# ETHICS GUIDE FOR LONG BEACH CITY OFFICIALS & EMPLOYEES

- *Ethics*
- *Accepting Gifts*
- *Conflicts of Interest*
- *Financial Disclosure*
- *Use of City Tickets*
- *Political Activities*
- *Brown Act*
- *Public Records Act*
- *Restrictions on Public Mailings*
- *"Revolving Door" Restrictions*
- *Fraud Prevention and Reporting Policy*

*Prepared by the Office of the Long Beach City Attorney*
**CHARLES PARKIN, City Attorney**

*March 2015*

# INTRODUCTION

Thank you for your service and commitment to the citizens of the City of Long Beach. The goal of this Handbook is to increase your awareness of the ethics, conflict of interest and open meeting laws which will govern your service, and to provide you with information about how to seek advice on these matters from the Office of the City Attorney. This 2015 revision of the Ethics Guide has been updated to include the Fraud Prevention and Reporting Policy.

Very truly yours,

Charles Parkin

Charles Parkin, City Attorney

# ANY TIME YOU NEED ASSISTANCE

The information provided here describes these regulations in general and encourages City employees, officers and commission members to remain aware of potential ethics, conflict of interest and open meeting issues. The law in this area is sometimes complex and legal advice is always dependent on the specific facts of a given situation. Therefore, it may be necessary for you to seek legal advice regarding your specific situation. For additional information please contact:

Office of the City Attorney
333 W. Ocean Boulevard, 11th Floor
Long Beach, California 90802

Telephone: (562) 570-2200
Facsimile: (562) 436-1579
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This Guide is available at the Long Beach City Attorney's Web site:

**http://www.longbeach.gov/attorney**

# TABLE OF CONTENTS


| | |
|---|---|
| Code of Ethics | 1 |
| Ethics Training | 2 |
| Accepting Gifts | 3 |
| Conflicts of Interests | 8 |
| Financial Disclosure | 12 |
| Use of City Tickets | 17 |
| Political Activity | 18 |
| Brown Act | 20 |
| Public Records Act | 26 |
| Restrictions on Public Meetings | 27 |
| "Revolving Door" Restrictions | 29 |
| Fraud Prevention and Reporting Policy | 30 |

# CODE OF ETHICS

On February 6, 2003, the City Council of the City of Long Beach adopted a Code of Ethics, which applies to City employees, officers and commission members. This Code requires that all employees, officers and commission members shall pledge:

- To place the best interests of the City above all other interests.
- To uphold all laws, regulations and policies.
- To take no action for the purpose of benefiting the official or employee personally.
- To make every effort to avoid a conflict of interest.
- To avoid disclosure of confidential information obtained in the performance of his or her duties or in his or her official capacity.
- To exercise prudence and good judgment at all times.
- To be fair, impartial, and unbiased in the decision-making process.
- To treat each other and the public with respect.

# ETHICS TRAINING

State law now requires that certain City officials participate in ethics training.

**Who is Required to Receive Ethics Training?**

All elected officials, commission, and advisory board members are required to participate in such training. Failure to complete this requirement will result in dismissal from the board or commission.

**How Often is the Training Required?**

Two hours of training are required for every two years of service on the commission or advisory board.

**What Topics are Included in the Training?**

The required topics are general ethical principals, laws relating to personal financial gain by public servants, perks of office, and government transparency laws, among other topics.

**How do I Sign up for the Training?**

Please contact the Long Beach City Clerk's Office for details on the City-provided training. Please note that you are responsible for providing a Certificate of Participation in the training, which will be kept on file in the City Clerk's Office.

**Can I Complete the Training On-Line?**

Yes. You can go to **http://www.localethics.fppc.ca.gov.** and follow the direction posted there. Please remember to print out your Certificate of Participation and mail it to the City Clerk's Office.

# ACCEPTING GIFTS

The state's Political Reform Act regulates your receipt of certain gifts. These laws apply to all persons required to file a Statement of Economic Interests - Form 700. It is important for you to be familiar with these laws because accepting a prohibited gift may subject you to penalties and may require the City to void contracts if a conflict of interest has occurred.

