



## City of Guadalupe

### AGENDA

#### Special Joint Meeting of the Guadalupe City Council and the Recreation and Parks Commission

**Tuesday, February 14, 2023, at 4:00 pm**  
**City Hall, 918 Obispo Street, Council Chambers**

The City Council meeting will broadcast live streamed on the City of Guadalupe's Official YouTube channel: <https://www.youtube.com/channel/UCaxeHWd9JkmvKnGFU8BAYQQ>

If you choose not to attend the City Council meeting but wish to make a comment during Community Participation Forum or on a specific agenda item, please submit via email to [juana@ci.guadalupe.ca.us](mailto:juana@ci.guadalupe.ca.us) no later than 2:00 pm on Tuesday, February 14, 2023.

Please be advised that, pursuant to State Law, any member of the public may address the City Council concerning any item on the Agenda, before or during Council consideration of that item. If you wish to speak on any item on the agenda, including any item on the Consent Calendar or the Ceremonial Calendar, please submit a speaker request form for that item. If you wish to speak on a matter that is not on the agenda, please do so during the Community Participation Forum.

The Agenda and related Staff reports are available on the City's website: [www.ci.guadalupe.ca.us](http://www.ci.guadalupe.ca.us) Friday before Council meeting.

Any documents produced by the City and distributed to a majority of the City Council regarding any item on this agenda will be made available the Friday before Council meetings at the Administration Office at City Hall 918 Obispo Street, Monday through Friday between 8:00 am and 4:30 pm, and also posted 72 hours prior to the meeting. The City may charge customary photocopying charges for copies of such documents. Any documents distributed to a majority of the City Council regarding any item on this agenda less than 72 hours before the meeting will be made available for inspection at the meeting and will be posted on the City's website and made available for inspection the day after the meeting at the Administrator Office at City Hall 918 Obispo Street, Monday through Friday between 8:00 am and 4:30 pm.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, including review of the Agenda and related documents, please contact the Administration Office at (805) 356.3891 at least 72 hours prior to the meeting. This will allow time for the City to make reasonable arrangements to ensure accessibility to the meeting.

#### 1. **ROLL CALL:**

##### City Council:

Council Member Christina Hernandez  
Council Member Gilbert Robles  
Council Member Megan Lizalde  
Mayor Pro Tempore Eugene Costa Jr.  
Mayor Ariston Julian

##### Recreation Commission:

Commissioner Chair Joseph Harris  
Commissioner Enrique Ortiz  
Commissioner Emily Dreiling  
Commissioner Michael Jimenez  
Commissioner Trevor Lamberson

2. **PLEDGE OF ALLEGIANCE**

3. **COMMUNITY PARTICIPATION FORUM**

Each person will be limited to a discussion of three (3) minutes or as directed by the Mayor. Pursuant to provisions of the Brown Act, no action may be taken on these matters unless they are listed on the agenda, or unless certain emergency or special circumstances exist. City Council may direct staff to investigate and/or schedule certain matters for consideration at a future City Council meeting.

**REGULAR BUSINESS**

4. **[MANDATED PUBLIC ETHICS TRAINING FOR GOVERNMENT OFFICIALS \(AB 1234\)](#)**

5. **ADJOURNMENT**

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall display case and website not less than 24 hours prior to the meeting. Dated this 10<sup>th</sup> day of February 2023.

*Todd Bodem*

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Todd Bodem, City Administrator



# Ethics and Public Service Laws and Principles

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# Session Objectives

- ▶ Introduce you to ethics laws
  - ▶ Encourage you to ask questions when in doubt, and ask early
  - ▶ Encourage you to *think beyond legal restrictions* and provide tools for doing so
  - ▶ Help you comply with AB 1234 requirements
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# Public Service Ethics are Different

- ▶ Laws play a bigger role
  - ▶ Perception as important as reality
  - ▶ Gut is not a reliable guide
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# Ethics versus Ethics Laws

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# Ethics Laws

- ▶ Law = Minimum standards
- ▶ What we *must* do
- ▶ Ethics is what we *ought* to do
  - ▶ Above and beyond law's minimum requirements



