



STATE OF CALIFORNIA  
**FAIR POLITICAL PRACTICES COMMISSION**  
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**To:** Commissioners Baker, Ortiz, Wilson, and Wood

**From:** Dave Bainbridge, General Counsel  
Brian Lau, Assistant General Counsel

**Subject:** Advice Letter Report

**Date:** March 29, 2024

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The following advice letters have been issued since the February 26, 2024, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the April 25, 2024, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

### **Campaign**

**Max Kanin**

**[A-24-018](#)**

A candidate for city council may open a legal defense committee to pay for legal fees incurred defending against a writ petition challenging his candidate ballot designation. If the candidate's principal campaign committee already paid these legal expenses, then the legal defense committee may pay these expenses, in exchange for the law firm that defended the candidate refunding his campaign committee. The candidate may terminate the legal defense account and legal defense committee under the local ordinance since Regulation 18530.45(b) permits local jurisdictions to adopt different requirements in this area.

### **Conflict of Interest**

**Kristopher J. Kokotaylo**

**[I-23-176](#)**

While two public officials have potentially disqualifying financial interests in their businesses, the public generally exception likely applies allowing the official to take part in the decision because the decision at issue, amending the City's business license fee structure, is still in the early stages and nearly all businesses in the City are potentially impacted, with no unique effect on the officials' businesses. However, a determination of whether the public generally exception applies cannot be made until a specific decision has been identified.

**Nicholas R. Ghirelli**

**[A-24-017](#)**

The Act prohibits a mayor from taking part in decisions regarding the approval of a mixed-use project because there is no clear and convincing evidence rebutting the presumption that the development of the project located adjacent to a country club in which the mayor has a real property interest would have a measurable impact on his real property interest.

**Anais Martinez Aquino**[A-24-020](#)

Under the Act, a city planning commissioner does not have a disqualifying financial interest in decisions that would change the land use designation of a site to permit a mixed-use development located approximately 985 feet from the commissioner's residence. Based upon the adjoining properties and considering that the residence is buffered from the project site by four large multifamily residential properties directly between the residence and project site, the development project would not change the residence's development potential, income producing potential, highest and best use, character, or market value.

**Brian Pierik**[A-24-021](#)

Officials do not have a disqualifying financial interest under the Act in decisions regarding fiber optic lines within 500 feet of the officials' real properties where facts provided indicate the project will not have any measurable impact on the officials' properties because the line will be installed on existing infrastructure, or underground, by a private utility providing a service available to subscribers throughout the area. Thus, it is not reasonably foreseeable that the decisions regarding a fiber optic project will have a material financial effect on the officials' real property interests.

**Section 1090****Randy Crabtree**[A-24-009](#)

Under the remote interest exception in Section 1091(b)(13), a public agency is not prohibited from entering contracts with a district agricultural association, where its executive officer employee also serves on the district's board. The executive officer must recuse from the decision and the interest must be disclosed to the board and noted in the board's record. Additionally, the executive officer may not influence or attempt to influence another board member by discussing the elements of the contract with a board member, or any officer or employee of the district, and is also prohibited from participating in the contract as an employee of the agency.

**Scott C. Nave**[A-24-012](#)

Section 1090 prohibits a hospital district from renewing a prior contract, or entering any new contract, to advertise in a local newspaper, where one of the hospital district's directors recently acquired an ownership interest in the newspaper.

**Abel Salinas**[A-24-015](#)

Independent contractor who advised an agency on its request for proposals and contract for a progressive design-build project to serve as a template for future projects and contracts is an officer subject to Section 1090. However, where there are no facts indicating that the independent contractor has influence over the scope of future projects due to this work, the independent contractor has not "participated in making" all future projects and contracts and is not disqualified from these projects based solely on its previous services.

**Scott Runyun**[A-24-016](#)

Section 1090 does not prohibit a fire district from contracting with a consultant to complete a project where the fire district entered an initial contract with the consultant to assist in preparing

a grant to fund the project given the consultant was the intended provider of the services under the grant as confirmed by the grant application and proposed grant award agreement.

**Richard D. Pio Roda**

[A-24-019](#)

Under the Act, an uncompensated member of a fire district's board of directors does not have an economic interest in contracts between the district and his former employer, a second fire district, given that his government employment-related retirement benefits and former salary do not constitute "income" under the Act. Additionally, because he is no longer employed by the fire district and there is no indication he would be financially impacted by a contract between the two districts, Section 1090 does not prohibit him from taking part in such contracts.

**Alisha Patterson**

[A-24-022](#)

Under the Act, a mayor is not prohibited from taking part in contract decisions between the city and the joint powers authority of which he is a board member, given that his stipends come from a government entity and are not considered potentially disqualifying "income" under the Act. Under Sections 1090 and 1091.5(a)(9), the mayor is not considered to have a financial interest in the contracts, as long as his interest in the joint powers authority as a board member receiving stipends is disclosed and noted in the city council's records, given that the contract would not involve a direct financial gain to him and would not affect a department that employs him.