

SEC. 0.14 - CODE OF ETHICS

All members of the Board of Port Commissioners (individually referred to as "Commissioner(s)", collectively referred to as the "Board") and all employees of the San Diego Unified Port District (District) must comply with the following Code of Ethics.

(a) Definitions:

Board - The Board of Port Commissioners of the San Diego Unified Port District.

Capacity as an Attorney - An attorney representing a client, within an attorney-client relationship, regarding a legal issue.

Code - The *District's* Code of Ethics (section 0.14 of the District Code.)

Commissioner - A member of the Board of Port Commissioners.

Compensation - The receipt of any monetary or non-monetary payment, except a stipend paid to a board member of a public non-profit corporation. *Compensation* includes, but is not limited to, salary, wages, fees, and any discount or economic opportunity not made available in the regular course of business to members of the public.

Confidential Information - Information that is not subject to disclosure under the California Public Records Act, or is properly the subject of discussion in Closed Session pursuant to the Ralph M. Brown Act.

SEC. 0.14 (cont.)

Direct Communication - Talking to a person, either by telephone or in person, or corresponding with a person, either in writing, by electronic transmission, or by facsimile machine. *Direct Communication* does not include solely responding to questions from any *District Official*, or appearing as a speaker at, or providing written statements which become part of the record of a public hearing, or a direct response to an enforcement proceeding with the *District*.

District - San Diego Unified Port District

District Employee - Any employee of the District.

District Official or, (Official) - *Commissioner(s)* and/or *District Employees*.

District Premises - *District* Administration building and parking lot, any other building and accompanying land and/or parking lots occupied by *District Officials*.

Gift - Any payment or other benefit provided to a *District Official* that confers a personal benefit for which the *District Official* does not provide goods or services of equal or greater value. A *Gift* includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Government Code Section 82028)

SEC. 0.14 (cont.)

Influence the District - Affecting or attempting to affect any action by a District Official on one or more *District* decisions by any method, including promoting, supporting, opposing, participating in, or seeking to modify or delay such action. *Influencing the District* also includes providing information, statistics, analysis or studies to a *District Official*.

Legal Issue - A legal question which is at the foundation of a case involving or potentially involving the *District*, which, if not settled, requires a decision by a court.

Lobbying - *Direct Communication* with a *District Official* for the purpose of *Influencing the District* on behalf of any other person.

Lobbyist - An individual who receives or becomes entitled to receive *Compensation* from any corporation, firm, organization, or person other than himself, and attempts to influence any District decision by contacting personally, or by telephone, a District Official, or who receives or becomes entitled to receive *Compensation* during any calendar year for *Lobbying*, and who has had at least one *District Communication* with a *District Official* in that calendar year.

Personally and Substantially Participated - Rendering a decision, approval, or disapproval: by making a formal written recommendation; by conducting an investigation; by rendering advice on a significant basis; or by using *Confidential Information*.

SEC. 0.14 (cont.)

Political Reform Act - California Government Code Sections 81000 - 91000.

Public Agency - The United States or any of its agencies, the State of California; any political subdivision of the State, including counties and districts; or any public corporation, agency, or commission.

(b) Misuse of Office

District Officials may not make, participate in making or in any way attempt to use their official position to influence a *District* decision in which the *Official* knows or has reason to know the following has a material financial interest, as defined in the *Political Reform Act*:

1. The *District Official*;
2. A relative, which includes the *District Official's* spouse (which, for purposes of this *Code*, includes domestic partner as defined in the *District's* benefits program), parents, grandparents, brothers, sisters, children, grandchildren, first cousins, the spouses or children of these people, and parents, grandparents, grandchildren, children, sisters, brothers or first cousins of the *District Official's* spouse;
3. Any person or entity for which the *District Official* is an owner, attorney, agent, broker, employee, officer, director, trustee or consultant;

SEC. 0.14 (cont.)

4. Any person or entity with which a *District Official* has a financial relationship;

5. Any person or entity with which the *District Official* had a financial relationship during the previous Twelve (12) months; or

6. Any person or entity from which the *District Official* received a *Gift* cumulating more than the amount permitted by Subsection (d), below, of this *Code*, including any goods or services for less than fair market value unless available to the public generally, during the previous Twelve (12) months. This subdivision shall not apply to *Gifts* received on or before June 30, 2002.

(c) Misuse of District Resources

District Officials may not use or permit use of *District* time, personnel, supplies, equipment, identification cards/badges or facilities for unapproved, non-*District* activities or except as provided for by administrative regulation or procedure.