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# Thinking Beyond Ethics Laws

- ▶ Law tends to be starting point for most ethical analyses in public service
- ▶ *Floor* for ethical conduct—not the ceiling
  - ▶ Where do you want to set your sights as a public servant?
- ▶ Just because it's legal, doesn't mean it is ethical (or public will perceive it to be so)





# Four Groups of Ethics Laws

1. Personal financial gain
2. Personal advantages and perks
3. Governmental transparency
4. Fair processes



## Key Ethics Law Principles For Public Servants

*Note that the following are not statements of law, but rather principles the law is designed to achieve. The goal in providing this list is to identify the kinds of issues addressed by public service ethics laws. If an issue arises for you under these principles, consult your agency counsel.*

### PERSONAL FINANCIAL GAIN

Public officials:

- Must disqualify themselves from participating in decisions that may affect (positively or negatively) their financial interests (see reverse for list of types of financial interests).
- Cannot have an interest in a contract made by their agency.
- Cannot request, receive or agree to receive anything of value or other advantages in exchange for a decision.
- Cannot influence agency decisions relating to potential prospective employers.
- May not acquire interests in property within redevelopment areas over which they have decision-making influence.

### PERSONAL ADVANTAGES & PERKS

Public officials:

- Must disclose all gifts received of \$50 or more and may not receive gifts aggregating to over \$360 (2006) from a single source in a given year.
- Cannot receive compensation from third parties for speaking, writing an article or attending a conference.

- Cannot use public agency resources (money, travel expenses, staff time and agency equipment) for personal or political purposes.
- May only be reimbursed for actual and necessary expenses consistent with their agency's reimbursement policy.
- Cannot participate in decisions that may affect (positively or negatively) their personal interests.
- Cannot accept free transportation from transportation companies.
- Cannot send mass mailings at public expense.
- Cannot make gifts of public resources or funds.
- Cannot receive loans over \$250 from those within the agency or those who do business with the agency.

### GOVERNMENT TRANSPARENCY

Public officials:

- Must disclose their financial interests.
- Must conduct the public's business in open and publicized meetings, except for the limited circumstances when the law allows closed sessions.
- Must allow public inspection of documents and records generated by public agencies, except when non-disclosure is specifically authorized by law.
- Must disclose information about significant (\$5000 or more) fundraising activities for legislative, governmental or charitable purposes.

### FAIR PROCESSES

Public officials:

- Have a responsibility to assure fair and competitive agency contracting processes.
- Cannot participate in decisions that will benefit their immediate family (spouse/domestic partner or dependent children).
- Cannot participate in quasi-judicial proceedings in which they have a strong bias with respect to the parties or facts.
- Cannot simultaneously hold certain public offices or engage in other outside activities that would subject them to conflicting loyalties.
- Cannot participate in entitlement proceedings – such as land use permits – involving campaign contributors (does not apply to elected bodies).
- Cannot solicit campaign contributions of more than \$250 from permit applicants while application is pending and for three months after a decision (does not apply to elected bodies).
- Cannot represent individuals before their agency for one year after leaving agency service.
- Must conduct public hearings in accordance with due process principles.

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# Group 1: Personal Financial Gain Issues

- ▶ **Principle:** Public servants should not benefit financially from their positions



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# Examples of Laws

- ▶ Bribery and related crimes
- ▶ Financial interest disqualification requirements
- ▶ Revolving door restrictions



## Bribery

- ▶ Rule: Public officials may not solicit, receive or agree to receive a benefit in exchange for their official actions
- ▶ Penalties: Loss of office, prison time, fines, restitution, attorneys fees, disqualification from holding office



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## Case Study: SLO County Cannabis Grower

- ▶ FBI charged Bobby Dayspring for paying SLO County Supervisor \$32,000 in cash and money orders in exchange for votes allowing cannabis farms to operate before receiving permit approvals.
  - ▶ Dayspring faced maximum penalty 13 years.
  - ▶ Supervisor committed suicide after search warrant executed.
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## Similar Crimes

- ▶ Receiving rewards for appointing someone to public office
- ▶ Embezzlement—converting public funds or property to your own



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## Disqualification Based on Financial Interests

- ▶ Rule: You may not participate in a decision if financial interests—yours, a spouse's, or a dependent's—are affected by a decision
- ▶ Effect can be positive or negative



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# Disqualification versus Abstention

- ▶ Abstention => voluntary
  - ▶ Disqualification => Legally required
    - ▶ Does not imply wrongdoing
    - ▶ Unless don't disqualify
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# What Kinds of Situations Do You Need to Worry About?

