



**BOPC Received**  
**3/18/2021**

## OFFICE OF THE GOVERNOR

**To:** All Governor's Office Staff and Agency and Department Leadership  
**From:** Jim DeBoo, Executive Secretary  
Ana Matosantos, Cabinet Secretary  
**Date:** March 12, 2021  
**Subject:** **Implementation of the FPPC's Recommendations**

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Reflecting the Governor's commitment to an Administration that exceeds California's already strong legal standards, we announced in December 2020 a new ban prohibiting any paid campaign or political consultant to the Governor from directly communicating on behalf of a client with the Governor, members of his staff, or the agencies under his control for the purpose of influencing legislative or administrative action. At the same time, we asked the Fair Political Practices Commission (FPPC) for additional ideas and practices to promote transparency and limit undue influence beyond what the law requires.

In response, the FPPC provided us last month with five recommendations, all of which have now been adopted:

- 1) Extend the current executive branch lobbying ban to all campaign and political consultants to the Governor, regardless of whether they are paid.
- 2) Prohibit appointees with a high level of influence over the Administration's policy decisions from accepting any gifts from lobbyists.
- 3) Prohibit new appointees with a high level of influence over the Administration's policy decisions from working on specific bills in their first two years if they worked on substantially similar bills as registered lobbyists two years prior to joining the Administration.
- 4) Request that the FPPC maintain a current list on its website of all persons registered to lobby the Governor and all executive branch agencies.





- 5) Continue to develop, implement, and evaluate internal protocols to aid staff in the Governor's Office identifying, assessing, and avoiding potential ethics violations.

This memorandum provides further information regarding implementation of the FPPC's recommendations, with a focus on Recommendations 1-3 above. (We have requested that the FPPC create the website described in Recommendation 4, and additional information regarding the implementation of Recommendation 5 will be shared in the future.)

### **Recommendation 1: Outside Consultants**

In response to the FPPC's recommendation, we have expanded the executive branch lobbying ban that this Administration imposed on the Governor's paid campaign and political consultants to apply to the Governor's unpaid campaign and political consultants as well.

The Governor's Office is working to ensure that anyone subject to the ban is in full compliance. No further action by agencies is required at this time.

### **Recommendation 2: Lobbyist Gift Ban**

The FPPC recommended that we identify positions with a high level of influence over policy decisions, including positions that regularly advise the Governor or any other staff on legislative and budgetary matters, and prohibit appointees in such positions from accepting any gifts from lobbyists and lobbying firms. The purpose of this prohibition is to further reduce the risk and appearance of undue influence.

Effective March 15, 2021, all appointees in the categories below are prohibited from accepting any gifts from lobbyists and lobbying firms.

Please note that certain payments that otherwise meet the Political Reform Act's definition of gift are not considered gifts under Government Code section 82028, subdivision (b), and FPPC Regulation § 18942. These rules and exceptions continue to apply.



For example, consistent with existing rules, a payment from an appointee's spouse who is a lobbyist is not considered a gift, unless the spouse is acting as an agent or intermediary for a person not listed in FPPC Regulation § 18942, subdivision (a)(3). The only change effected by this new lobbyist gift ban is to reduce from \$10 to zero the current monthly limit on gifts from lobbyists or lobbying firms.

The following positions are subject to the new lobbyist gift ban:

- Within the Governor's Office: Governor, First Partner, secretaries and their deputies, policy advisors, and any equivalent position
- Within an agency or department: secretary, undersecretary, deputy secretary, director, chief deputy director, and any equivalent position

Boards and commissions are not subject to this new rule.

### **Recommendation 3: Two-Year Ban on Former Lobbyists Working on Substantially Similar Legislature Matters**

The FPPC recommended that we implement a new restriction applicable to new appointees with a high level of influence over the Administration's policy decisions who worked as registered lobbyists in the two years prior to joining the Administration. These appointees will be prohibited for two years from their start date from working on particular legislative matters if they worked on substantially similar bills as registered lobbyists in the prior two years. This restriction applies to appointees who began on March 1, 2021 or after.

In very unusual cases, a waiver may be available if the Appointments Secretary, in consultation with the Chief Ethics Advisor, determines that it is in the public interest. The public interest may include exigent circumstances relating to public safety and security, the economy, public health, or the environment. In determining the appropriateness of a waiver, the Appointments Secretary may consider the state government's need for the appointee's services; the uniqueness of the appointee's qualifications to meet the government's needs; and the extent to which the purposes of the ban may be satisfied through other



limitations on the appointee's services. Any written waiver will be in writing, reflect the basis for the waiver, and be made available upon request.

Boards and commissions are not subject to this restriction.

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Should you have any questions about these or other ethics matters, please reach out to the Chief Ethics Advisor, Rei Onishi.