## What is a Gift?

A "gift" is anything of value that you receive for which you do not provide monetary or other consideration of equal or greater value. A gift may include meals, tickets to sporting events, and rebates or discounts in the price of anything of value unless the rebate or discount is made in the regular course of business to any member of the public without regard to official status. Any official who claims that he or she did not receive a gift because he or she provided consideration has the burden of proving that the consideration is worth as much as or more than the gift.

## Important Note For City Employees in City Manager Departments

City employees working in departments under the City Manager's jurisdiction are subject to restrictions on the acceptance of gifts **in addition** to those set forth below. Such employees **may not** accept passes or tickets to recreational or entertainment events, unless they are assigned to attend such events as part of their duties. Further, they **may not** accept gifts of consumable goods, such as food, drink and other products provided by someone actually or potentially involved with business with the City.

# ACCEPTING GIFTS

**Gift Restrictions for City Officials and Board Members**

You may *not* accept any gift intended to influence you in the performance of your official duties. In addition, those persons who are required to file statements of economic interests may not accept a gift or combination of gifts during the calendar year from a single source with a total value that exceeds **$460** (effective 1/1/15 – 12/31/16) if the gift is required to be reported on your statement of economic interests. A gift is required to be reported if the donor does business within the City of Long Beach.

**Gift Limits for Certain Officials**

If you are a City elected official, Planning Commissioner, City Manager, City Attorney or an official that manages the City's investments, you may not accept a gift from any source with a total value that exceeds $460.

**Accepting Honoraria**

Honoraria are gifts or payments received for speaking engagements, etc. There are complex regulations governing when honoraria may be accepted, so please contact the City Attorney's Office prior to accepting any honorarium.

**Public Disclosure of Gifts**

You must *publicly disclose* a gift you receive and its value if:

- the donor is a source described in your agency's Conflict of Interest Code; and
- the total value of all gifts you received from that source during the calendar year is at least **$50**.

If the exact dollar amount of a gift is unknown, you must report a good faith estimate of the item's fair market value on your statement of economic interests. Reporting the value as "over $50" or "value unknown" is not adequate disclosure. This disclosure should be made on your Statement of Economic Interests - Form 700.

# ACCEPTING GIFTS

## Exceptions to the Gift Limits

Items listed below are *not* subject to City or state gift limitations, and, if received, need *not* be disclosed on your statement of economic interests, except where noted.

- Gifts not used and returned or donated to charity or the City without being claimed as a tax deduction within thirty (30) days after acceptance.

- A single ticket to a fundraising event for a tax exempt 501(c)(3) non-profit organization, if it is provided by the non-profit organization, or a single ticket to a political fundraising event, if it is provided by the campaign committee.

- Gifts from family members (spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother or sister-in-law, nephew, niece, aunt, uncle, first cousin, or the spouse of any of these persons) or a partner in a bona fide dating relationship as long as they are not acting as intermediaries for restricted sources.

- Gifts to you or an immediate family member in connection with a non-recurring ceremonial event (e.g., wedding, bar mitzvah) valued at no more than $100.

- Informational material such as books, reports, pamphlets, calendars, seminars, or informational conferences exclusively for official or office use and valued at less than $250. (Note: travel is never informational material.)

- Items received from your union; food and beverage from another union if you are a member of a union.

- Personalized plaques and trophies valued at less than $250.

- Meals and lodging offered in an individual's home.
- Meals provided at an event at which you speak, participate in a seminar, or provide a similar service, only if paid for by a federal, state or local government agency (Form 801 must be filled out).
- Inheritances and bequests.

**Are Meals Considered Gifts?**

**Yes.** A meal is a gift, unless one of the exceptions to the gift limitation regulations applies. A meal provided to an official by an individual in his or her home when the individual or a member of the individual's immediate family (an individual's spouse and dependent children) is present is also not considered a gift.

**Are Invitations to Events Considered Gifts?**

**Yes.** An invitation or a ticket to an event is considered a gift, unless it is a political fundraiser or a fundraiser for an organization exempt from taxation (i.e., a charitable organization), and you have received a single ticket from the charity itself, or from the political committee itself. If the event is not exempt, the reportable value of the invitation or ticket is generally its face value. If there is no face value, the reportable value is the cost to the donor. It is your responsibility to contact the donor to ascertain the total per-person cost of the event. In other words, you must ask the person or entity hosting the event to determine your pro-rata share of the total cost, including food, beverages, entertainment, decorations, etc. As discussed below, if you give the invitation or ticket to someone else, you must still report it as a gift to you. In addition, if you take a guest with you to the event, you must report the value of two invitations/tickets. If a ticket or invitation is discarded or unused, it is not considered a gift.

