



Guidance on	Acceptance of Personal Gifts and Gratuities by Employees under California's Political Reform Act
Related Policy:	PPSM-82
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<b>Contact:</b>	Mark Morodomi
<b>Email:</b>	Mark.Morodomi@ucop.edu
<b>Phone #:</b>	(510) 987-9748

### **GUIDANCE REGARDING ACCEPTANCE OF PERSONAL GIFTS AND GRATUITIES BY EMPLOYEES UNDER CALIFORNIA'S POLITICAL REFORM ACT**

This Guidance answers some of the most common questions regarding the receipt of personal gifts under the state Political Reform Act. You should be aware, however, that the law and regulations are extremely complex. Only the Fair Political Practices Commission (FPPC) can offer official legal advice that gives immunity from prosecution. This guidance only summarizes the law and regulations pertaining to the acceptance of gifts under state law. In the event of any inconsistency or omissions, the law and regulations govern.

**Favoritism, Integrity, and Good Judgment.** It is the policy of the University to comply with the provisions of state and federal law and University policy governing the acceptance of gifts and gratuities. [University Policy PPSM-82: Conflict of Interest](#). PPSM-82 also states that a University officers and employees “must avoid the appearance of favoritism in all of their dealings on behalf of the University. All University officers and employees are expected to act with integrity and good judgment and to recognize that the acceptance of personal gifts from those doing business or seeking to do business with the University, even when lawful, may give rise to legitimate concerns about favoritism depending on the circumstances.”

**Gifts from Health Care Vendors.** For additional rules and prohibitions on gifts from health care vendors for members of the UC community who work, train or are students at health care locations or in health professional schools, see the [“Health Care Vendor Relations Policy.”](#) The prohibitions are more stringent than those described in this guidance.

**Principal Investigators And The Gifts From Sponsors Of Research.**

For rules, including for Form 700-U, for principal investigators and the gifts they might receive from sponsors of their research, see [Disclosure of Financial Interests and Management of Conflicts of Interest, National Science Foundation Awards](#) .

**Federal Assistance Awards.** This guidance does not cover federal law and regulations, including rules related to the administration of federal assistance awards such as 2 CFR §200.318(c)(1).

**Admissions Offices.** For rules regarding the acceptance of personal gifts by recruitment and admissions employees, see [Undergraduate Recruitment Practices](#).

**Police Employees.** For rules regarding the solicitation or acceptance of gratuities by police employees, see [University-wide Police Policies And Administrative Procedures](#).

**Tips and Gratuities.** Your campus, medical center or laboratory may also have special rules regarding the acceptance of tips and gratuities in general and, particularly regarding gratuities from patients at hospitals and clinics.

**Taxes.** This guidance does not discuss whether you will have to pay tax on any personal gift or gratuity that you receive.

**More Advice.** If you need advice on how to apply this guidance to your individual situation, you may contact the Office of the General Counsel, including campus counsel, or your campus Conflict of Interest Coordinator, listed [here](#). You should seek advice particularly if you think your conduct is possibly covered by any of the listed exemptions in this guidance.

## Gift Rules Basics

Type of Employment	Definition	Restrictions/Requirements
Designated Employee	<p>A Designated Employee is a UC employee whose position is listed in the University's Conflict of Interest Code. Generally, these employees make or participate in University decisions that could affect their own financial interests. Designated Employees are those individuals who file the annual Form 700.</p>	<p><b>Disqualify:</b> You are required to disqualify yourself from influencing, participating in or making any University decision that involves a source of a gift to you, if you have received a gift of \$470 or more in the past 12 months from the source</p> <p><b>Report:</b> File a Statement of Economic Interests (Form 700) to disclose gifts from any person in your assigned disclosure category who gives you \$50 or more in gifts during a calendar year</p> <p><b>Value Limitations:</b> A designated employee may not receive gifts with a total value exceeding \$470 from a single source in the employee's assigned disclosure category in any calendar year. The FPPC periodically adjusts the value limit based on changes in the Consumer Price Index.</p> <p><b>Honoraria:</b> A designated employee should not accept honoraria from a source in the employee's assigned disclosure category.</p>
Non-designated Employee	<p>Any UC employee who is <u>not</u> a Designated Employee</p>	<p><b>Disqualify:</b> You are required to disqualify yourself from influencing, participating in or making any University decision that involves a source of a gift to you, if you have received a gift of \$470 or more in the past 12 months from the source</p>