When a decision involves someone who gives or has given you money.

- ▶ **Your Sources of Income.** Any source of income of \$500 or more (including promised income) during the prior 12 months for you or spouse/domestic partner or immediate family member.
  - ▶ **A Lender/Loan Guarantor.** A source of a loan (including a loan guarantor) to you.
  - ▶ **Campaign Contributor.** A campaign contributor of yours. **New for 2023.**
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## What Kinds of Interests?

Sources of income of \$500 or more

- ▶ Your own income
- ▶ Promised income
- ▶ Partner's/child's income
- ▶ Loans/guarantors



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## What Kinds of Interests?

Real property interests of \$2000 or more, when the decision falls into at least one listed category.

-Example: the property subject to the decision is 500 feet or less from the official's property



# What Kinds of Interests?

See Page 3 of handout.



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*If an issue arises for you under these principles, consult your agency counsel.*

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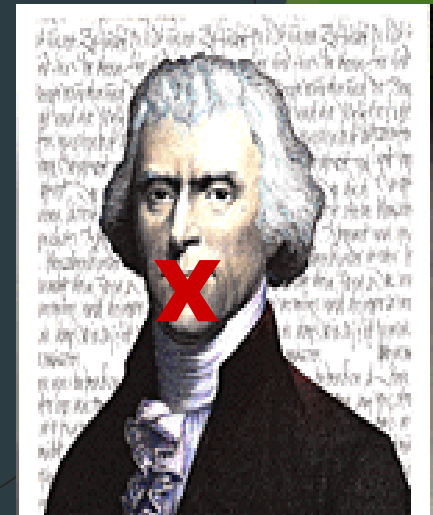
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## If You Are Disqualified

- ▶ Don't discuss or influence (staff or colleagues)
- ▶ Identify nature of conflict at meeting
- ▶ Leave room (unless matter on consent and isn't removed)
- ▶ Limited exceptions
  - Participate as owner
  - Legally required participation



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# Penalties

- ▶ Invalidate decision
  - ▶ Misdemeanor (could result in loss of office)
  - ▶ Fines (\$5,000 to \$10,000 per violation)
  - ▶ Attorneys fees (yours and others)
  - ▶ Embarrassment (personal/political)
-

# Special Rules for Contracts

- ▶ Rule: Officers and employees may not have a financial interest in a contract made by them or a board they serve on.

- Direct or indirect interest

- It's not enough to abstain - contract void

- Limited exemptions

- ▶ May have to refund money paid
- ▶ Felony: \$1,000 fine, imprisonment, and loss of/bar from office



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# Campaign Contributions: new in 2023

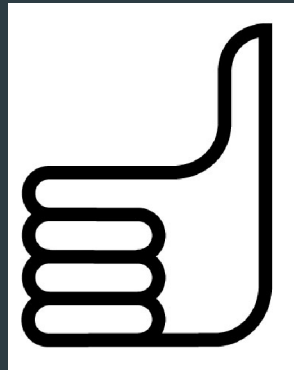
- ▶ Officers of City may not receive or solicit campaign contributions of more than \$250 from applicants or other financially interested persons during a proceeding and for 12 months after.
  - ▶ Officers are disqualified from participating in a decision if a party or participant contributed more than \$250 in the last 12 months.
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# Future Employment Issues

- ▶ Revolving door prohibition
    - ▶ Electeds and top managers
    - ▶ Cannot represent people for pay for a year after leaving their agency
    - ▶ Can represent before another public agency
  - ▶ No influencing or participation in decisions involving future employers
-



## Practices

- ▶ Avoid temptation to look at public service as an opportunity for financial gain
- ▶ Look at every decision and ask yourself whether it involves some kind of financial interest for you or your immediate family

