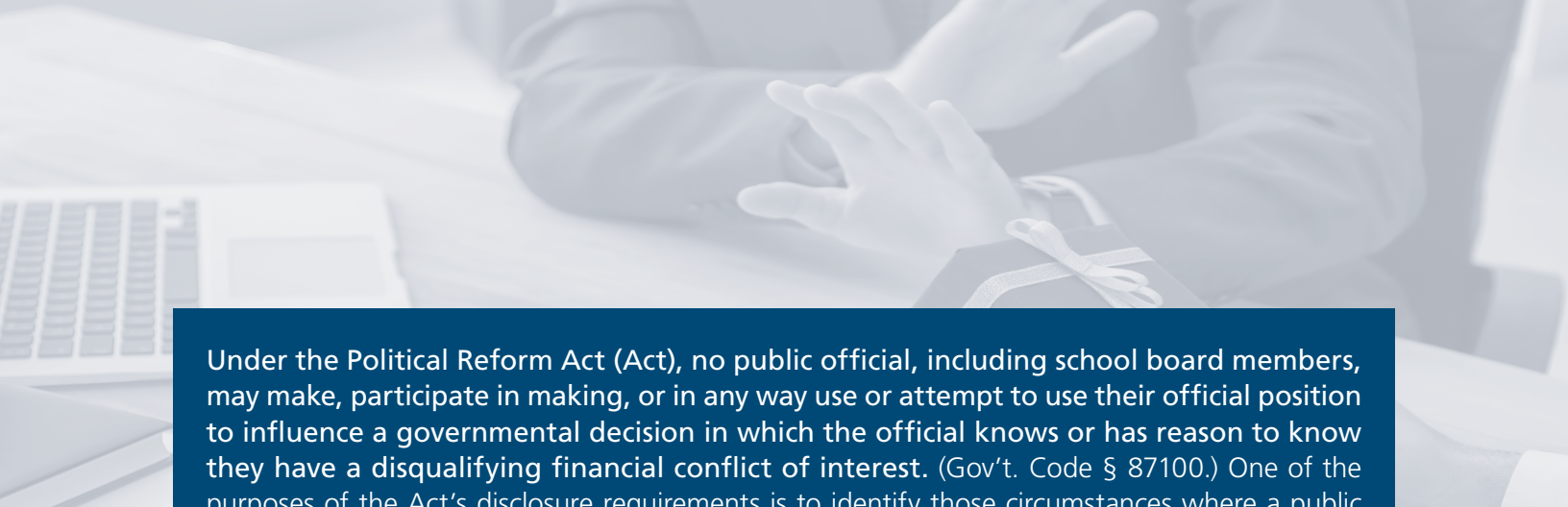




Guide to Reporting Gifts, Honoraria and Travel Payments

Legal Guidance Provided by CSBA



Under the Political Reform Act (Act), no public official, including school board members, may make, participate in making, or in any way use or attempt to use their official position to influence a governmental decision in which the official knows or has reason to know they have a disqualifying financial conflict of interest. (Gov't. Code § 87100.) One of the purposes of the Act's disclosure requirements is to identify those circumstances where a public official may be disqualified from acting based on the official's personal financial assets and sources of income including sources of gifts. (Gov't. Code § 81002 (c).)

In addition to the disclosure of gifts on the Fair Political Practices Commission (FPPC) Form 700, the Act imposes limits on gifts received by local elected officials, including school and county board members, and candidates for these offices. The current gift limit for 2023–2024 is \$590¹ within a calendar year from any one source. The gift limit in 2021–22 was \$520. The gift limit is adjusted biennially based on the Consumer Price Index.

The FPPC is responsible for administering and enforcing the Act including the financial disclosure and disqualification requirements and the gift limits. The FPPC enacts implementing regulations, issues formal advice letters as well as informal advice, and initiates administrative and civil enforcement actions for violations of the law. The FPPC may seek fines of up to \$5,000 per violation, or the amount not properly reported.

