Section 82044, including the payment for, or provision of, fees, goods or services to an agency where the person providing the payment has no legal obligation to do so.

(2) "Agency head" means the individual who has the ultimate legal authority for the agency, or the individual the agency authorizes to determine how the agency uses the payment as provided in paragraph (c)(1).

(c) Payment to an Agency. A payment to an agency, as described in subdivision (a), is not a gift or income to the official who receives the use of the payment if it meets all of the following requirements:

(1) Official Agency Business. The payment is used for official agency business.

(2) Agency Head Controls Use of Payment. The agency head determines and controls the agency's use of the payment including the selection of the agency official who will use the payment. The agency head may not select himself or herself as the individual who will use the

payment unless payment is for an item that provides for general use by agency officials and the agency head is one of those officials who will have access to such use.

(3) Agency Reports the Payment. The agency reports the payment on a form prescribed by the Commission and maintained pursuant to the provisions of subdivision (d) below, that includes the following information:

(A) A description of the payment, the date it was received, the intended purpose and the amount of the payment (or the actual or estimated fair market value of the goods or services provided, if the amount is unknown).

(B) The name and address of the donor. If the donor is not an individual, the report must also describe the business activity, or the nature and interests of the entity. If the donor has raised funds from another person for the specific purpose of making the payment to the agency, the report must contain the name of each person and the amount given by each person.

(C) The agency's use of the payment, and the name, title, and department of the agency official who used the payment.

(D) The signature of the agency head.

(d) The form must be maintained by the agency as a public record and pursuant to the provisions of Section 81008(a). Additionally, for any quarter year period in which payments aggregating to $2,500.00 or more since the last filing are received by an agency, the agency must report the payment as follows:

(1) A state agency must submit a copy of the form(s) or a summary of the information on the form to the Commission (or, in the case of the Commission, the office of the Attorney General), within 30 days after the close of the quarter. If the state agency maintains a website, the state agency shall also post a copy of the form(s) or a summary of the information on the

form(s) on its website in a prominent fashion within 30 days after the close of any quarter in which the agency receives payments aggregating to $2,500 or more since the last filing. The Commission shall post a copy of the form(s), or a summary of the information on the form(s), on its website. A local jurisdiction may require additional filing or website posting.

(2) A local agency must submit a copy of the form(s) or a detailed summary of the information on the form to the filing officer who receives the agency employees' statements of economic interests, within 30 days after the close of the quarter. The filing officer shall post a copy of the form or the information in the form on its website, in a prominent fashion within 30 days after the close of any quarter in which the agency receives payments aggregating to $2,500.00 or more since the last filing or if it does not maintain a website, shall provide a copy of the form to the Commission, which shall post the information on its website.

(e) Public Colleges and University Research Projects. Notwithstanding the above provisions, a payment to a California public college or university for a specific research project that is received consistent with the requirements of Regulation 18702.4(c) or a meal received in the course of the college's or university's official fundraising activity, which qualifies under federal and state law for a deduction as a charitable contribution for educational purposes, is not a gift or income to the official of the college or university who uses the payment.

COMMENTS:

1. Acceptance of a pass or discount from a transportation company by a public officer, other than a Public Utilities Commissioner, may result in forfeiture of the official's office pursuant to Article XII, Section 7 of the California Constitution.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82028, 82030, 82044, 87100, 87103, 87207, 87302 and 89501-89506, Government Code.

HISTORY

1. Renumbering of former section 18726.2 to section 18944 filed 1-26-94; operative 1-26-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 4).

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 section heading and section filed 7-24-2006; operative 8-23-2006. 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 2006, No. 30).

4. Repealer and new section filed 1-11-2010; operative 2-10-2010. 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 and not subject to procedural or substantive review by OAL) (Register 2010, No. 3).

5. Renumbering of former section 18944 to section 18943 and renumbering of former section 18944.2 to section 18944 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).

6. Amendment of section heading and section filed 12-23-2013; operative 1-1-2014 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations. 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 2013, No. 52).