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## Group 2: Perks

- ▶ **Principle:**
- ▶ Public servants should not receive special benefits by virtue of their positions



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## Two Kinds of Perk Rules

1. Perks that others offer you
2. Perks that you give yourself / use-of-public-resources issues



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# Gifts

- ▶ Meals, food and drink (including receptions)
  - ▶ Entertainment (concerts & sporting events)
  - ▶ Certain kinds of travel and lodging
-

# Gift Rules and Limits

- ▶ Report \$50 and up (over a year)
- ▶ Limit \$590 per year (1/2023)
- ▶ Exceptions for some kinds of travel, some nonprofit tickets
- ▶ Be Careful: Gift may also be a disqualifying interest



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# Special Gift Restrictions

- ▶ No free transportation from transportation carriers
- ▶ No honoraria (fees) for speaking or writing



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# Penalties

- ▶ Up to \$5,000 per violation
  - ▶ Own attorneys fees or others' attorneys fees
  - ▶ Misdemeanor/loss of office
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# Use of Public Resources Issues: Government Code §8314

- ▶ Personal use of public resources (including staff time and agency equipment) prohibited
- ▶ Political use of public resources also prohibited



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# Example:

## Expense Reimbursement

- ▶ Familiarize yourself with your agency's policies/limits
    - ▶ What kinds of expenses
    - ▶ What rates for food, lodging and transportation
    - ▶ The importance of documentation
  - ▶ Note: Spouse/partner expenses not reimbursable
-

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# Case Study: Sacramento Suburban Water District

- ▶ Staff and directors misusing public resources
  - ▶ Investigative report by *Sacramento Bee*
    - ▶ Use of agency credit card for personal purposes
    - ▶ Misreporting of income
    - ▶ Double-dipping on expense reimbursements
  - ▶ Legislative response: AB 1234
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# Consequences of Violations

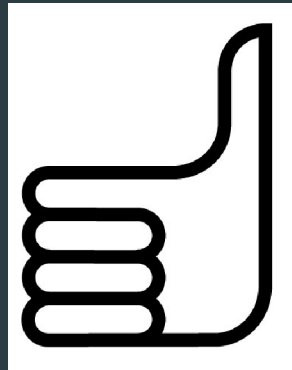
- ▶ Civil penalties: \$1,000/day fine + 3X value of resource used
- ▶ Criminal penalties: 2-4 year prison term + disqualification from office
- ▶ Can also have income tax implications



# Political Use of Public Resources

- ▶ By individuals or agency itself (support of ballot measures)
- ▶ Mass mailing restrictions
  - ▶ Goal: restrict incumbents' advantages
- ▶ Gifts of public funds





## Practice

- ▶ Avoid perks *and* the temptation to rationalize about them
  - ▶ Legally risky
  - ▶ Public relations headache



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## Group 3: Transparency Laws

### Principles:

- ▶ It's the public's business
- ▶ Public trusts a process it can see



# Transparency Rules

- ▶ Conduct business in open and publicized meetings
- ▶ Allow public to participate in meetings
- ▶ Allow public inspection of records

## INSTITUTE for LOCAL GOVERNMENT

*Celebrating 50 years of service  
to local officials*  
[www.ilsg.org](http://www.ilsg.org)

### The ABCs of Open Government Laws

The underlying philosophy of the open government laws is that public agency processes should be as transparent as possible. Such transparency is vital in promoting public trust in government. Conducting government openly and transparently is an opportunity to include the public in decision-making processes and demonstrate that the agency has nothing to hide.

This concept of governmental transparency is so important to the public that some 83 percent of voters supported adding it to California's constitution.

#### **CALIFORNIA'S TRANSPARENCY LAWS REQUIRE PUBLIC OFFICIALS TO:**

- A.** Conduct the public's business in open and publicized meetings, except for the limited circumstances under which the law allows closed sessions.
- B.** Allow the public to participate in meetings.
- C.** Allow public inspection of documents and records generated by public agencies, except when non-disclosure is specifically authorized by law.