## **I. Gift Definition. General Rule**

A gift is any payment or thing of value for which the recipient does not provide equal or greater consideration in return, subject to certain exceptions. The term “payment” is very broadly defined. It includes any “payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.” For exceptions, see Section VI below.

## **II. Who is A Designated Employee?**

A Designated Employee is a UC employee whose position is listed in the [University’s Conflict of Interest Code](#). Generally, these employees are those who make UC decisions or participate in the decision making process on matters that could affect their own financial interests. Each Designated Employee files a Statement of Economic Interests (Form 700), in accordance with his or her position’s assigned “disclosure category.” All University employees must comply with the disqualification rules even if they are not Designated Employees or even if they do not have to report acceptance of a gift. (See Section IV, below.)

## **III. Reporting of Gifts on Form 700**

Only gifts with a cumulative value of \$50 or more in a calendar year from a source within a Designated Employee’s assigned disclosure category(ies) must be reported on Form 700.

### **1. Dollar Limit on Acceptance of Gifts by Designated Employees. (Not Applicable to Regents)**

The law prohibits a Designated Employee from accepting gifts worth more than \$470 in a calendar year from any single source that the Designated Employee would be required to report on Form 700. The \$470 figure is subject to a Consumer Price Index escalator. For exceptions to the dollar limit, see Sections VI and VII. Designated employees are also prohibited from receiving honoraria, see Section VIII.

### **2. Reporting of Gifts on Form 700-U**

A principal investigator must report gifts of \$50 or more from any nongovernmental entity sponsor of his or her research received within 12 months prior to the filing of the Form 700-U.<sup>i</sup>

## **IV. Disqualification Rule Applicable to all UC Employees as a Result of Receiving Gifts**

ALL employees must remember that a gift could trigger disqualification regardless of whether the employee is a Designated Employee or whether the employee has an obligation to report the gift on his or her Form 700.

**1. When is disqualification required as a result of receiving gifts?**

Whenever any UC employee, or any member of his or her immediate family receives or is promised a gift or gifts from a single source that total \$470 or more in any 12-month period, the employee is required to disqualify himself or herself from *making, participate in making, or influencing* a UC decision that will have a *material financial effect* on the source of the gifts, regardless of whether the employee is a Designated Employee.<sup>ii</sup> See Section V.5 to determine whether a gift to a member of an employee's immediate family may be included for disclosure and disqualification.

**2. What does it mean to “make” a University decision requiring disqualification?**

Among other things, making a University decision includes deciding to expand funds, hiring a person to a position, approving a contract on behalf of the University, or anything else that commits or directs the University to a course of action. Making a decision not to do any of these things is also “making a decision.”

**3. What does it mean to “participate” in the making of a University decision requiring disqualification?**

Among other things, participating in a University decision includes giving advice or making recommendation to a University decision-maker.

**4. What does it mean to “influence” a University decision?**

Among other things, influencing a University decision includes contacting any officer, employee, or consultant of the University for the purposes of influencing a University decision.

**5. What is a “material financial effect” on a source of gifts?**

In general, it is prudent to assume that the effect will be material if a University decision will have any financial impact on a source of gifts (whether positive or negative). The definition of “material financial effect” is the subject of complex regulations<sup>iii</sup>. Consult University counsel or your campus conflict of interest coordinator.

**6. Gifts Reportable on Form 700-U.**

Gifts reported by a principal investigator on Form 700-U do not trigger disqualification, but they may trigger review by the campus. Other

exceptions to gift reporting are discussed in at Section VI.

