CalPERS Board of Administration Gift Policy

Background

In general, the receipt of material gifts by members of the CalPERS Board of Administration may be perceived as creating a potential conflict with the interests CalPERS is committed to place above all others — the interests of CalPERS members. CalPERS members and the public may perceive such gifts as creating a conflict of interest or an attempt to influence or reward official government actions and decisions. The Report of the CalPERS Special Review by Steptoe & Johnson LLP emphasized "the corrosive effect on CalPERS' reputation" of the gift issues it had faced, and stated, "Whether a free dinner, an expensive bottle of wine or a trip overseas, the acceptance of these types of gifts raises issues that vary only by degree. These are serious issues, and CalPERS should take the lead in making sure that no one can ever claim in the future that a decision at CalPERS was swayed by the receipt of a gift, no matter how small." In addition, the adoption and disclosure by the CalPERS Board of an explicit policy concerning the receipt of gifts is both recommended and noted as a leading practice by Achieving the Right Balance, CalPERS Board Governance Study, Final Report, September 2011, by Funston Advisory Services LCC. On the other hand, Board members may be in situations where they are conducting business on behalf of CalPERS and accept a de minimus gift incidental to this business. In order to ensure that Board members do not accept a gift that may be perceived as creating a potential conflict with the interests of CalPERS members, the CalPERS Board establishes for its members and representatives an annual gift limit of $50.

CalPERS Policy

Members of the CalPERS Board of Administration shall not accept gifts with an aggregate value in excess of $50 during a calendar year from one source that is any of the following:

(1) any person or entity:

a. doing business with CalPERS;
b. seeking to do business with CalPERS; or
c. that is the type of entity that does business with CalPERS (e.g., any law firm, any health services provider, or any information technology company, even if the entity is not currently doing or seeking to do business with CalPERS); or

(2) a finder, solicitor, marketer, consultant, broker, placement agent or other intermediary of such an entity.

A source does not include any of the following:

(1) A trade association or entity organized and operated for charitable, scientific, educational, philanthropic, social welfare, employee association or similar purposes (e.g., Council of Institutional Investors, National Association of Public Pension Attorneys, Stanford Institutional Investors Forum, Pacific Pension Institute, CERES, International Corporate Governance Network, etc.), if the only business that CalPERS conducts with the entity is the payment of membership dues or fees to them;

(2) An advisory committee of a governmental agency of which CalPERS is a member; or

(3) An entity that issues publicly-traded securities, provided that the only business that CalPERS does with the company is the purchase, holding, or sale of such a security. The term "doing business" means a contractual or other transactional relationship between any person or entity and CalPERS.

The term "gift" has the same meaning as the term is defined in Government Code Section 82028 and as interpreted by regulations and opinions issued by the Fair Political Practices Commission. (See, Limitations and Restrictions on Gifts, Honoraria, Travel and Loans, dated March 2012, attached. Board members are counseled to refer to the most current version of this publication, which is available at www.fppc.ca.gov.)

This policy does not replace or supersede the provisions and requirements of the Political Reform Act or regulations promulgated thereunder. Board members remain subject to the annual gift limit under Government Code section 89503, and the requirement to report gifts of $50 or more and multiple gifts totaling $50 or more from a single source.

Resources

Government Code Section 82028

Fair Political Practices Commission – Gift Fact Sheet

Effective Date

This Gift Policy is effective April 18, 2012.