**Are Raffle Prizes Considered Gifts?**

**Yes.** Any raffle prizes awarded to City employees donated by an entity other than the City of Long Beach or a fellow City employee, is a gift and must be reported as such.

# ACCEPTING GIFTS

**If a Gift is Given Away, Does it Still Count As A Gift?**

**Yes.** If you receive a gift and then give it to someone else or throw it away, it is *still* considered a gift to you.

**Gifts of Travel are Severely Restricted**

**Generally, you may not accept reimbursement for travel and related expenses from sources other than the City of Long Beach if traveling on official duty.** Some minor exceptions apply, and you should contact the City Attorney's Office for advice about how to proceed if such travel is offered. It is important to get advice, because if an outside entity pays for your travel, the travel must be reported, and in certain circumstances, is prohibited.

Travel that is offered to you as a gift is subject to the gift limits - even if offered to you in your personal life outside the scope of your official duties. In some cases, you may be prohibited from accepting a "gift of travel." For example, City officials may *not* accept a gift of travel from any transportation company, included, but not limited to, airlines, railroads, bus and shipping companies.

Exemptions to the gift limits may apply for certain types of travel offered to you depending on the destination and whether you are providing a service, such as making a speech, in exchange for the travel. In most instances, a Form 801 must be filled out by the employee and posted on the City's website. For information, please contact the Office of the City Attorney.

# CONFLICTS OF INTERESTS

Conflict of interest rules exist to reinforce public confidence that City officials, employees and commissioners are acting in the best interests of the public, and not in furtherance of their own self-interests. As a general rule, you should avoid situations where your official actions may affect or appear to affect your private interests, financial or non-financial.

For purposes of this Handbook, reference to "board members" includes City councilmembers, commission members and committee members.

## What is a Conflict of Interest?

You have a conflict of interest if your public actions as a City official, employee or board member affect your personal financial interests or the interests of your immediate family members. It does not matter whether the action has a negative or positive effect on the interest. Therefore, state law prohibits you from making, participating in making, or attempting to influence *any* government decision if it is reasonably foreseeable that the decision will have a material financial effect on any of your economic interests or those of an immediate family member.

### Decisions Related to Contracts

State law prohibits you from being financially interested in any City contract if your duties call on you to participate in any way or at any stage in the approval of the contract. Any participation (including discussion) in the process by which such a contract is developed, negotiated or executed is a violation of the law.

# CONFLICTS OF INTERESTS

**How Do I Know If I Have a Conflict?**

It can be difficult to determine whether you have a legal conflict of interest pursuant to state law. Therefore, you should *always* contact the City Attorney's Office if a question arises.

You may have a conflict of interest if:

- You are an officer, director, partner, employee, trustee or manager of a company with business before your department or board.
- You have an investment of $2,000 or more in a company with business before your department or board.
- You have an interest in real property of $2,000 or more and that real property is the subject matter of an item before your department or board. This includes leasehold interests that are longer than a "month-to-month" tenancy.
- You own or lease an interest in real property that is located within 500 feet of a property which is the subject matter of a decision before your department or board. (An "interest in real property" does not include a "month-to-month" tenancy.)
- You receive any income which totals $500 or more within the prior 12 months, from a person or entity with business before your department or board. Income includes loans or forgiveness of indebtedness.
- You receive a gift or gifts totaling $440 or more within the prior 12 months, from a person or entity with business before your department or board (gifts include rebates, discounts, free meals, free tickets or travel).

- You or someone that is a source of income to you ($500 or more within the prior 12 months) is the subject of a proceeding before your department or board.

- As a result of a decision before your department or board your personal finances or those of your immediate family will either increase or decrease in any manner.

Remember that if you are married, one-half of your spouse's income is deemed to be your income. Therefore, if your spouse has any of the interests described above, you will have a conflict of interest.