## V. **What Can Be a Gift? Specific Examples from the Act and Regulations**

A “gift” is defined above at Section I. **Subject to the exceptions, Section VI below; the following are examples of reportable gifts:**

1. **Tickets to sporting, entertainment or other non-fundraising events are gifts to a University employee.** These items are gifts to the UC employee whether the employee uses them him or herself or gives them to someone else. Tickets to University amateur athletic and entertainment events are exempt from this rule.<sup>iv</sup>

2. **Free or discounted meals.**

Even a free or discounted meal from a non-University source, including a “working lunch,” is a gift. But see Pay-down and Reciprocity, below at Section VI, 4 and 5, and Meals in the Course of University Fundraising, Section VI, 15.

3. **Travel expenses in conjunction with a speech.** Travel expenses in conjunction with a speech are usually gifts. Some travel is exempt from the dollar value limitations, see Section VII.

4. **Wedding gifts.**<sup>v</sup> For Designated Employees, wedding gifts are considered gifts for purposes of reporting, but they are not subject to the dollar value limitations. They are generally treated as being given to both newlyweds. This means that a Designated Employee is expected to report one half of the value of such a gift.<sup>vi</sup> For all employees, use this amount to calculate whether the gift triggers disqualification.

5. **A gift made to an immediate family member of a UC employee if:**

- i. The donor of the gift and the family member have no established working, social, or similar relationship that would make the gift appropriate to the family member, or
- ii. There is evidence to suggest that the donor of the gift had a purpose to influence the UC employee. This could include that the donor is involved in an action or decision making of the UC in which the UC employee will participate. Or it could include a donor who has a contract with the UC or seeks a contract with the UC.
- iii. “Immediate family” means spouse and dependent children.<sup>vii</sup>

## VI. What is NOT a Gift? Specific Exceptions Under the Act and Regulations

The following are not considered gifts and not reportable:

1. **Gifts from certain relatives are not gifts.** Generally, immediate family, grandparents, parents, aunts, uncles, first cousins and similar in-laws.<sup>viii</sup>
2. **An inheritance is not a gift.**<sup>ix</sup>
3. **Home hospitality is usually not a gift.**<sup>x</sup>

Hospitality (including food, beverages, or occasional lodging) is not a gift if provided to a UC employee by a host in his or her home when the host or a member of the host's family is present.

4. **Reimbursement for travel or per diem expenses provided to an employee by a state, local, or federal government agency, or a bona fide non-profit entity exempt from taxation under section 501 subdivision (c)(3) of the Internal Revenue Code are not a gift.**<sup>xi</sup>

This includes when the University reimburses the UC employee for their business travel expenses.

5. **A discount or rebate in the normal course of business available to members of the public is not a gift.**<sup>xii</sup>

6. **Informational materials are not gifts.**<sup>xiii</sup> This includes books, videos, and admission to an informational conference (but does not except food or entertainment provided at the conference).

7. **Gifts returned to the donor or donated to a charity or government entity within 30 days without being claimed as a charitable deduction are not gifts.**<sup>xiv</sup> For donations to a charity, however, the employee should not hold a position in the charity.

8. **Paying for the gift within 30 days.** If the value of a gift exceeds a limit, triggers a conflict of interest, or UC employees does not want to report the gift on a Form 700, the employee may pay back the donor to reduce the value.

9. **Reciprocity may apply and reduce the value or existence of a gift to you.** "Reciprocity" regarding meals and other forms of entertainment may equate to a "pay-down" of a gift if done with an individual donor and the employee participates in repeated social events. Reciprocity does not apply if the single gift or meal to the employee is in excess of the \$470 gift limit amount.<sup>xv</sup>

**10. Personalized plaques and trophies valued at less than \$250 are not gifts.<sup>xvi</sup>**

**11. Presents exchanged on special occasions are usually not gifts.**

Gifts, such as meals or presents, exchanged between a UC employee and another person on holidays, birthdays, or similar occasions are not gifts to the employee provided that the presents exchanged are not substantially disproportionate in value.<sup>xvii</sup> This exception does not apply to “Placement Agents” who do business with the UC Office of the Chief Investment Officer.