(d) Gifts

District Officials may not request *Gifts* from any person or entity that the District Official knows or should know is doing business with the District or intends to do business with the District or has done business with

SEC. 0.14 (cont.)

the District during the previous Twelve (12) months. *District Officials* who are required to file a Statement of Economic Interest, Form 700, may not accept any *Gifts* aggregating more than the amount permitted by the *Political Reform Act*, Government Code Section 89503(f), and as determined by the Fair Political Practices Commission (FPPC) per year from any person or entity.

Gifts do not include *Gifts* that are excluded under the Fair Political Practices Regulations, including but not limited to Section 18942. These exclusions include, among other things, certain informational material, *Gifts* from certain relatives, plaques, hospitality in a home, presents exchanged on certain special days, and free admission and travel in-State when giving a speech or other presentation.

(e) Gratuities

District Officials may not accept anything of value from anyone, other than the *District*, or its officers or employees, for doing the *District Official's* job. The exclusions specified in FPPC Regulations apply to this section.

(f) Political Activities

1. Unlawful use of influence

a) No one who holds, or who is seeking election or appointment to, any office or

SEC. 0.14 (cont.)

employment in a state or local agency shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position, within the State or local agency, upon consideration or condition that the vote or political influence or action of such person or another shall be given or used in behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration. This prohibition shall apply to urging or discouraging the individual employee's action. (Government Code Section 3204)

b) No one who holds, or who is seeking election or appointment to, any office shall, directly or indirectly, offer to arrange for any increase in compensation or salary for an employee in exchange for, or a promise of, a contribution or loan to any committee controlled directly or indirectly by the person who holds, or who is seeking election or

SEC. 0.14 (cont.)

appointment to, an office. (Government Code Section 3205.5)

2. Solicitation of political contributions

District Officials shall not, directly or indirectly, solicit a political contribution from a *District Officials*, or from a person on an employment list of the *District*. This does not prohibit a *District Official* from requesting political contributions from *District Officials* if the solicitation is part of a solicitation made to a significant segment of the public which may include *District Officials*. (Government Code Section 3205)

3. Political activity during working hours; on *District Premises*; or while in uniform

a) *District Officials* are prohibited from engaging in political activity during working hours and are prohibited from engaging in political activity on *District premises*. (Government Code Section 3207)

b) No *District Official* shall participate in political activities of any kind while in uniform. (Government Code Section 3206)

SEC. 0.14 (cont.)

(g) Confidential Information

District Officials may not disclose *Confidential Information* or use it for any non-*District* purpose, even after you leave *District* service. Disclosure to a law enforcement agency of confidential government information concerning conduct that may involve fraud, corruption, criminal activity or a violation of this *Code* is not prohibited.

(h) Representation

While a *District Official*, you may not communicate for pay with the *District* on behalf of a private person or entity, nor may you represent a private person or entity in a matter that is before the *District*, except that a *District Official* may represent himself or herself on a matter.

(i) Post *District* Employment

1. This section does not apply to former *District Officials* employed by *Public Agencies*, or a former *District Official* representing himself or herself, in his or her individual capacity.

2. Former *District Officials* shall not engage in *Direct Communication* with the *District*, for *Compensation*, on a particular project that the *Official Personally and Substantially Participated*, with regard to any pending application for discretionary funding or discretionary entitlements before the

SEC. 0.14 (cont.)

District, relating to that particular project, on behalf of any person for a period of One (1) year immediately following termination of service with the *District*.

3. Former *District Officials* shall not, for *Compensation*, knowingly counsel or assist any person in connection with an appearance or communication in which the former *District Official* is prohibited from engaging pursuant to subsection (2), above, for a One (1) year period immediately following termination of service with the *District*.

4. Former *District Officials* shall not engage in *Direct Communication* with the *District* for the purpose of *Lobbying* the *District* if the former *District Official* served as a *District Official* within the previous Twelve (12) months, and the former *District Official* is receiving *Compensation* from the private business to engage in the *Direct Communication* with the *District*.

(j) Prohibited Outside Positions

A *District Official* may not be a paid attorney, agent, broker, officer, director, trustee or consultant (other than as a full-time employee) for anyone that a *District Official* knows or should know is doing business or seeking to do business with the *District* or that a *District Official* knows

SEC. 0.14 (cont.)

or should know has or is seeking a license, permit, grant, or benefit from or is entering into a contract with the *District*.

(k) Ethics Officer

The Port Attorney's office shall designate an Ethics Officer for the *District*. This person shall serve as the point person for all questions concerning this *Code* and the *Political Reform Act*.

(l) Review of Filings and Advice by the Ethics Officer

The *District's* Ethics Officer will be available to assist *District Officials* with their filing prior to the deadline. The *District's* Ethics Officer also will provide assistance on any ethical question concerning a *District Official's* role at the *District*. *District Officials* should feel comfortable seeking assistance and asking questions about their particular situation.