The City Attorney will work with you to determine if you have a conflict pursuant to City or state law and to determine whether you must "disqualify" yourself. Please note that the mere presence of one of the interests listed does not necessarily mean that you have a conflict. Since other factors may be involved, if there is any question you should consult with the City Attorney's Office.

## What Are the Remedies for Conflicts?

If a conflict of interest exists, you must be "disqualified" – meaning that you must **abstain** from making, participating in making, discussing or attempting to use your official position in any way to influence the government decision that might affect that personal interest. (If you are a Councilmember or a Planning Commissioner, you must also leave the room while the issue is being discussed.) Again, the City Attorney's Office will provide advice concerning the existence of a conflict and if disqualification is required. Further, there are circumstances when your entire board may be disqualified.

Please be aware that severe penalties may result for you and the City, if you do not abstain when appropriate.

**How Do I Disqualify Myself If I Have a Conflict of Interest?**

If disqualification on a meeting agenda item is required, you must **publicly disclose** the interest which is the subject of the potential conflict as well as the fact that you are disqualifying yourself from any participation in the decision. The disclosure may be made orally at the public meeting and/or in writing to the board secretary and must be made a part of the agency's official records (e.g., the minutes of the meeting.)

# FINANCIAL DISCLOSURE

State law requires that all cities adopt a Conflict of Interest Code, which requires that designated City employees and officials make a written disclosure of certain financial interests.

## What is a Conflict of Interest Code?

A Conflict of Interest Code is a set of rules and regulations adopted pursuant to California's Political Reform Act. Each Conflict of Interest Code designates positions required to file a **Statement of Economic Interests - Form 700**, and assigns disclosure categories specifying the types of interests to be reported.

The types of interests you must disclose depend upon the responsibilities of your designated position. The disclosure requirements may include the reporting of investments, business positions, interests in real property, income and other financial interests.

## How Do I Know I Must File a Statement of Economic Interests - Form 700?

If you are required to file, the City Clerk will notify you of this fact in writing immediately upon your commencement of service with the City.

## Why Do I Have To File a Statement of Economic Interests - Form 700?

California state law requires the filing of Statements of Economic Interests. The Act states that:

> "Assets and income of public officials which may be materially affected by their official actions should be disclosed (and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided)."

# FINANCIAL DISCLOSURE

All elected City officials, board and advisory committee members must file Statements of Economic Interests. Certain employees holding positions that involve making or participating in the making of decisions, which may foreseeably have a material effect on the employee's financial interests, must also file.

For more information on this subject, please review the FPPC guide, *Your Duty to File,* at:
**http://www.fppc.ca.gov/library/seibook9-04.pdf**

## When Do I Have To File?

The Statement of Economic Interests - Form 700 must be filed under the following circumstances:

- An **Initial** statement is required within 30 days after the date when an office or position has been added to a newly-adopted or newly-amended conflict of interest code.
- An **Assuming Office** statement is required within 30 days after the date when you take your new position.
- **Annual** statements are required by April 1 of each year, covering the preceding calendar year. If you assumed office on or after October 1st of that year, no annual statement is due until the following April.
- A **Leaving Office** statement is required within 30 days after the date you leave a designated position.

## Where Do I Have To File?

The completed Statement of Economic Interests - Form 700 must be received in the City Clerk Department, 333 W. Ocean Boulevard, Long Beach, CA 90802, on or before the filing deadline. Faxes are not accepted, and the Form 700 must include an original signature.

## How Do I Complete My Statement of Economic Interests?

This depends upon what interests you are required to disclose, and what interests you hold. The City Clerk will supply you with the Form 700 and the appropriate department's Conflict of Interest Code which outlines your disclosure categories.

- **Complete** the top section of the Cover Page of the Form 700 with your full name, mailing address (may be a business address), and daytime phone number.

  - **Section #1, Office, Agency or Court:** Put the name of the **department** you work for or your **board** or **commission** on the first line. On the second line, if you are in a department that is broken into divisions, please list your **division**. On the third line, put the **name of your position** as it appears in the Conflict of Interest Code.

    There are a few people who hold more than one designated position. They may file a single "expanded statement," which discloses all the interests required by them by each of their disclosure categories.

  - **Section #2:** Your **jurisdiction** is the City of Long Beach.

