

RESOLUTION NO. 2009-296

Adopted by the Sacramento City Council

May 19, 2009

ESTABLISHING CITY POLICY ON DISTRIBUTION, USE AND REPORTING OF TICKETS AND PASSES

BACKGROUND

- A. In December 2008, the Fair Political Practices Commission ("FPPC") amended Regulation 18944.1 pertaining to tickets and passes received by public agencies and distributed to public officials. The amended FPPC Regulation 18944.1 became effective February 7, 2009.
- B. FPPC Regulation 18944.1 now requires that unless city officials and employees report the value of the tickets or passes they receive as income or gifts, the tickets may only be distributed in accordance with a written policy adopted by the City Council. The written policy must be in compliance with the requirements set forth in FPPC Regulation 18944.1.
- C. Tickets or passes distributed pursuant to a written policy must be reported on a new FPPC Form 802, which tracks the number of tickets or passes, who they were distributed to, their value, and the public purposes served by the distribution and use of the tickets or passes. A copy of Form 802 is attached to the proposed policy.
- D. The written policy and the completed Form 802 are required to be prominently posted on the City's website.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Policy on Distribution, Use and Reporting of Tickets and Passes attached hereto as Exhibit A is hereby adopted.

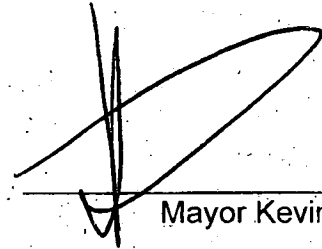
Adopted by the City of Sacramento City Council on May 19, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy,
Tretheway, Waters, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:


Shirley Concolino, City Clerk

Attachment 2 – Exhibit A

(Regulations of the Fair Political Practices Commission Title 2, Division 6, California Code of Regulations)

§ 18944.1. *Gifts: Tickets or Passes to Events.*

For purposes of this regulation "ticket or pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

(a) Ticket or pass provided by source other than official's agency. A ticket or pass provided to an official for his or her admission to an event at which the official performs a ceremonial role or function on behalf of the agency is not a gift to the official.

(b) Ticket or pass provided to official by official's agency.

(1) When an agency provides a ticket or pass to an official of that agency, the ticket or pass is not subject to the provisions of this regulation, provided that the official treats the ticket or pass as income consistent with applicable state and federal income tax laws and the agency reports the distribution of the ticket or pass as income to the official in complying with the provisions of subdivision (d) below.

(2) When an agency provides a ticket or pass to a public official that otherwise meets the definition of gift under Section 82028 and is not exempt under applicable Commission regulations, the official will meet the burden under Section 82028 that equal or greater value has been provided in exchange therefor, provided that all of the following requirements are met:

(A) With respect to a ticket or pass from an outside source provided to an official by the official's agency:

(i) The ticket or pass is not earmarked by the original source for use by the agency official who uses the ticket or pass;

(ii) The agency determines, in its sole discretion, which official may use the ticket or pass.

(iii) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency in accordance with subdivision (c) below.

(B) With respect to a ticket or pass provided by the official's agency to an agency official, which ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) that is purchased by the agency at fair market value, the distribution of the ticket or pass is made in accordance with subdivision (c) below.

(c) Any distribution of tickets or passes under subdivision (b)(2) by an agency to, or at the behest of, its officials must be made pursuant to a written policy duly adopted by legislative or governing body of the agency that state the public purposes to be accomplished by the agency policy. If the agency maintains a website, the written policy shall be posted on the website in a prominent fashion. The written policy shall contain, at a minimum, the following:

(1) a provision setting forth the public purposes of the agency to be accomplished by the distribution of tickets or passes;

(2) a provision requiring that the distribution of any ticket or pass by the agency to, or at the behest of, an official accomplish a public purpose of the agency; and

(3) a provision prohibiting the transfer by any official of any ticket or pass, distributed to such official pursuant to the agency policy, to any other person, except to members of the official's immediate family solely for their personal use.

(d) The distribution of a ticket or pass pursuant to this regulation, including a ticket or pass that is provided to the official under subdivision (b)(1) above, shall be posted, on a form

provided by the Commission, in a prominent fashion on the agency's website, within 30 days after the distribution. If the agency does not maintain a website, the form shall be maintained as a public record, be subject to inspection and copying under Section 81008(a), and be forwarded to the Commission for posting on its website. The posting shall include the following:

(1) the name of the person receiving the ticket or pass, except that if the ticket or pass is distributed to an organization outside the agency, the agency may post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization;

(2) a description of the event;

(3) the date of the event;

(4) the face value of the ticket or pass;

(5) the number of tickets or passes provided to each person;

(6) if the ticket or pass is behested, the name of the official who behested the ticket or pass; and

(7) a description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.

(e) The Commission recognizes the discretion of the legislative or governing body of an agency to determine whether the distribution of a ticket or pass serves a legitimate public purpose of the agency, provided the determination is consistent with state law.

(f) The provisions of subdivision (b) apply only to the benefits the official receives by the admission and are not applicable to any other benefits the official may receive that are not included with the admission, such as food or beverages, or any other item presented to the official at the event.

Note: Authority cited: Section 83112, Government Code. Reference: Section 82028,
Government Code.

HISTORY

1. Renumbering of former section 18726.7 to section 18944.1 with amendment of section heading filed 6-22-94; operative 6-22-94 (Register 94, No. 25).
2. Change without regulatory effect relocating section, filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of first paragraph and subsections (a)-(b) and (d)-(e) filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
4. Repealer and new section filed 1-8-2009; operative 2-7-2009. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil 010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPFC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2009, No. 2).