State of California DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125 P.O. BOX 944255 SACRAMENTO, CA 94244-2550

# **Ethics Training for Local Government Officials**

Government Code section 53235 requires ethics training for specified local government officials. The training can consist of self-study materials, an online course, or in-person training. The Attorney General's Office anticipates that an online training course may be developed to satisfy core curriculum requirements, but additional local training would still be necessary to address purely local issues.

Persons wishing to create a local ethics training course must consult with the Attorney General and the Fair Political Practices Commission concerning the sufficiency and accuracy of course content. (Gov. Code, § 53235, subd. (c).) In response to this requirement for consultation with the Attorney General, the following outline has been prepared to provide uniform guidance from the Office of the Attorney General regarding appropriate course content. The outline also provides links to relevant educational materials regarding ethics. Due to the demand for ethics training, it is anticipated that the Office of the Attorney General will be unable to review and comment on individual course materials. This outline provides uniform guidance, but the course preparer must be familiar with applicable law and the publications issued by the Attorney General and the Fair Political Practices Commission.

Of course, review of this outline and/or the linked materials, or completion of an ethics course, is no substitute for competent legal advice in a given situation. You should seek the advice of counsel if you have a specific legal question.

## **Curriculum Accuracy**

For in-person training, the ethics law portion of any course should be delivered by an attorney licensed to practice law in California and knowledgeable about California's ethics laws. (For online and self-study training materials, the course should be prepared under the supervision of such an attorney.)

All course content should comply with the ethics laws contained in California's Constitution, statutes and common law. In addition, the course content should be consistent with the publications issued by the Office of the Attorney General, including, but not necessarily limited to, publications on conflicts of interest, the Brown Act and the Public Records Act. (See the "Publications" link on the Attorney General's web site.) Course content should also comply with the informational materials issued by the Fair Political Practices Commission, which are available at <u>www.fppc.ca.gov</u>

## **Course Sufficiency**

Local government officials must receive training in two areas. Instruction should be provided on general ethics principles (Gov. Code, § 53235, subd. (d)), and the training must provide a brief summary of specific laws concerning conflicts of interests, perquisites of office and government transparency.

## **General Ethics Principles**

The discussion of general ethical principles should include the manner in which values such as trustworthiness, respect, fairness and responsibility promote public trust in government. It should also include the importance of avoiding even the appearance of impropriety.

#### **Conflicts of Interest, Perquisites of Office, Government Transparency**

The training regarding conflicts of interest, perquisites of office and governmental transparency should include the following:

- (1) Laws relating to personal financial gain by public servants, including, but not limited to:
  - (A) Laws prohibiting bribery (Pen. Code, § 68).
  - (B) Conflicts of Interest under the Political Reform Act (Gov. Code, §§ 87100, 87103).
  - (C) Contractual Conflicts of Interest (Gov. Code, § 1090 et seq.).
  - (D) Conflicts of Interest and Campaign Contributions (Gov. Code, § 84308).
  - (E) Conflicts of Interest When Leaving Office (Gov. Code, §§ 87406.3, 87407).
- (2) Laws relating to claiming perquisites of office, including, but not limited to:
  - (A) Limitations on the Receipt of Gifts (Gov. Code, §§ 86203, 89503, 89506).
  - (B) Honoraria Ban (Gov. Code, § 89502).
  - (C) Misuse of Public Funds (Pen. Code, § 424; Gov. Code, § 8314; Fair Political Practices Commission v. Suitt (1979) 90 Cal.App.3d 125; Stanson v. Mott (1976) 17 Cal.3d 206).
  - (D) Prohibitions against gifts of public funds (Cal. Const., art. XVI, § 6).
  - (E) Mass mailing restrictions (Gov. Code, § 89001).

- (F) Prohibitions against acceptance of free or discounted transportation by transportation companies (Cal. Const., art. XII, § 7).
- (3) Government transparency laws, including, but not limited to:
  - (A) Economic interest disclosure under the Political Reform Act (Gov. Code, §§ 87200 et seq.).
  - (B) Brown Act (Gov. Code, §§ 54950 et seq.).
  - (C) Public Records Act (Gov. Code, §§ 6250 et seq.).
- (4) Laws relating to fair processes, including, but not limited to:
  - (A) Common law bias prohibitions.
  - (B) Due process requirements.
  - (C) Doctrine of Incompatible Offices (Gov. Code, §§ 1099).
  - (D) Competitive bidding requirements for public contracts.
  - (E) Disqualification from participating in decisions affecting family members (anti-nepotism laws).

A self-study or online course should include testing to assess the official's retention of the information presented. (§ 53235, subd. (d).)

Both in-person and self-study training materials should refer participating local agency officials to additional resources to assure that the participating official has access to the full range of information required by these curriculum guidelines. These resources may be found on the Attorney General's webpage at <u>www.caag.state.ca.us</u>, the Fair Political Practices Commission webpage at <u>www.fppc.ca.gov</u>, and the Institute for Local Government at <u>www.caa\_ilg.org/AB1234Compliance</u>.

Once the initial ethics training has been completed, agencies may wish to focus more intensely on specific areas of concern in subsequent training sessions and provide a more cursory review of the enumerated laws. We recognize that the two hours of mandatory training is a basic minimum, and encourage agencies to provide additional training throughout the year in order to promote ethical and transparent government at the local level.

# **Training Deadlines**

**Initial Compliance Period:** Local agency officials in local agency service as of January 1, 2006 (except for officials whose term of office ends before January 1, 2007), must complete their training by December 31, 2006. For local agency officials who commence service after January 1, 2006, they must complete their training by no later than one year after their first day of service in public office.<sup>1</sup>

**Subsequent Compliance Periods:** After the initial training, each official must complete a training course once in each subsequent two-year period.

# **Learning Objectives**

The Attorney General would encourage every course preparer to assure that his or her course content will satisfy the following desirable objectives:

- (1) Alert officials to the kinds of financial interests, relationships and/or activities that may either be prohibited or trigger disclosure or disqualification obligations under ethics laws described in Government Code section 53234(d).
- (2) Advise officials to 1) avoid prohibited activities, 2) comply with disclosure, disqualification and other affirmative ethics law requirements, and 3) consult with qualified legal counsel and/or regulatory authorities regarding the specifics of any situation that may involve prohibited or required conduct.
- (3) Note that ethics laws create minimum standards for ethical conduct by public officials; the public's expectations and ethics principles are likely to create a higher standard for behavior.
- (4) Advise participants of the legal and other consequences of violating ethics laws.
- (5) Include examples of conduct scenarios that are covered by the ethics laws in question.

<sup>&</sup>lt;sup>1</sup> Government Code section 53235.1(b) provides as follows:

Each local agency official who commences service with a local agency on or after January 1, 2006, shall receive the training required by subdivision (a) of Section 53235 no later than one year from the first day of service with the local agency.

# **Proof of Participation**

Government Code section 53235.2 requires local agency officials to maintain records that indicate both the dates of training and the entity that provided the training. These records are disclosable public records and must be maintained for five years after the training.