  - **Section #3:** You will be advised by letter of the type of statement, whether **Initial**, **Assuming**, **Annual**, or **Leaving**. If Initial, Assuming or Leaving, check the appropriate box and fill in the date.

  - **Period Covered:** For the Annual Statement, remember that you are disclosing information from the previous *calendar* year. For an Initial or Assuming statement, you are disclosing information from the year prior to your appointment date.

- Carefully **review your disclosure category** to determine if you have reportable interests.

- **Read the instructions** for each schedule of the Form 700, and be sure to use the appropriate schedule for each type of interest you must report. Put your name on each schedule you complete.

- When you have completed the appropriate schedule(s), go back to the Cover Page of the Form 700. Go to:

  - **Section #4, Schedule Summary:** If you have disclosed reportable interests on any of the schedules, **attach** them to the Cover Page. Please **check the appropriate box** or boxes in Section #4. You are confirming that one or more schedules are attached to the cover page and contain information that you are required by law to disclose.

  - You may have no interests of the type you are required to disclose, according to your conflict of interest code. **If you do not complete any schedules, check the "No Reportable Interests" box** and file only the completed and signed cover page with the City Clerk Department.

  - Indicate the total number of pages completed including the Cover Page.

  - **Section #5, Verification: You must date** and **sign** the cover page. *The Form 700 cannot be accepted without your original signature.*

**Who Will See My Form?**

Once filed, **the Form 700 - Statement of Economic Interests is a public document**, and must be made available to the public on request. Filers must sign the Form 700 under penalty of perjury.

**What Else Should I Know?**

**FILE ON TIME!** Late filers may face fines or other penalties. Persons who do not file within 30 days of specific written notice provided by the City Clerk may be removed from their positions.

**Where Do I Go For Help?**

Questions relating to the City of Long Beach's Conflict of Interest Code and local filing obligations should be directed to the City Clerk. Questions of a legal nature may be directed to the Office of the City Attorney.

An interactive version of the Statement of Economic Interests - Form 700 and more information relating the Political Reform Act is available from the Fair Political Practices Commission (FPPC) website at **www.fppc.ca.gov/**. You may also contact the Fair Political Practices Commission's toll free help line at (866) 275-3772. For more detailed information, see *How Do I Get Advice From the FPPC?* at:

**http://www.fppc.ca.gov/pdf/advice.pdf**

# USE OF CITY TICKETS

At various times, the City receives free tickets to sporting or entertainment events, either pursuant to a City contract or a donation from the event's sponsor. As a City official or employee, you may be offered the use of such tickets. However, you should be aware there are restrictions on who can use such tickets.

**Can I Use City Tickets to Events?**

Yes, however, your attendance at the event must (1) be authorized by the City's ticket policy, located on the City's website and (2) must serve a governmental or public purpose.

**If I Use the Tickets, What Do I Have to Do?**

Any use of City tickets will require the user to fill out a Form 802 within 30 days of the event. This form, which can be obtained from the City Manager's Office, lists the official's name, the event and the governmental or public purpose that was served by attendance at the event. The executed Form 802 must then be returned to the City, so that it can be made available to the public on the City's website.

For more information on the City's ticket policy, see:

**http://www.longbeach.gov/hr/policies/use_of_tickets_and_passes.asp**

# POLITICAL ACTIVITY

Laws governing the political activity of City officials have been established to: (1) safeguard public resources; (2) ensure the government remains nonpartisan and neutral in election matters; and (3) protect City employees from pressure to support or oppose candidates or ballot measures.

## What Is Prohibited Political Activity?

You **may not**:

- use or authorize the use of City offices, stationery, telephones, vehicles, equipment or any other City property for any campaign activity;
- engage in fundraising or other campaign activities during hours for which you are paid to conduct City business;
- knowingly solicit contributions for or against a political candidate or ballot measure from *any* City official or employee. Soliciting a contribution from the spouse of a City officer or employee is permissible so long as it is not a subterfuge for soliciting the City employee;
- permit yourself to be solicited for a campaign contribution by another City official or employee;
- receive, deliver, or attempt to deliver a political contribution in City Hall, any City office building, or in any office for which the City pays the majority of the rent.

