



FINANCIAL CONFLICTS OF INTEREST

City Attorney's Office

Board of Public Utilities

November 5, 2018

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THE BASIC RULE (POLITICAL REFORM ACT)

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



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WHAT IS A FINANCIAL INTEREST?

A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguish-able from its effect on the public generally, on the official, a member of his or her immediate family, or on any "economic interest"



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THE EIGHT STEP TEST

Step One: Are you a public official?

1. Yes; Board members are public officials

Step Two: Are you making, participating or influencing a governmental decision?

1. Voting
2. Presenting a report that is meant to influence a decision
3. Contacting staff or other public officials regarding a decision



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THE EIGHT STEP TEST

Step Three: Do you have an economic interest in the decision? Examples include:

1. Personal finances of you or your family
2. A business in which you or your family have invested \$2,000 or more
3. A business in which you are a director, officer, partner, manager, etc.
4. Real property worth more than \$2,000
5. Sources of income of \$500 (or more) made, received or promised to you within 12 months prior to making decision
6. Gifts valued at \$470 or more received by or promised to you within 12 months prior to making of decision.



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THE EIGHT STEP TEST

Step Four: Is your economic interest affected by the decision?

1. The source of income files an application for a permit which you must decide on
2. Your property is located within 500 feet of property which is the subject of a proposed decision
3. If there is no direct involvement, then your interest is "indirectly" involved



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THE EIGHT STEP TEST

Step Five: Is the effect on your economic interest material?

1. If the involvement is direct, then the effect is almost always material
2. "Indirectly" involved interests require further analysis. There are different tests for business entities, real property interests, sources of income, leaseholds and gifts
3. Call City Attorney's Office or the FPPC if you have a question



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THE EIGHT STEP TEST

Step Six: Is it reasonably foreseeable that your economic interest will be affected?

1. Whether there is a financial consequence to your decision must be examined on an individual basis
2. An effect is considered to be reasonably foreseeable if there is a substantial likelihood that it will occur
3. Certainty is not required



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THE EIGHT STEP TEST

Step Seven: Will the financial effect on you be the same as the effect on the general public?

1. Even if your economic interest will be materially effected by a decision, you do not have a conflict of interest if the effect of the decision on your interest is substantially the same as its effect on most other people in your jurisdiction.



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THE EIGHT STEP TEST

Step Eight: Even if you have a disqualifying conflict of interest, is your participation legally required?



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DISQUALIFICATION AND DISCLOSURE

1. Publicly identify the financial interest in detail sufficient to be understood by the public
 - a) disclosure of the exact street address of a residence is not required
2. Recuse yourself from voting
3. Leave the dais unless item is on consent agenda



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WHAT TO DO IF YOU THINK YOU HAVE A CONFLICT

1. Call the City Attorney's Office for advice
2. Call the FPPC for advice
 - 1-866-ASK-FPPC
 - (1-866-275-3772)



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RECOMMENDATION

That the Board of Public Utilities receive and file a presentation on California law regarding disqualifying financial conflicts of interest.



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