This pamphlet summarizes these three requirements for local officials in broad terms. For information about how these requirements apply in any given situation or more information about this area of the law in general, local officials are encouraged to consult with their agency attorneys.

The law also requires certain local officials to be transparent about their personal financial interests and relationships. For more information about these requirements, please see the Institute's bookmark entitled "Key Ethics Law Principles for Local Officials" and *A Local Official's Reference on Ethics Laws*. Both are available at [www.ilsg.org/trust](http://www.ilsg.org/trust).



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# The “Brown Act:” Conducting Business at Open Meetings

- ▶ A majority may not consult outside an agency-convened meeting. Discuss only items on agenda.
  - ▶ Key concept: what constitutes a meeting
    - ▶ Example: Serial communications, emails
  - ▶ Exceptions for certain kinds of events
    - ▶ As long as a majority does not consult among themselves
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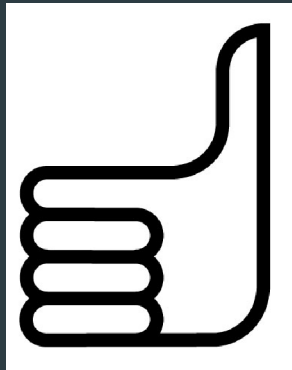
# Consequences of Violations

- ▶ Nullification of decision
  - ▶ Criminal sanctions for intentional violations (up to 6 months in jail/\$1000 fine)
  - ▶ Intense adverse media attention
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# Public Records

- ▶ Agendas and meeting materials
  - ▶ Other writings prepared, owned, used or retained by agency (including electronic)
    - Always use agency phone and email address for public business
    - Don't respond to another member's social media
  - ▶ Penalties: Adverse media attention + costs and fees if litigated + court orders production
-



## Best Practices

- ▶ Assume all information is public or will become public
- ▶ Don't discuss agency business with fellow decision-makers outside meetings



# Financial Interest Disclosure

- ▶ Transparency includes obligation for high level public servants to disclose financial interests (Form 700)
  - ▶ Assuming office
  - ▶ Annually while in office
  - ▶ Upon leaving office



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# Charitable Fundraising

- ▶ Political Reform Act applies to public officials who raise funds for charity
  - ▶ Ask before you participate
  - ▶ Hurricane Katrina example
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## Group 4: Fair Process Laws

- ▶ **Principle:** As a decision-maker, the public expects you to be impartial and avoid favoritism



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# Fair Process Laws

- ▶ Due process requirements: notice, opportunity to prepare and be heard, fair and impartial hearing
- ▶ Avoid bias
  - ▶ Disclose prior knowledge
  - ▶ Keep an open mind
  - ▶ Have strong opinions but don't prejudge
- ▶ Incompatible office prohibitions





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# Fair Process Laws, continued

- ▶ Competitive bidding requirements
  - ▶ Award public works contract to lowest responsible bidder
  - ▶ Principles:
    - ▶ Everyone has a right to compete for agency's business
    - ▶ That competition produces the best price for taxpayers

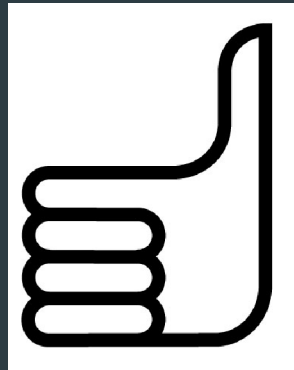


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# Fair Process Laws, continued

- ▶ Employers can reasonably regulate spouses working together (FEHA)
- ▶ Public official should not participate if decision involves family members
- ▶ Campaign contribution restrictions - disclose and disqualify when more than \$250 received in past 12 months





## Practices

- ▶ Resist giving advance opinions; keep an open mind and listen.
- ▶ Review each application on its merits.
- ▶ Disclose information received outside of the hearing to keep the playing field level.

The background features a dark blue-grey central area. On the left and right sides, there are overlapping, semi-transparent green shapes in various shades, ranging from a light lime green to a darker forest green. These shapes create a layered, geometric effect.

