



FACT SHEET ON DISQUALIFICATION FROM MUNICIPAL DECISIONS PART 5: PERSONAL FINANCES

The City's Ethics Ordinance includes laws that prohibit city officials from influencing municipal decisions when it is reasonably foreseeable that those decisions will have a material financial effect on their economic interests. This fact sheet is one of a series of fact sheets designed to offer general conflict of interest guidance to city officials who participate in making municipal decisions. This particular fact sheet is focused on conflicts that stem from a city official's personal finances. Keep in mind that the information offered in this fact sheet should not be considered a substitute for the actual language contained in the local and state law.

GENERAL RULES

- ❖ The ethics ordinance prohibits city officials from participating in a municipal decision if it is reasonably foreseeable that the decision will have a “material financial effect” on the personal finances of the official or the official's immediate family.
- ❖ The term “immediate family” means an official's spouse (or registered domestic partner) and any dependent children.
- ❖ For purposes of this fact sheet, an official's personal finances do not include investments in a business entity or real property.
 - ✓ if a municipal decision might impact an official's business interest, refer instead to the conflict rules set forth in the ethics commission's disqualification fact sheet for business entities; or,
 - ✓ if a municipal decision might impact an official's real property interest, refer instead to the conflict rules set forth in the ethics commission's disqualification fact sheet for real property.

MATERIALITY

- ❖ A municipal decision has a financial effect on an official's personal finances if it increases or decreases the official's personal expenses, income, assets, or liabilities, or those of his or her immediate family members. This effect is considered material if the decision:
 - ✓ may result in the official or the official's immediate family member receiving a financial benefit or loss of \$500 or more in any 12-month period;
 - ✓ is to appoint, hire, fire, promote, demote, suspend without pay, or otherwise take disciplinary action with financial sanction against the official or his or her immediate family member; or,

- ✓ is to set a salary for the official or his or her immediate family member that is different from the salaries paid to other employees of the City in the same job classification or position, or when the official or immediate family member is the only individual in the job classification or position.
- ❖ For example, Ray, the executive director of a City department, has a teenage son who is looking for a summer job. Ray knows that the park & recreation department has openings for temporary workers at several recreation centers. Under the personal finances rules, however, he may not take any action to influence the hiring process.

EXCEPTIONS

- ❖ A personal financial effect is not considered material if the decision would:
 - ✓ change the benefits applied equally to all City employees in the same bargaining unit or other representative group;
 - ✓ pay for travel expense incurred while attending meetings as an authorized City representative;
 - ✓ pay for meeting stipends received by an appointee to a group or body created by law or formed by the City, so long as the appointing body posts information on its website regarding the members of the group and the amount of the stipend;
 - ✓ permit the use of City vehicles, cell phones, etc. for the purpose of carrying out official duties;
 - ✓ result in the official obtaining personal rewards from using a private credit card or membership rewards program in connection with City-approved travel; or,
 - ✓ appoint a city official to fill a vacancy in the office of the Mayor or the City Council, regardless of the accompanying salary and/or benefits.

INSIGNIFICANT FINANCIAL EFFECT

- ❖ Notwithstanding the rules set forth above, there are circumstances in which a municipal decision's financial effect is so minor that it does not rise to the level of being material. In other words, a city official does not have a disqualifying conflict of interest in a municipal decision if the financial effect of the decision is nominal or inconsequential.
- ❖ Although only a measurable financial effect will trigger disqualification in the context of an official's personal finances, it's possible that such an effect could still be considered insignificant. Please contact the ethics commission for additional guidance if you believe the impact of a decision on your personal finances will be insignificant.

PUBLIC GENERALLY

- ❖ Even if the financial effect of a municipal decision on your personal finances is material, you will not be disqualified from participating in that decision if you can establish that the financial effect on your personal finances is indistinguishable from the financial effect on the public generally.

- ❖ A decision affecting your personal finances is entitled to the public generally exception if the financial impact on you is essentially the same as it is on at least 25% of all individuals residing in the City.
- ❖ When determining whether a municipal decision's financial impact on you is disproportionate to its impact on other City residents, consider your personal finances as well as those of your immediate family.
- ❖ In addition, the public generally exception will likely apply in the following special circumstances: (1) the imposition of taxes or assessments for water, utility, or other broadly provided public services applied equally or proportionally to everyone; (2) changes to parking rates, permits, and fees that apply to the entire City; (3) ordinances that restrict on-street parking, impose traffic controls, deter vagrancy, reduce nuisance, or improve public safety; (4) decisions that affect all renters of residential property; (5) situations in which the law requires a board or commission to contain appointees representing a particular trade or profession and there is no unique effect on the appointee; (6) states of emergency; and (7) permits, licenses or other use entitlements sought from an airport or harbor. Contact the Ethics Commission for assistance with these circumstances.

CONTRACTS

- ❖ If the municipal decision involves a contract, be sure you also review the ethics commission's fact sheet on financial interests in a contract.

Determining whether or not you have a conflict of interest in a particular municipal decision can be a complicated matter. Do not hesitate to contact the ethics commission at (619) 533-3476 for additional assistance.

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