**12. Prizes and awards from bona fide competitions not related to the employee’s UC status are not gifts, but are reported on the Form 700 as income.<sup>xviii</sup>**

**13. Two tickets to 501(c)(3) or political fundraising events are not gifts.<sup>xix</sup>**

**14. Catastrophic or emergency leave program credits are not gifts.<sup>xx</sup>**

**15. Assistance received in connection with a disaster relief program are not gifts.<sup>xxi</sup>**

**16. Meals received in the course of the university’s official fundraising activity are not gifts.<sup>xxii</sup>**

**17. Benefits received from a long-time personal friend where the gift is unrelated to the employee’s UC duties.**

The exception does not apply if the individual providing the benefit to the UC employee is involved in some manner with business before the employee.<sup>xxiii</sup>

**18. Benefits received from an individual, where it is clear that the gift was made because of an existing personal or business relationship unrelated to the UC employee’s position and there is no evidence whatsoever at the time the gift is made that the employee participates in making University decisions that may affect the giver of the gift.<sup>xxiv</sup>**

**19. Certain gifts reported on FPPC Forms 801 or 802 are also exempt.**

The proper use of this exemption goes beyond the scope of this guidance. Contact campus counsel, campus conflict of interest coordinators, or the Office of General Counsel prior to receipt of the gift for details.



## **VII. Reductions to the value of a gift for purposes of the gift limits**

The value of the following gifts are excluded from calculating a Designated Employees' dollar value limitation on gifts. Remember only gifts from sources included in the Designated Employees' assigned disclosure category are subject to the value limitations. (Even if exempt from the dollar value limits, these gifts can trigger reporting and disqualification obligations.)

1. Certain free transportation and related meals and lodging reasonably related to a legislative or governmental purpose, or to an issue of State, national or international public policy if: (i) provided by a domestic or foreign governmental agency, a bona fide educational institution, a non-profit charitable or religious organization exempt from taxation, or a similar foreign entity which would substantially satisfy U.S. requirements for tax exempt status; or (ii) the travel is in connection with a speech, participating in a panel or seminar, or providing a similar service.<sup>xxv</sup> Check with the Office of General Counsel to see if this exception applies.
2. Travel and related meals and lodging provided by the University are exempt from the value limitations.<sup>xxvi</sup>
3. Travel and related meals and lodging are exempt if they are reasonably necessary in connection with the practice of a separate bona fide business, trade or profession, and payment for them would satisfy the criteria for deduction as a business expense for Federal income tax purposes.<sup>xxvii</sup> This exemption applies travel related to a side business a UC employee might have.

## **VIII. Prohibition on acceptance of "honoraria" (Not Applicable to Regents)**

The Political Reform Act prohibits a Designated Employee from accepting an honorarium in any amount if the employee would be required to report the receipt of income or gifts from the source on his or her Form 700.<sup>xxviii</sup>

Honoraria received by a faculty member or researcher for work in his or her academic area are exempt from the prohibition. See below at (2)(iii).

### **1. Definition of "honorarium."**

"Honorarium" means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal or like gathering.<sup>xxix</sup>

### **2. Exceptions to the prohibition on receiving honoraria.**

The following payments are not honoraria and are therefore excluded

from the prohibition on acceptance of honoraria.

- i. Payments that would be excluded from the definition of a gift, as discussed in Section VI.
  - ii. Complimentary admission to an event or the cost of a meal.<sup>xxx</sup> Note however that the meal cost could still trigger disclosure or disqualification.
  - iii. Payments for services in connection with a separate “bona fide profession” as defined by FPPC regulation. For example, payments for articles and speeches for a by faculty or researchers in their area of work is not considered honoraria because they fall in the bona fide profession exception.<sup>xxxii</sup> This exception also applies to honoraria from work in a side business outside the University. Note however that these payments could still require disclosure or disqualification.
- 3. Return of honoraria in 30 days negates acceptance.**<sup>xxxii</sup> Or in the alternative, the UC employee may accept an honorarium and donate it to the state Controller of the State of California without taking a personal income tax deduction.
- 4. Direct payment to nonprofit, including the University, permitted.**