# POLITICAL ACTIVITY

**What Is Permissible Political Activity?**

You **may**:

- perform volunteer work, endorse* candidates, and take a position on ballot measures, as long as these activities do not involve the use of City time, property, facilities or equipment;

- use your own funds to make political contributions, subject to applicable laws;

- solicit political contributions from persons *other* than City officials and employees on behalf of candidates or ballot measures.

- use City resources to provide unbiased, balanced, and factual information about the purposes, provisions and estimated impact of City, state and school district bond issues and ballot measures, as long as all views on the subject are equally presented. (Remember, however, that City funds may not be spent to urge the passage or defeat of any ballot measure.)

*City officials should make clear that they are acting as individuals and take *all* steps to avoid giving the impression that the City supports the candidate.

# BROWN ACT

Meetings of the City Council and nearly all of the City's boards, commissions and committees are subject to extensive regulations known as the Brown Act (the "Act"), which are designed to ensure that all deliberations and decisions of City agencies take place in public. It is important for City councilmembers and board members to understand these requirements, because a violation may either void the proposed action or subject the board members to criminal liability.

## What Bodies Are Covered by the Brown Act?

The Act governs the meetings of all local "legislative bodies," that is, all multimember councils, boards, commissions, committees and the like of the City. Only bodies created by charter, ordinance or the minute order of the City Council are covered by the Act.

**Committees May Also Be Covered**

The Act also governs the meetings of "standing committees" (those which have continued responsibility over a particular subject matter, as well as those with fixed meeting schedules) of the City's boards. It may not include temporary advisory committees (or "ad hoc" committees) which consist solely of less than a quorum of the members of the board, but the City Attorney's Office should be consulted. These will typically be committees of two members (of a five-member board) assigned to investigate and report back on a single issue.

## What is a Meeting?

A "meeting" of a board includes a gathering of at least a majority of the members (i.e., a quorum) at the same time and in the same place to hear, discuss or act on one or more matters under the jurisdiction of the board.

Such meetings may lawfully be held *only* if the notice and other requirements discussed below are followed.

Informal, social gatherings of board members are *not* meetings, and need not comply with the Act, as long as there is no discussion of any subject matter under the board's jurisdiction. If these informal gatherings will involve discussions among a majority of the members relating to the board's official business, the meeting should be properly noticed, and an agenda of the business items that will be discussed must be posted. The public must be allowed to attend and participate.

The Act prohibits the use of direct or indirect communications, intermediaries or technical devices used by a majority of a board to assist them in arriving at any decision, which is called a "serial meeting." For instance, the Chair may not call two other members of a five member board to discuss an agenda item. Nor may one member contact a second member, who then calls a third member. The same is true for the use of forwarded e-mails, blanket faxes and the like for communication among a majority of members.

**May a Majority of Board Members Attend a Conference or a Meeting of a Private Group?**

Members *may* attend a conference or a meeting of a private group (e.g., a homeowner association), even if the conference or meeting will discuss matters of general interest to the community. However, a majority of the members may attend such an event at the same time *only* if:

- The conference or meeting is open to attendance by the public;
- If the event is a meeting of a private group, it has been publicized; and
- The members do not discuss among themselves, other than as part of the scheduled program, business that is within the subject matter jurisdiction of the board.

Otherwise, a conference attended by a majority of members must be open to the public. The Act does not require the organizers to allow members of the public to attend free of charge if others are charged an admission fee.

## What Are the Act's Notice and Agenda Requirements?

### Requirements for Regular Meetings

The time and place for regular board meetings are established by ordinance, resolution or rules of order. They can be changed by similar formal action.

The agenda of a regular meeting of a board must be posted at least 72 hours before the start of the meeting. With the exceptions described below, all matters that will be discussed or acted on by the board must be listed on the agenda.

### Requirements for Special Meetings

A "special meeting" of a board may be called by posting a notice/agenda and by delivering (by mail or personal delivery) the notice/agenda to all members and to all media outlets that have requested to be so notified 24 hours before the meeting. The notice/agenda must state the place and time of the meeting, as well as the matters that will be discussed and/or decided.

### Exceptions to the Agenda Requirement

Under almost all circumstances, a matter may not be discussed at board meetings unless it is listed on the agenda. A board may discuss a matter that is not on the agenda at a regular meeting *only* if one of the following requirements are met:

- By majority vote, the board determines that the issue to be discussed constitutes an emergency. This discussion must be held in open session.