School district and county office of education board members must file a Form 700 annually by April 1, and within 30 days of taking and leaving office. Gifts from a single source aggregating to \$50 or more must be disclosed, and gifts aggregating to \$590 or more during any 12-month period may subject a school board member to disqualification with respect to the source. (Gov't. Code § 87103(e).)

Most board members file pursuant to their district's conflict of interest code which spells out the specific disclosure requirements for board members as well as other district officials. However, some board members will file as an official under the category of a public official who manages public investments, and the disclosure requirements are set forth in the Act.

This guidance is intended to help governing board members identify and report gifts. Officials should not rely exclusively on this guidance since the gift and travel rules and related exceptions are complex and highly dependent on the specific facts of each situation. Each individual filer must verify their Form 700's content under penalty of perjury, so great care should be taken in the collection of information for the disclosures and the completion of the Form 700.

CSBA recommends filers review disclosure requirements in the district's code or the Act as applicable. In addition, CSBA has found the instruction sheet prepared for each schedule of the Form 700, the FPPC's Reference Pamphlet for the Form 700 and the FPPC's guide on gifts and travel expenses, "Limitations and Restrictions on Gifts, Honoraria, Travel and Loans," to be extremely helpful resources in completing the Form 700.² When necessary, board members should contact the FPPC for specific, personal guidance.³

¹ The Fair Political Practices Commission adjusts the gift limit for inflation every odd number year.

² The FPPC guidance, "Limitations and Restrictions on Gifts, Honoraria, Travel and Loans," is available on its website (www.fppc.ca.gov/), or directly linked at <https://bit.ly/4bRGMER>

³ For advice by phone or online, or for formal written advice concerning your duties under the Act, visit www.fppc.ca.gov/advice.html. When requesting advice from the FPPC, be sure to include all facts and circumstances since the advice will be dependent on the facts provided, and a small change in the facts may result in different advice.

What is a gift?

A gift is any payment made by any person of anything of value, whether tangible or intangible, real or personal property, a good or service provided to an official that confers a *personal benefit* for which the official does not provide “full consideration” for the value received. (Gov’t. Code § 82028.) Gifts from a single source aggregating to \$50 or more during a calendar year must be reported.

Flowers, meals, beverages, tickets to sporting and entertainment events, travel, hotel stays, forgiveness of debt and any discounts or rebates not available to the general public are all considered gifts. Gifts to an official’s immediate family members⁴ are presumed to be gifts to the official unless there is a working, social or similar relationship between the donor and family member separate from the official.⁵

Officials may receive reportable “gifts” at CSBA’s Annual Education Conference (AEC). Board members, superintendents and others who receive something to eat or drink for free at a reception at AEC may need to report the items as gifts. However, there is no gift if an official


does not partake of the food or beverage, or receive any other item of value at the event. There also may not be a gift if an official only consumes a “de minimis” amount of appetizers and drinks. Known as the “drop-in” rule, FPPC Regulation 18946.2 exempts minimal consumption of food and beverages from the definition of a gift when an official simply drops by an event for a few minutes and does not stay for a meal or entertainment.

When is a gift received?

An official has “received” a gift when the official knows that they have actual possession of the gift or when they take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted on the official’s behalf. (Regulation 18941.)

CSBA has created a “Gift Tracking Form,” attached to this guide, to assist officials in keeping track of potentially reportable gifts they receive, including multiple smaller gifts from a single source that may add up to or exceed \$50 annually to become reportable.