# Beyond the Law: Public Service Ethics Principles

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# Ethics = Applying Values to decisions

- ▶ Six universal ethical values:
  - ▶ Trustworthiness
  - ▶ Responsibility
  - ▶ Respect
  - ▶ Loyalty
  - ▶ Fairness
  - ▶ Compassion

*Source: Institute for Global Ethics*

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# Applying Values to Public Service

## Trustworthiness:

- ▶ Serve the community.
  - ▶ Be truthful with officers, the public and others.
  - ▶ Avoid actions the public would question.
  - ▶ Support positions with truthful, accurate info.
  - ▶ Do not use position for personal or political gain.
  - ▶ Make promises you can keep, and keep them.
-

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# Responsibility:

- ▶ Work to improve quality of life and promote public interest.
  - ▶ Promote efficient use of agency resources.
  - ▶ Don't use agency resources or information for personal or political benefit.
  - ▶ Represent agency positions well when authorized to do so.
  - ▶ Explicitly state that your personal opinions do not represent the agency's position.
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## Responsibility, cont'd.

- ▶ Take responsibility for your own actions, even when it is uncomfortable to do so.
  - ▶ Disclose suspected instances of impropriety to the appropriate authorities.
  - ▶ Do not disclose confidential information without proper legal authorization.  
Be proactive and innovative.
-



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## Respect:

- ▶ Treat fellow officials, staff and the public with courtesy, even when you disagree with them.
  - ▶ Focus on the merits in discussions.
  - ▶ See value in diverse opinions; build consensus.
  - ▶ Follow through on commitments.
  - ▶ Be approachable and open-minded.
  - ▶ Listen carefully and ask valuable questions
  - ▶ Involve all appropriate stakeholders in meetings affecting agency.
  - ▶ Come to meetings prepared.
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## Loyalty:

- ▶ Safeguard confidential information.
  - ▶ Avoid conflicting political and personal interests.
  - ▶ Prioritize based on objective public benefits and burdens—not personal ones.
  - ▶ Don't oppose final decisions once made.
  - ▶ Put loyalty to the public interest above personal and political loyalties.
-

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## Fairness:

- ▶ Make decisions based on the merits of the issues.
  - ▶ Apply agency policies consistently.
  - ▶ Promote meaningful public involvement and support the public's right to know.
  - ▶ Support merit-based processes for the award of public employment and public contracts.
  - ▶ Be impartial and do not favor those who either have helped you or are in a position to do so.
  - ▶ Credit others' contributions in moving your community's interests forward.
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## Compassion:

- ▶ Realize that government can intimidate people and work to make interactions stress-free.
  - ▶ Convey City's care for and commitment to the community.
  - ▶ Attune yourself to public needs and concerns.
  - ▶ Recognize responsibility to those less fortunate.
  - ▶ Make appropriate exceptions when policies result in unintended consequences or undue burdens.
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# Four Ethical Dilemmas (IGE)

- ▶ Truth vs. Loyalty
  - ▶ Short-term vs. Long-term
  - ▶ Individual vs. Community
  - ▶ Justice v. Mercy
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# Three Principles for Resolving Ethical Dilemmas

- ▶ Ends-based Principle
  - ▶ Rules-based Principle
  - ▶ Care-based Principle
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# Importance of Public Perception

- ▶ Public Service ethics is about doing the right thing because officials are stewards of public trust in government.
  - ▶ Seek balance between doing the right thing and the public's perception of the right thing.
  - ▶ Public's confidence that the right thing has been done is bolstered by following ethical principles and being (appropriately) transparent.
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# Questions to Ask

- ▶ What would make the public feel best/inspire public confidence?
- ▶ What would you want to read about on the front page?
- ▶ How do you want to be remembered?