- By a two-thirds vote of the entire membership, the board determines that there is a need to act immediately, that the board's consideration of the matter cannot await the next meeting of the board and that the need for immediate action arose after the posting of the agenda.

**What Information Must an Agenda Contain?**

The agenda must list *all* of the matters that will be considered at the meeting. Each item on the agenda should be described by a brief but informative summary of the nature of the matter to be discussed and/or decided. That description should inform interested members of the public about the matter so that they can decide whether to attend and participate.

**What Rights Do the Public Have at Meetings?**

Except when closed sessions are permitted (see below), all board meetings *must* be held in public. Members of the public who choose to do so must be allowed to attend; they may not be asked to sign-in or provide any information as a condition of attending. Also, members of the public must be allowed to record a meeting on a video or audio tape or to broadcast the proceedings, unless the board makes a reasonable finding that the activity would disrupt the meeting.

Members of the public must be allowed to present testimony or otherwise address a board about each item on the agenda. A board may not act on an agenda item until it has allowed for public comment on that item. At regular meetings, the public must also be given an opportunity to address the board on any matter under its jurisdiction, even if the matter is not on the agenda. Boards may adopt reasonable rules governing the amount of time for such public comment on each item on the agenda as well as the time each member of the public will be allowed to speak. The public may discuss information relating to specific matters and must be allowed to criticize the policies, procedures or programs of the agency. However, disruptions of a meeting need not be tolerated.

Meetings may not be held in facilities which are inaccessible to disabled persons. If a board holds a meeting in an unusual location, such as a restaurant, the public must be allowed to attend without the need to pay any price for entry (e.g., if the meeting is held in a restaurant, they must be able to attend without buying lunch). They must be able to hear the proceedings and must be allowed to present public testimony.

## Under What Circumstances May Closed Sessions Be Held?

Under certain circumstances specifically allowed by the Act, a board is allowed to meet in closed session. If a meeting is closed to the public, it is not permissible to allow some interested persons to attend while denying access to others. Generally, the only persons who may attend closed sessions are the members of the board and any City staff that is needed to assist the board in its deliberations. Persons without official roles should not attend.

In order for a board to be able to meet in closed session, the item must be listed on the agenda, or one of the exceptions to the agenda requirement must be applicable. **Such exceptions are <u>extremely</u> limited, and should not be utilized without first receiving advice from the City Attorney's Office.** These exceptions are:

- personnel discipline and evaluations
- discussion of pending or threatened litigation
- real estate negotiations
- labor negotiations

## What Are the Penalties for Violating the Brown Act?

It is a misdemeanor for a member of a board to attend a meeting at which action is taken in violation of the Brown Act, if the member intends to deprive the public of information to which the member knows (or has reason to know) the public is entitled.

Violations of the Act may also result in the issuance of injunctions and writs of mandate to correct violations, prevent future violations, or void actions taken by a board in violation of the Act.

# PUBLIC RECORDS ACT

California law requires that, with very few exceptions, all records of the City be made available for public inspection upon request.

**What Records Must Be Made Available for Public Inspection?**

All written notes, memos, letters and electronic records (such as e-mails and documents saved on computer drives) must be copied and made available to the public upon request.

**What If I Am Not Aware That the City Kept My Memo or E-mail?**

The law requires disclosure of a record, even if the sender is unaware that it was retained in the City's files. Therefore, treat all correspondence with the City as if it were immediately available to the public.

# RESTRICTIONS ON PUBLIC MAILINGS

State laws regulate mailings sent with the use of public funds. If a mailed item "features" an elected official, there are strict limits on how many can be sent. These regulations become even stricter during any campaign period.

**Which Type of Mailings are Affected by this Rule?**

These rules only apply to mailings that are sent out at public expense. "At public expense" means public (City, state or federal) funds were used for the stationary, copying, stamps, etc. It applies to items that are sent through the mail or hand-delivered at residences or businesses. It does not apply to handouts at meetings.

**Do These Limits Apply to E-Mails?**

No, they do not.

**What Does it Mean That an Elected Official is "Featured" in a Mailing?**

An elected official is "featured" in a mailed item if it contains his or her name, photograph or signature, except for a single reference to the name of the elected official in the letterhead of the stationary or in the return address on the envelope.