SCHEDULE D Income – Gifts



<p>▶ NAME OF SOURCE <i>(Not an Acronym)</i></p> <hr/> <p>ADDRESS <i>(Business Address Acceptable)</i></p> <hr/> <p>BUSINESS ACTIVITY, IF ANY, OF SOURCE</p> <hr/> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">DATE (mm/dd/yy)</th> <th style="width: 15%;">VALUE</th> <th>DESCRIPTION OF GIFT(S)</th> </tr> </thead> <tbody> <tr> <td>____/____/____</td> <td>\$ _____</td> <td>_____</td> </tr> <tr> <td>____/____/____</td> <td>\$ _____</td> <td>_____</td> </tr> <tr> <td>____/____/____</td> <td>\$ _____</td> <td>_____</td> </tr> </tbody> </table>	DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)	____/____/____	\$ _____	_____	____/____/____	\$ _____	_____	____/____/____	\$ _____	_____	<p>▶ NAME OF SOURCE <i>(Not an Acronym)</i></p> <hr/> <p>ADDRESS <i>(Business Address Acceptable)</i></p> <hr/> <p>BUSINESS ACTIVITY, IF ANY, OF SOURCE</p> <hr/> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 20%;">DATE (mm/dd/yy)</th> <th style="width: 15%;">VALUE</th> <th>DESCRIPTION OF GIFT(S)</th> </tr> </thead> <tbody> <tr> <td>____/____/____</td> <td>\$ _____</td> <td>_____</td> </tr> <tr> <td>____/____/____</td> <td>\$ _____</td> <td>_____</td> </tr> <tr> <td>____/____/____</td> <td>\$ _____</td> <td>_____</td> </tr> </tbody> </table>	DATE (mm/dd/yy)	VALUE	DESCRIPTION OF GIFT(S)	____/____/____	\$ _____	_____	____/____/____	\$ _____	_____	____/____/____	\$ _____	_____
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⁴ Family members include spouses and dependent children (including an adoptive child or stepchild) who are under 18 years old and for whom the official is entitled to claim as a dependent on their federal tax return.

⁵ Wedding gifts are not subject to the \$590 gift limit, but they are reportable. For the purpose of valuing wedding gifts, one-half of the value of each gift is attributed to each spouse. (Regulation 18946.3.)



Reimbursing, returning or donating the gift

An official who has received a gift may pay back the donor within 30 days for all or any part of a gift, and the gift will be reduced by that amount for reporting purposes. In addition, if a gift is received in excess of the limit, the official may reimburse the portion of the gift which exceeds the limit, and the limit is not violated so long as the reimbursement is made within 30 days of the receipt of the gift. (Regulation 18941.)

Any gift returned, reimbursed or donated in its entirety or below the \$50 limit is not reportable. Officials do **not** need to report the receipt of a gift if the gift is returned unused to the donor within 30 days of receipt, or the official donates the gift (unused) to a 501(c)(3) charity or nonprofit organization within 30 days of receipt (the official or a family member cannot hold a position with the charity), and the official does not take a charitable gift deduction on their income tax return.

What to do when a gift is received

A board member who receives a gift must disclose the full name, address and business activity of the donor (and intermediary⁶ if any), a description of the gift, the amount or fair market value of the gift⁷, the date on which the gift was received and, if the gift is a travel payment, the travel destination.

If gifts are received from a source in excess of the gift limit (currently \$590) during any 12-month period, an

official is disqualified from participating in any district decisions involving the source of the gift(s) for 12 months following the receipt of the gifts.

What is not a gift?

The Act and FPPC regulations describe specific items and instances that are not considered gifts to public officials. The following list contains just some of the items not considered gifts, and thus not reportable on the Form 700:

- » Campaign contributions.
- » Prizes received in a manner not related to the official's status in a bona fide competition, unless only public officials are in the potential pool of winners.⁸
- » Informational materials provided to assist the official in the performance of their official duties, including admission to conferences or seminars and informational site visits and tours (but if the value of the item is greater than \$590, the board member has the burden of demonstrating the item is informational and related to the official's duties).

Note: transportation provided to a site for a conference and any lodging and meals paid for by another are usually considered a reportable gift, and do not fit within the informational materials exception. (See Regulations 18942(a)(1) and 18942.1.)