# Additional Resources:

## The Law

- ▶ The Fair Political Practices Commission
- ▶ [www.fppc.ca.gov](http://www.fppc.ca.gov)
- ▶ 1-866-ASK-FPPC  
(1-866-275-3772)

## Ethics

- ▶ The Institute for Local Government
- ▶ <https://www.ca-ilg.org>
- ▶ [https://www.ca-ilg.org/sites/main/files/file-attachments/ilg\\_good\\_gov\\_checklist\\_final\\_0.pdf?1654062864](https://www.ca-ilg.org/sites/main/files/file-attachments/ilg_good_gov_checklist_final_0.pdf?1654062864)

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# Key Lessons

- ▶ The law sets minimum standards for ethical behavior
    - ▶ Violations of ethics laws carry stiff penalties
    - ▶ When in doubt, ask and ask early
  - ▶ It's your choice how high you want to set your sights above the minimum requirements of the law
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# AB 1234 Compliance

- ▶ Sign in
  - ▶ Proof of participation certificate
  - ▶ Provide to clerk as public record
  - ▶ Consider going beyond the minimum in terms of education
-

**Questions?**

# Ethics Law Principles for Public Servants:

## ➔ KEY THINGS TO KNOW

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#### Generally speaking, public officials:

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- Cannot have a financial interest in a contract made by their agency.
- Cannot be involved in agency decisions affecting a potential future employer once the official and employer each have expressed an interest in a professional relationship.
- Cannot receive compensation to lobby their agency for one year following their departure from the agency.

### PERK ISSUES: INCLUDING COMPENSATION, USE OF PUBLIC RESOURCES AND GIFTS

#### Generally speaking, public officials:

- Receive limited compensation for their service to the public.
- Cannot receive compensation for speaking, writing an article or attending a conference.
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- Cannot send or be featured in mass mailings at public expense.
- Cannot make gifts of public resources or funds.
- Must disclose gifts they receive from each single source that has given gifts worth \$50 or more in a single calendar year through the Form 700 process.
- May not receive gifts worth a total of \$520 (2021-22 amount) from a single source in a single calendar year. *Note: this amount changes every two years.*
- May only accept free trips and travel expenses under limited circumstances.
- May not accept free or discounted transportation from transportation companies.
- May not use campaign funds for personal benefits not directly related to a political, legislative or governmental purpose.

## TRANSPARENCY

### Generally speaking, public officials must:

- Disclose their economic interests when they take office, annually while they are in office and when they leave office. These economic interests can include: sources of income, property ownership, investments, certain family members' interests, business interests, loans, contracts and gifts received.
- Disclose information about who has agreed to donate significant resources (\$5,000 or more) to legislative, governmental or charitable purposes at an elected official's request.
- Disclose campaign contributions and abide by applicable limits.
- Conduct the public's business in open and publicized meetings, except for the limited circumstances when the law allows closed sessions.
- Allow the public to participate in meetings and listen to the public's views before making decisions.
- Allow public inspection of documents and records generated, owned, used or retained by public agencies, except when non-disclosure is specifically authorized by law.
- Disclose gifts given to the public agency and how they are ultimately used.

## FAIR PROCESS AND MERIT-BASED DECISION-MAKING

### Generally speaking, public officials:

- Cannot receive loans from other staff, officials or contractors, and must disclose and comply with certain requirements for loans from others.
- Cannot engage in vote-trading.
- Have a responsibility to ensure fair and competitive agency contracting processes.
- Cannot participate in quasi-judicial proceedings in which they have a bias with respect to the parties or facts.
- Must conduct public hearings in accordance with fair process principles.
- Cannot participate in decisions that will benefit their immediate family (spouse/domestic partner and dependent children).



- Cannot simultaneously hold certain other public offices or engage in other outside activities that would subject them to conflicting loyalties.
- Cannot participate in entitlement proceedings—such as those regarding land use permits—involving campaign contributors (does not apply to elected bodies).
- Cannot solicit campaign contributions of more than \$250 from permit applicants while an application is pending and for three months after a decision (if sitting on an appointed body).
- Cannot directly solicit agency employees for political support or donations for their political causes.
- Cannot retaliate against whistleblowers who report improper government activities.

## KEY CONCEPTS

A public agency's decision should be based solely on what best serves the public's interests.

The law is aimed at the perception, as well as the reality, that a public official's personal interests may influence a decision. Even the temptation to act in one's own interest could lead to disqualification, or worse.

Having a conflict of interest does not imply that a public official has done anything wrong; it just means that the official has financial or other disqualifying interests.

Violating the conflict of interest laws could lead to monetary fines and criminal penalties for public officials, and may lead to proceedings to remove the official from office. Don't take that risk.