A proposed payment for a speech etc., is not prohibited if (1) the donor makes a donation directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, including the University, and not delivered to the UC employee; (2) the UC employee does not make the donation a condition for his or her speech, article, or attendance; (3) the UC employee does not claim the donation as a deduction from income for tax purposes; (4) the donation will have no reasonably foreseeable financial effect on the UC employee, or on any member of his or her immediate family; and (5) the UC employee is not identified to nonprofit organization in connection with the donation. If the UC employee knows or has reason to know that a donor intends to make such a donation, the UC employee must inform the donor that the donation cannot be made in the UC employee's name.<sup>xxxiii</sup>

This is a complicated exception and should be utilized only after with consultation with counsel.

## **IX. Related Information**

See Fair Political Practices Commission “Limitations and Restrictions on Gifts, Honoraria, Travel and Loans:

<http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Public%20Officials%20and%20Employees/3.7.2.1%20StateGiftFactSheet2015.pdf> for further guidance

## **X. Revision History**

This guidance was last revised January 24, 2001 entitled Policy and Guidelines Regarding Acceptance of Gifts and Gratuities By Employees Under California’s Political Reform Act.”

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- i See 2 California Code Regs. tit. 2, §18755, and the 700-U form at <http://www.fppc.ca.gov/forms/700-14-15/700-U-14-15.pdf>.
  - ii Gov. Code §§ 87100 and 87103, subd. (e). Cal. Code Regs., tit. 2, § 18702.1
  - iii Cal. Code Regs, tit. 2, §§ 18705.4; see also §§18705 - 18705.5
  - iv Cal. Code Reg., tit. 2, §18944.1
  - v See Gov. Code § 89503, subd. (e)(2)
  - vi Cal. Code Reg., tit. 2, §18942(b)(2)
  - vii Gov. Code § 82029
  - viii Gov. Code § 82028, subd. (b)(3)
  - ix Gov. Code § 82028, subd. (b)(5)
  - x Cal. Code Regs., tit. 2, §18942, subd. (a)(7)
  - xi Gov. Code § 82030, subd. (b)(2)
  - xii Gov. Code § 82028, subd. (a)
  - xiii Gov. Code § 82028, subd. (b)(1)
  - xiv Gov. Code § 82028, subd. (b)(2); Cal. Code Regs., tit. 2, § 18941
  - xv Cal. Code Regs., tit. 2, §18942(a)(8)(B)
  - xvi Gov. Code § 82028, subd. (b)(6)
  - xvii Cal. Code Regs., tit. 2, §18942, subd. (a)(8)
  - xviii Cal. Code Regs., tit. 2, § 18942(a)(14)
  - xix Cal. Code Regs., tit. 2, § 18946.4
  - xx Cal. Code Regs., tit. 2, § 18942, subd. (a)(9)
  - xxi Cal. Code Regs., tit. 2, § 18942, subd. (a)(10)
  - xxii Cal. Code Regs., tit. 2, § 18944, subd. (e)
  - xxiii Cal. Code Regs., tit. 2, § 18942(a)(18)(C).
  - xxiv Cal. Code Regs., tit. 2, § Regulation 18942(a)(19).
  - xxv Gov. Code § 89506(a)
  - xxvi Gov. Code § 82030
  - xxvii Cal. Code Regs, tit. 2, §18950.2
  - xxviii Gov. Code Code § 89502, subds. (c) and (d)
  - xxix Gov. Code § 89501, subd. (a)
  - xxx Cal. Code Regs., tit. 2, § 18932.4, subd. (e)
  - xxxi See Cal. Code Regs., tit. 2, § 18932.1
  - xxxii Cal. Code Regs, tit. 2, § 18933
  - xxxiii Cal. Code Regs, tit. 2, § 18932.