- » Birthday/holiday exchanges with friends (to the extent that the gifts exchanged are not substantially disproportionate in value).

⁶ An intermediary is a person or entity that delivers or makes a gift on behalf of another person and has been or will be reimbursed for the gift. An intermediary of a gift is required to disclose to the recipient the actual source of the gift.

⁷ The value of a gift is the fair market value at the time the gift is received, determined by finding any local or internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1-18946.5 covering admission to events, wedding gifts, attendance at fundraisers and air travel. A unique gift may be based on a reasonable estimate of its value.

⁸ The FPPC has opined that when the pool of potential winners primarily consists of elected officials and/or other Form 700 filers, then any prize won may be reportable as a gift because the competition is not considered "bona fide." (Regulation 18942.)

- » Gifts from family members (provided the family member is not acting as an intermediary for a third party).
- » When making a speech, the admission to the event for the official, food and minimal items (such as a pen, note pad or similar item) provided to all attendees.
- » Tickets for the board member and one guest for an event where the board member performs a ceremonial function such as giving an award.
- » Two tickets for admission, for use by only the official and one guest, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, provided by the hosting committee or organization. Tickets provided by others are reportable gifts based on the pro rata costs of the food, beverage and other items provided to the attendees.
- » Passes or tickets that provide admission or access to facilities, goods, services or other benefits (either on a one-time or repeated basis) that the official does not use and does not give to another person (a ticket has no reportable value unless it is ultimately used or transferred to another person). Tickets that are for functions and amateur events involving students and in the official's district are also not considered gifts. (Regulation 18944.1.)
- » Presents from groups, such as a retirement gift from coworkers, as long as no person contributed \$50 or more to the total cost of the gift (if someone donated \$50 or more, that person's portion is a reportable gift). (Regulation 18945.2.)
- » Reciprocal exchanges of value between an official and another individual on an ongoing basis so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid out by the

official and no single payment is \$590 or more (for example, if two people get together regularly for lunches or coffee and rotate picking up the tab so that each pays approximately half the total value over the course of the calendar year).

Honoraria, travel and other special circumstances

Honoraria, travel and other special circumstances are treated differently from "gifts," are subject to different rules and limitations, and require different reporting.⁹

Honoraria:

Local elected officials are prohibited from receiving any honoraria payments.

Honorarium is broadly defined to include any payment made in consideration for any speech given, article published, or attendance at any conference, convention, meeting, social event, meal, etc. There are exceptions to the honoraria prohibition for payments for travel in connection with a bona fide business and for travel in connection with campaign activities. There are also exceptions to the honoraria prohibition for certain types of travel as described below.

Travel payments:

Generally, when an official receives an advanced payment or reimbursement for their travel, that payment should be treated by the recipient as either a gift or as income. (Travel payments include transportation, parking and related lodging and meals.) When a travel payment is made in connection with an official attending an event or making a speech, the payment or reimbursement would usually be considered a gift. However, if the official is providing value that is equal to or in excess of the payment or reimbursement received, it may be considered income. (Gov't. Code § 89506.)

⁹ For detailed information on agency gifts and behested payments, see the FPPC's guidance, "Limitations and Restrictions on Gifts, Honoraria, Travel and Loans," at <https://bit.ly/4bRGMER>. Agency gifts — payments made to a government agency that are used by officials in the agency to conduct agency business are not reported by an official, but may be reportable by the agency on Form 801. Agency gifts are not subject to the \$590 gift limit. Behested payments — payments made at the behest of an official that do not confer a personal benefit on an official (such as when an official solicits a donation from someone to an organization) — are not gifts per se but may require disclosure by the official on Form 803.

If the payment is considered a gift, it is also normally subject to the \$590 gift limit. If the payment is income, it is reportable when the payment totals \$500 or more and is not subject to any limit.