## BASIC RULE

A public official may not participate in a decision — including trying to influence a decision — if the official has financial or, in some cases, other strong personal interests in that decision. When an official has an interest in a contract, the official's agency may be prevented from even making the contract.

## WHEN TO SEEK ADVICE FROM AGENCY COUNSEL

The rules are very complex. A public official should talk with agency counsel early and often and when an action by the public agency may affect (positively or negatively) any of the following:

**Income.** Any source of income of \$500 or more (including promised income) during the prior 12 months to the official or official's spouse/domestic partner.

**Immediate Family.** The official's spouse/domestic partner and dependent children.

**Business Management or Employment.** An entity for which the official serves as a director, officer, partner, trustee, employee or manager.

**Real Property.** A direct or indirect interest in real property of \$2,000 or more that the official or official's immediate family has, including such interests as ownership, leaseholds (but not month-to-month tenancies) and options to purchase.

**Gift Giver.** A giver of one or more gifts worth a total of \$520 (2021-22) or more to the official in the prior 12 months, including promised gifts.

**Lender/Guarantor.** A source or guarantor of a loan to the official.

**Personal Finances.** The official or official's immediate family's personal expenses, income, assets or liabilities.

**Contract.** A contract that the agency is considering entering into, in which the official or a member of the official's immediate family may have an interest (direct or indirect).

**Business Investment.** An interest in a business that the official or the official's immediate family have a direct or indirect investment worth \$2,000 or more.

**Related Business Entity.** An interest in a business that is the parent, subsidiary, or is otherwise related to a business in which the official:

- Has a direct or indirect investment worth \$2,000 or more; or
- Is a director, officer, partner, trustee, employee or manager.

**Business Entity Owning Property.** Real property owned by a business entity or trust of the official.

**Campaign Contributor.** A campaign contributor of the official (applies to appointed decision-making bodies only).

**Other Personal Interests and Biases.** The official has important, but non-financial, personal interests or biases (positive or negative) about the facts or the parties that could cast doubt on the official's ability to make a fair decision.

## WHAT WILL HAPPEN NEXT?

Agency counsel will advise the official whether 1) the official may participate in the decision and, 2) if a contract is involved, whether the agency can enter into the contract at all. Counsel may suggest asking either the Fair Political Practices Commission or the California Attorney General's Office regarding their opinion about the potential conflict.

## EVEN IF IT'S LEGAL, IS IT ETHICAL?

The law sets only minimum standards. Officials should ask themselves whether members of the public will question whether the officials are acting solely in the public's interest. If even a perceived conflict exists, officials should consider excusing themselves voluntarily from that particular decision-making process.



## BEYOND THE LAW:

### Ethics and Values

- Ethics is what one *ought* to do in a given situation. It's the kind of conduct that would make the world a better place if everyone engaged in it.
- The law provides only minimum standards for ethical conduct. Just because a course of action is legal doesn't mean it is right.
- What one ought to do is typically tied to a series of values:
  - » Trustworthiness
  - » Respect
  - » Responsibility
  - » Compassion
  - » Loyalty
  - » Fairness

ILG developed a Good Governance Checklist to help local officials identify ways they can go above and beyond legal requirements to promote public trust and confidence. To access the checklist visit: [www.ca-ilg.org/goodgovernance](http://www.ca-ilg.org/goodgovernance).

## AB 1234 TRAININGS

California law requires local officials to periodically receive training on public service ethics laws and principles (AB 1234). ILG offers trainings and self-test options to help local officials comply with this law.

ILG offers two, one-hour self-study exercises as an option for local officials to satisfy AB 1234 requirements. Find out more at: [www.ca-ilg.org/ab1234selfstudy](http://www.ca-ilg.org/ab1234selfstudy).

ILG can also come to your community to train your local officials and staff. Contact ILG at [ethicsmailbox@ca-ilg.org](mailto:ethicsmailbox@ca-ilg.org) for more information on how to schedule an ethics workshop.

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Its mission is to promote good government at the local level.

ILG's current program areas include:

- Leadership and Governance
- Public Engagement
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