

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

§ 18944.1. Gifts: Agency Provided Tickets or Passes.

For purposes of this regulation the terms “ticket” and “pass,” as defined in Regulation 18946, apply solely to an admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose provided by an agency to, or at the behest of, an official of that agency, other than an admission provided to a school, college or university district official, coach, athletic director, or employee to attend an amateur event performed by students of that school, college, or university district or an admission identified in Regulation 18942(a)(12).

(a)(1) A ticket or pass is not subject to the provisions of this regulation, if the official treats the ticket or pass as income consistent with applicable state and federal income tax laws and the agency reports the distribution of the ticket or pass as income to the official in compliance with the reporting provisions of subdivision (d) below.

(2) Any ticket or pass acquired by the agency under subdivision (b)(2) and distributed to an official, other than an elected official or member of the legislative or governing body of the agency, for the official's personal use, to support general employee morale, retention, or to reward public service is deemed to serve a public purpose, and any tickets distributed to an official for such purpose shall be reported as described under subdivision (d)(3). For purposes of this paragraph, “personal use” means use by the official, his or her family, or no more than one guest.

(b) The official will meet the burden under Section 82028 that equal or greater value has been provided in exchange for the ticket or pass if the official reimburses the agency for the ticket or if all of the following requirements are met:

(1) For a ticket or pass the agency receives from an outside source, other than as provided in subdivision (b)(2):

(A) The ticket or pass is not earmarked by the outside source for use by the agency official who uses the ticket or pass;

(B) The agency determines, in its sole discretion, who uses the ticket or pass.

(C) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency that incorporates all of the provisions of subdivision (c) below.

(2) For a ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) by purchase at fair market value, the distribution of the ticket or pass is made in accordance with a policy adopted by the agency that incorporates all of the provisions of subdivision (c) below.

(c) Agency Ticket/Pass Distribution Policy. Any distribution of a ticket or pass under this regulation to, or at the behest of, an agency official must be made pursuant to a written agency ticket distribution policy, duly adopted by the legislative or governing body of the agency or, if none, the agency head that contains, at a minimum, all of the following:

(1) A provision setting forth the public purposes of the agency for which tickets or passes may be distributed.

(2) A provision requiring that the distribution of any ticket or pass to, or at the behest of, an agency official accomplish a stated public purpose of the agency.

(3) A provision prohibiting the transfer of any ticket received by an agency official pursuant to the distribution policy except to members of the official's immediate family or no more than one guest solely for their attendance at the event.

(d) Public Posting. A record of a ticket or pass distributed pursuant to this regulation, must be completed, on a form provided by the Commission. The form must be maintained as a public record, be subject to inspection and copying under Section 81008(a), and be forwarded to the Commission for posting on its website.

(1) Except as provided in paragraphs (2) and (3) below, the information must include the following:

- (A) The name of the person receiving the ticket or pass;
- (B) A description of the event;
- (C) The date of the event;
- (D) The face value of the ticket or pass;
- (E) The number of tickets or passes provided to each person;
- (F) If the ticket or pass is behested, the name of the official who behested the ticket; and
- (G) A description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.

(2) If the ticket or pass is distributed to an organization outside the agency, the agency shall post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization as otherwise required in paragraph (1) above;

(3) If the ticket or pass is distributed pursuant to subdivision (b) the agency may post the name of the department or other unit of the agency and the number of tickets or passes provided

to the department or other unit in lieu of posting the name of the individual employee as otherwise required in paragraph (1) above;

(e) The Commission recognizes the discretion of the legislative or governing body of an agency or, if none, the agency head to determine whether the distribution of a ticket or pass serves a legitimate public purpose of the agency, provided the determination is consistent with state law.

(f) The provisions of this regulation apply only to the benefits the official receives that are provided to all members of the public with the same class of ticket.

Note: Authority cited: Section 83112, Government Code. Reference: Section 82028, Government Code.

HISTORY

1. Renumbering of former section 18726.7 to section 18944.1 with amendment of section heading filed 6-22-94; operative 6-22-94 (Register 94, No. 25).
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 first paragraph and subsections (a)-(b) and (d)-(e) filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
4. Repealer and new section filed 1-8-2009; operative 2-7-2009. 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) (Register 2009, No. 2).

5. Repealer of subsection (a), subsection relettering and amendment of newly designated subsections (a)(1), (a)(2)(A)(iii)-(b), (c) and (e) filed 9-27-2010; operative 10-27-2010.

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) (Register 2010, No. 40).

6. Amendment of section heading and section 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).