There are exceptions to the honoraria prohibition and to the gift limit for certain types of travel. These include payments made in connection with travel related to an issue of local, state, national or international policy that are provided by a government agency, educational institution or public charity that is tax exempt under Internal Revenue Code section 501(c)(3). When an official is invited to make a speech for a group or at an event in the United States, the payments for transportation, and related food and lodging for the day before, the day of and the day after the speech are permissible. However, these payments are reportable as gifts by the official on the Form 700 but are not subject to the gift limit. (See Schedule E of Form 700 on next page)

In addition, payments made for “official agency business” (e.g. providing training or educational information directly related to governmental function) are not gifts if the payment is made directly to the government employer, instead of the individual, and there is no personal benefit to the official, such as extra days of travel so long as the agency publicly discloses the travel payments on Form 801.

Additional Resources

- » 2023/2024 Statement of Economic Interests, Form 700, available at www.fppc.ca.gov/Form700.html
- » FPPC Limitations and Restrictions on Gifts, Honoraria, Travel and Loans, A Fact Sheet for Local Elected Officers and Candidates for Local Elective Offices, available at <https://bit.ly/3uC1nbQ>
- » 2023/2024 Form 700 Statement of Economic Interests, Reference Pamphlet, available at <https://bit.ly/46hwufP>
- » FPPC Frequently Asked Questions: Form 700 Disclosure, available at <https://bit.ly/2NSnOsr>
- » Sample Board Bylaw 9270, Conflict of Interest, and Exhibits are available to CSBA’s Policy Services clients on GAMUT Policy.

For additional guidance, contact CSBA’s Legal Department at 800-266-3382 or legal@csba.org.

SCHEDULE E
Income – Gifts
Travel Payments, Advances,
and Reimbursements

- Mark either the gift or income box.
- Mark the “501(c)(3)” box for a travel payment received from a nonprofit 501(c)(3) organization or the “Speech” box if you made a speech or participated in a panel. Per Government Code Section 89506, these payments may not be subject to the gift limit. However, they may result in a disqualifying conflict of interest.
- For gifts of travel, provide the travel destination.

▶ NAME OF SOURCE *(Not an Acronym)* _____

ADDRESS *(Business Address Acceptable)* _____

CITY AND STATE _____

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
(If gift)

▶ MUST CHECK ONE: Gift **-or-** Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

▶ If Gift, Provide Travel Destination _____

▶ NAME OF SOURCE *(Not an Acronym)* _____

ADDRESS *(Business Address Acceptable)* _____

CITY AND STATE _____

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
(If gift)

▶ MUST CHECK ONE: Gift **-or-** Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

▶ If Gift, Provide Travel Destination _____

▶ NAME OF SOURCE *(Not an Acronym)* _____

ADDRESS *(Business Address Acceptable)* _____

CITY AND STATE _____

501 (c)(3) or DESCRIBE BUSINESS ACTIVITY, IF ANY, OF SOURCE _____

DATE(S): ____/____/____ - ____/____/____ AMT: \$ _____
(If gift)

▶ MUST CHECK ONE: Gift **-or-** Income

Made a Speech/Participated in a Panel

Other - Provide Description _____

▶ If Gift, Provide Travel Destination _____

Filer's Verification

Print Name _____

Office, Agency or Court _____

Statement Type 2022/2023 Annual Assuming Leaving
 _____ Annual Candidate
(yr)

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed _____
(month, day, year)

Filer's Signature _____

Comments: _____

Gift tracking form

Please note that all gifts received in a calendar year from a single source are limited to a value of \$590, and officials are required to annually report gifts cumulating to \$50 or more in value from a single source.

Name of the person or entity who gave the gift:			
Address of the person or entity who gave the gift:			
What is the business activity of the person or entity who gave the gift, if any:			
The date the gift was received:		The fair market or dollar value of gift received: \$	
The description of the gift received:			

The Fair Political Practices Commission offers a gift tracking mobile app, available for download. Please visit www.fppc.ca.gov for more information.



California School Boards Association

(800) 266-3382 or legal@csba.org
www.csba.org