**If an Elected Official is "Featured," What are the Limits on the Mailing?**

No more than 199 substantially similar pieces of mail can be sent out in each calendar month if an elected official is featured in the mailing.

# RESTRICTIONS ON PUBLIC MAILINGS

**When are Mailings "Substantially Similar"?**

Mailings are "substantially similar" and are counted as the same mailing is they are identical, contain most of the same information, or are intended to honor or celebrate the same group or holiday.

**Are There Any Exceptions to This Rule?**

Yes, if the mailing consists of a notice of a public meeting. The 199 limit can be exceeded only if (1) the announcement concerns a meeting directly relating to the elected officer's duties, (2) the elected official will be conducting the meeting, and (3) the elected official's name only occurs once within the mailing. There are other less common exceptions – please call this office to determine if they will apply.

**Do Different Rules Apply During a Campaign Period?**

Yes. The Long Beach Municipal Code requires that after an incumbent elected official has filed his or her nomination papers, that elected official cannot mail out more than 199 items, regardless of whether his or her name, photo or signature is included in the document. The only exception is (1) meeting notices for meetings conducted by the official or (2) meeting notices for events for which the City is providing facilities, staff or other financial support. This rule applies until the election is held.

# "REVOLVING DOOR" RESTRICTIONS

To prevent former City officials, employees and board members from exercising, or appearing to exercise, improper influence over City decision-making, City law establishes certain "revolving door" limits on their attempts to influence City decisions after they leave City service. These restrictions apply to you only if you are compensated for these activities.

**The One-Year Restriction**

All former City employees, officials and board members must observe a one-year ban on directly communicating, for compensation, with their former agency for the purpose of attempting to influence action on any matter pending before that agency. (Mayors and City Councilmembers may not communicate, for compensation, with *any* City agency for the purpose of influencing action on any pending matter.)

**Exceptions to the One-Year Restriction**

Exceptions to the restrictions occur under limited circumstances, including:

- if your communication is made when you are an elected or appointed employee or officer of *another* public agency; or
- if your communication is made when representing yourself, *in your individual capacity,* in connection with a matter before the agency.

# FRAUD PREVENTION AND REPORTING POLICY

**Policy and Purpose**

The residents of Long Beach expect efficient, honest, lawful, and ethical service from their City government. To meet these expectations, City of Long Beach employees are committed to performing their duties to the public in a manner that is free of fraud, waste, and abuse. Employees are also obligated to report any suspicion of fraud, waste, and abuse by others.

Fraud and theft of City funds, property or materials as well as intentional damage to City property are all criminal activities and constitute unacceptable and intolerable behavior. The purpose of this policy is to provide guidance to City Management and employees on the process to follow when such activities are encountered.

**Scope**

This policy applies to all City employees in all departments, including boards, commissions and agencies under the direction of the Mayor and City Council, as well as all elected officials.

**Enforcement of City Personnel Rules and Guidelines**

City personnel rules and guidelines must be clear that these activities are subject to discipline up to and including immediate termination and possible criminal prosecution. It should be made clear that these activities are not only illegal, but also harm the City, its residents and businesses.

**Internal Controls**

City departments must establish adequate internal controls to prevent fraud, waste, and abuse of City funds, property, and materials. Internal controls are subject to review by the City Auditor at any time.

## Reporting and Follow-up

Fraud, waste, and abuse of City funds or City property and materials must be reported to either the Department Director, City Manager, the City Auditor's Office, or anonymously through the City Auditor's Fraud Hotline at 1-888-FRAUD-07 (1-888-372-8307)

Complaints shall be investigated immediately as deemed necessary by the City Auditor's Office, the Police Department, or the Human Resources Department. The City Council shall establish a culture that recognizes the inappropriateness of these activities and encourages an atmosphere of intolerance for these activities, as well as an acceptance of reporting and follow-up on suspected activities.

## Conclusion

The City of Long Beach recognizes that the vast majority of employees approach their jobs with integrity and a commitment to serve the public. However, it is important to acknowledge that fraud, waste, and abuse can and does occur. It is expected that all City employees will fully cooperate with relevant department management, the City Auditor's Office, and law enforcement agencies, if warranted, during the course of any potential investigations.