

# UC LEGAL - OFFICE OF THE GENERAL COUNSEL

## GOVERNANCE – *Introduction to the Disqualification Rule (August 2023)*

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### The Disqualification Rule of the California Political Reform Act

All University employees, even if they are not Statement of Economic Interest (Form 700 & 700-U) filers, are subject to the disqualification rule of the Political Reform Act (“Act”). This is consistent with one of the purposes of the Act, which is to prevent the personal interests of public employees from influencing the decisions they make for their agencies.

- **The General Disqualification Rule:** University employees are required to disqualify themselves from making, participating in making or influencing University decisions in which they have a disqualifying conflict of interest. (2 Cal. Code of Regs. §18700.)<sup>1</sup>
  - \* For example, if you are involved in the selection process for a University RFP, and you are on the Board of Directors of a for-profit company that plans to submit a bid in response to the RFP, you may have to disqualify yourself from participating in the RFP selection process.

#### A. What is a Financial Interest under the Act?

There are many complex rules on how to determine whether you have a disqualifying **conflict of interest**. The Political Reform Act’s disqualification rule depends upon the effect a UC decision will have on an employee’s financial interests. Only **certain types of financial interests** of a UC employee will **trigger a disqualification analysis** under the Act, and merely having one of these interests does not automatically disqualify you from a UC decision. As a starting point, the following list describes financial interests under the Political Reform Act (Cal. Gov’t Code § 87103; 2 C.C.R. § 18700(c)(6)). If any one of the following could be affected by a University decision that you make, participate in, or influence, you may need to disqualify yourself from making, participating or influencing that decision:

1. Any **person or organization that gave or promised you income** totaling **\$500 or more** within twelve months prior to the University decision;
2. Any **person or organization** that gave or promised you **gifts** totaling **\$590 or more** within twelve months prior to the University decision;
3. Any **real property** in which you or your spouse or domestic partner or dependent children have an interest worth **\$2,000 or more**;

<sup>1</sup> Certain decisions made by those with teaching or research responsibilities are exempt from the General Disqualification Rule. This exemption applies only to teaching decisions and to certain decisions related to academic study or research. (2 Cal. Code of Regs. §18704 (d)(5).)

4. Any **business entity** in which you are a director, officer, partner, trustee, or employee, or **hold any position of management**;
5. Any **business entity** in which you or your spouse or domestic partner or dependent children have an **investment worth \$2,000 or more**;
6. Your personal finances (and those of you or your spouse or domestic partner or dependent children) – if you or your spouse or domestic partner or dependent children will receive a \$500 financial benefit or loss from a University decision during any 12 month period. (Cal. Gov't Code § 87103; 2 C.C.R. § 18702.5)

## **B. What does it mean to Make, Participate, or Influence a University decision?**

- If you have one of the **financial interests** listed above, **and** you are faced with **making, participating in making, or influencing a UC decision** that could **affect** one of those **financial interests**, you **may need to disqualify yourself from** being involved in that decision.
  1. **Making a Decision** (2 Cal. Code of Regs. §18704(a).)
    - \* Among other things, making a University decision includes voting on a matter, appointing a person to a position, or entering into a contract on behalf of the University. Deciding not to do any of these things is also “making a decision.”
  2. **Participating in a Decision** (2 Cal. Code of Regs. §18704(b).)
    - \* Among other things, participating in a University decision includes giving advice or making recommendations to the decision-maker.
  3. **Influencing a Decision** (2 Cal. Code of Regs. §18704(c).)
    - \* Among other things, if an employee communicates with anyone within the University for the purpose of influencing a University decision, that employee is attempting to influence a University decision.
- **Whether there is an actual conflict of interest requires further legal analysis of foreseeability and materiality. These can be complex calculations and require that you consult with counsel. If your financial interest is directly affected by the decision, these elements are likely met.**
- **If you violate the Political Reform Act, you could personally face civil or criminal penalties.**
- **The Political Reform Act's disqualification rules are designed to be applied on a **decision-by-decision** basis. **The Office of the General Counsel** can advise you with respect to a specific situation.**

### **More Information:**

[Your Campus Counsel](#) or [Campus Conflict of Interest Coordinator](#). OGC Governance Group (Mark Morodomi and David Zonana)