

GIFT POLICY

PURPOSE

The Political Reform Act (PRA), the regulations promulgated by the Fair Political Practices Commission (FPPC) and Section 12.08 of the City Municipal Code impose strict limitations and reporting requirements on items of value that trustees and employees of the Office of Retirement Services may receive. These rules require the avoidance of even the appearance of a conflict of interest. Trustees and employees of the Office of Retirement Services are referred to as “Officials” in this Policy.

LEGAL GUIDELINES

1. Subject to more stringent rules imposed in the City of San José (see below), an Official ordinarily may not receive more than \$470 in gifts from a single source (other than immediate family or a spouse) during a calendar year. \$470 is the 2018 limit. In the past, this has increased annually by a small amount.
2. An Official ordinarily must report to the FPPC receipt of items with the aggregate value of \$50 or more from a single source (other than immediate family or a spouse) during a calendar year.
3. A “gift” is anything of value that provides a benefit to the Official (or the Official’s family members) for which the donor has not received equal or greater consideration from the Official.
 - Examples: food, transportation, accommodations, tickets, flowers, items for home, office or recreational use, charitable donations in the Official’s name, complimentary admission to events and discounts in the cost of products or services
4. An Official ordinarily cannot receive payments for making speeches, writing articles, attending conferences, or similar activities due to his or her status as an Official. These kinds of payments are referred to as “Honoraria.”
5. Chapter 12.08 (“Prohibition of Gifts”) of the Municipal Code generally incorporates the rules under the Political Reform Act, including FPPC Regulations, except that it:
 - Limits gifts to no more than \$50 from a “Restricted Source,” which is defined as any individual, firm or entity whose interest or whose employer's or client's interest: (A) Has been materially affected by the work of such officer or employee of the City or Successor Agency within the two years prior to the time the gift is given; or (B) In

the future could reasonably be foreseen to be materially affected by the work of such officer or employee of the City or Successor Agency; and

- Requires disclosure of gifts to family members on a “family gift report on a form provided by the City Clerk.”
6. The City’s Gift Policy provides that Officials “shall not accept money or other considerations or favors from anyone other than the City for the performance of an act which they would be required or expected to perform in the regular course of their duties; nor shall such persons accept any gifts, gratuities, or favors of any kind which might be perceived or interpreted as an attempt to influence their actions with respect to City business.”
 7. There are exceptions to the general rules discussed above, but all Officials should consult the specific statutes, rules and regulations before receiving any gifts, especially gifts in excess of \$50 (other than gifts received from spouses and immediate family) or any Honoraria. Please see current California Fair Political Practices and Commission “Fact Sheet for Limitations and Restrictions on Gifts, Honoraria, Travel and Loans” for further information and exceptions:
<http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/gifts-and-honoraria.html>
 8. The City’s Code of Ethics provides that officials should “avoid the appearance of conflicts of interest in order to ensure that [] decisions are made in an independent and impartial manner.”

POLICY

1. This Policy applies to all gifts and Honoraria received by an Official, whether or not the Official is acting on official business or acting in his or her official capacity.
2. Subject to the policies below, no Official may receive more than \$470 in gifts from any single source (other than immediate family or a spouse) during a calendar year. \$470 is the 2018 limit, which increases over time. The Office of Retirement Services may assist Officials in complying with this gift limitation, but ultimate responsibility rests with the Official.
3. Although applicable law may allow the Official to receive up to \$50 in value from a person who is subject to the decision-making or recommending authority of the Official, it is this Board’s policy that the Official shall not receive gifts, of any value, from any person who is subject to the decision-making or recommending authority of the Official.

4. An Official must report the receipt of gifts with an aggregate value of \$50 or more from a single source during a calendar year to the FPPC, whether or not the gift is from a person who is subject to the decision-making or recommending authority of the Official. The Office of Retirement Services will assist Officials in complying with this reporting requirement, but ultimate responsibility rests with the Official.
5. No Official may receive any Honoraria without the prior approval of the Board, which will consult with legal counsel before granting approval.
6. If an Official is attending a conference for which the registration fee includes meals, the Official need not report the meals as gifts and no invoice for the meals is required from the provider.
7. If an Official is attending a conference for which the registration fee does not include meals, Retirement Staff will request an invoice from the provider for the cost of any meals provided to the official without charge and will pay that invoice, so that the meal is reimbursed under the Board's Travel Policy and therefore is not a gift.
8. If an Official is attending a conference for which there is no registration fee, Retirement Staff will request an invoice from the provider for the cost of the conference.
9. An Official should consult the Board's Travel Policy to determine the rules for reimbursement of costs incurred by the Official while traveling on official business.
10. An Official may not accept any cash or tangible gifts while traveling on official business. Any cash or tangible gift the Official receives should be given to the Office of Retirement Services, which will then return the cash or tangible gift to the provider with a letter of explanation.
11. Waiver of conference fees and/or expenses due to the Official's participation as a presenter or panel member during the conference will be accepted only if the offer is made to the Board and the Board approves the official as its representative. If the Official is a Retirement Staff member, the CEO has the authority to approve the Official as its staff representative.
12. On or about November 1st of each calendar year, the Office of Retirement Services will send out notices to all current providers requesting that they not send any gifts to any Officials during the year-end holiday season. Any gift received by the Office of Retirement Services for the Official will be sent back to the sender.

13. For the purposes of this policy the term “conference” includes any event that an Official attends due to his or her status as an Official, without regard to the length, subject matter or location of the event.

Adopted April 19, 2018