

## Making the Leap to Public Service:



### What to Know about Ethics Laws *Before* You Are Elected or Appointed

8/2012

As a person considering public office, you face an important decision. Public service offers the opportunity to address real community problems and help shape the community's future. Public service also requires courage and personal sacrifice. You will be asked to make difficult and sometimes unpopular decisions. Your actions will be scrutinized as never before. The law and the public's expectations are likely to affect what you can do or not do to a greater extent than you are used to— particularly as it relates to ethics. This pamphlet alerts you to issues that can arise under public service ethics laws. Being aware of these issues *before* you seek or assume office helps you determine whether this is the right time in your life for public service.

#### Why Thinking Ahead Is Wise



Understanding public service ethics laws and principles can help you:

- \* Identify and address potential sources of problems before you commit to seeking public office.
- \* Make an informed decision about the particular office you seek.
- \* Make a positive difference in your community by maintaining your community's trust and confidence in your leadership.
- \* Avoid illegal or embarrassing situations that can be personally costly.

Taking the time to acquaint yourself with the relevant laws can go a long way toward helping you avoid future headaches.

#### **The Law is a Floor, Not a Ceiling**

Laws are *minimum* standards. The public expects public officials to set their sights well above the minimum standards of the law.

## Transparency Laws

The public trusts decision-making and other processes that it can observe. Public officials thus operate in a fishbowl than private individuals are accustomed to.

Elements of this fishbowl often include public officials having to:

- ⇒ Share periodic information about their private financial interests.
- ⇒ Conduct the public's business in open and publicized meetings at which the public has the right to speak.
- ⇒ Allow access to agency written information and communications.
- ⇒ Disclose information about significant (\$5,000 or more) fundraising efforts for worthy causes.



## Fair Process Laws

Other ethics laws are built on the notion public agency decisions should be made on their merits, without favoritism. This means that public officials:

- \* Cannot simultaneously hold certain public offices or engage in other outside activities that would subject them to conflicting loyalties.
- \* Cannot participate in entitlement proceedings on appointed bodies – such as land use permits – involving campaign contributors.
- \* Cannot solicit campaign contributions of more than \$250 while sitting on appointed bodies from permit applicants while an application is pending and for three months after a decision.
- \* Cannot participate in quasi-judicial proceedings (when they are applying agency policies to specific situations, such as permit entitlements) in which they have and/or have expressed strong personal or subject matter biases.
- \* Cannot participate in decisions that will affect their immediate family (defined as spouse/domestic partner or dependent children). (However, an appearance of impropriety may also prevent an officeholder from participating in decision affecting parents, independent children and siblings.)
- \* Cannot ask agency staff for campaign contributions and should not ask staff to support their candidacies.

## Decision-Making in the Public Interest

The notion behind laws prohibiting private financial gain is that public officials' economic interests cannot even *appear* to influence their governmental decisions.

For example, public officials usually:

- \* Must disqualify themselves from decisions that may affect (positively or negatively) their economic interests; relevant kinds of economic interests include real property, sources of income (such as employers, customers and clients) and investments.
- \* May not benefit from contracts when the contract comes before their agency for decision.

In addition, promising to take a certain governmental action in exchange for something (including money, gifts or campaign contributions) is a crime.



## Perks of Office

The law strictly limits the degree to which an officeholder can receive benefits relating (or appearing to relate) to his or her status as a public official. Generally speaking, public officials:

- \* Receive limited (sometimes no) compensation and expense reimbursement for their public service activities.
- \* Must disclose gifts (including meals, sporting events, concerts and travel) received of \$50 or more and may not receive gifts aggregating over a certain amount from a single source in a given year. (Note: local regulations may be more restrictive.)
- \* Cannot be paid for speaking, writing an article or attending a conference.
- \* Cannot receive loans over \$250 from those within the agency or those who do business with the agency.
- \* Face severe penalties if they use public resources (including agency staff time and equipment) for either personal or political purposes.

## Determine the Impact of These Laws on You

These laws are extraordinarily complex. For more information about ethics laws in general, visit [www.ca-ilg.org/EthicsLaws](http://www.ca-ilg.org/EthicsLaws).

There are several steps you can take to make a preliminary assessment of how these laws will affect you, based on your activities and assets.

- ⇒ Step 1: Understand the Duties and Roles of the Office You Seek.
- ⇒ Step 2: Think About How These Responsibilities Might Affect You.
- ⇒ Step 3: Determine Whether You Would Benefit from More Information on How the Law Would Affect Your Public Service.

For more information on how to take these steps, visit [www.ca-ilg.org/CandidatePamphlet](http://www.ca-ilg.org/CandidatePamphlet).

Although going through these steps is no substitute for legal advice, doing so will give you a better sense of whether it is realistic for you to serve and what you want to talk with an attorney about.

## Thank You for Your Interest in Public Service

As a person considering public office, you face an important decision. Public service offers the opportunity to address real community problems and help shape the community's future. Public service also requires courage and personal sacrifice. You will be asked to make difficult and sometimes unpopular decisions. Your actions will be scrutinized as never before. The law and the public's expectations are likely to affect what you can do or not do to a greater extent than you are used to— particularly as it relates to ethics. This pamphlet alerts you to issues that can arise under public service ethics laws. Being aware of these issues *before* you seek or assume office helps you determine whether this is the right time in your life for public service.

### About the Institute for Local Government

The Institute's mission is to promote good government at the local level with practical, impartial and easy-to-use materials. The Institute is the research affiliate of the League of California Cities and the California State Association of Counties.

[www.ca-ilg.org](http://www.ca-ilg.org)