After *District Officials* file their Statement of Economic Interests, Form 700, the *District's* Ethics Officer will review the Statement and contact the *District Official* if there are any corrections needed.

If the *District's* Ethics Officer believes that a *District Official* has a potential conflict of interest, the *District's* Ethics Officer will advise the person as soon as possible about the potential conflict. It is the *District Official's* responsibility to make such a determination, and penalties for failure to do so are applied to the *District Official*.

SEC. 0.14 (cont.)

(m) Notice of a Conflict of Interest

District Officials must comply with the following provisions on disclosure and disqualification:

1. As soon as a *District Official* faces a possible conflict of interest under the *Political Reform Act* or this *Code*, the *District Official* must disqualify himself or herself from dealing with the matter.

2. Whenever a *District Official* is required to disqualify himself or herself under this section, the *District Official* must:

a) Promptly inform his or her supervisor, if any, about the *District Official's* disqualification;

b) Promptly file with the *District's* Ethics Officer a signed statement disclosing the nature and extent of the conflict of interest; and

c) Immediately stop participating further in the matter.

3. If the *District Official* is a *Commissioner*, the *Commissioner* must also set forth the disqualification on the official record of the *Board* and follow the *Political Reform Act* regarding conflict of interest.

SEC. 0.14 (cont.)

4. No one shall retaliate against a *District Official* or take any adverse personnel action against a *District Official* for complying with this section.

(n) Training Sessions

Each year, prior to the annual filing of the Statements of Economic Interest, the *District's* Ethics Officer will hold a training session on how to file and the current state of the law. *District Officials* are encouraged to attend, particularly if the *District Official* is new to the *District*.

(o) Lobbying Provisions

Any person, who is paid to Lobby *the District*, shall register as a *District Lobbyist* with the *District* Clerk's office within Ten (10) days of qualifying as a *Lobbyist*. This section is not applicable to a Public Agency official, or an individual acting on his or her own behalf, or on behalf of a business entity which is wholly-owned or controlled by such individual, or to attorneys who are acting in their *Capacity as an Attorney* while representing a client regarding a *Legal Issue* involving the *District*.

The registration statement shall include the name, address and phone number of the person who is registering, along with the name, address and phone number of each person who is employing the person to be their *Lobbyist*.

SEC. 0.14 (cont.)

Each *Lobbyist* shall file quarterly reports listing *Compensation* received for *Lobbying* the *District* for each employer, the items lobbied, and a list of *Gifts* provided to *Commissioners* or *District Employees* on a form prepared by the *District*.

Once a person no longer qualifies as a *Lobbyist*, the person may terminate his or her registration by filing a notice of termination with the *District Clerk*.

All of these statements shall be filed under penalty of perjury.

(p) Inducement of Others

District Officials may not cause, try to cause, or help another *Commissioner* or *District Employee* to do anything that would violate any provision of this Code.

(q) Enforcement

In addition to the penalties set forth in the *Political Reform Act*, which include criminal, civil and administrative remedies set forth in Government Code Section 91000 et seq., the *District* may impose the following criminal or civil penalties on those persons who violate either the *Political Reform Act* or this Code:

1. Criminal Penalties

Any person who knowingly or willfully violates any provision of this *Code* is guilty of a misdemeanor.

SEC. 0.14 (cont.)

In addition to other penalties provided by law, a fine of up to the greater of Ten Thousand Dollars (\$10,000.00) or Three (3) times the amount the person failed to report properly or unlawfully contributed, expended, gave or received may be imposed upon conviction for each violation.

Prosecution for violation of this *Code* must be commenced within Four (4) years after the date on which the violation occurred.

2. Civil Penalties

Any person who violates any provision of this *Code*, shall be liable in a civil action brought by the *Board* or the District Attorney or the appropriate City Attorney, for an amount up to Five Thousand Dollars (\$5,000.00) per violation.

No civil action alleging a violation of this *Code* may be filed against a person pursuant to this section if the criminal prosecutor is maintaining a criminal action against that person pursuant to Section 91000 or this *Code*.

No civil action alleging a violation of any provisions of this *Code* shall be filed more than Four (4) years after the date the violation occurred.

SEC. 0.14 (cont.)

3. Other Penalties

Additional penalties that may be imposed on *Commissioners* shall include, but are not limited to, removal as Chair, removal as Chair of a committee, removal from a committee, loss of travel privileges, censure, or any other appropriate remedy imposed by a majority of the other *Board* members. Any action taken shall be promptly transmitted to the *Commissioner's* appointing authority.

Penalties that may be imposed on *District Employees* shall include, but are not limited to, dismissal, suspension without pay, loss of travel privileges, or a letter in the personnel file.

(Enacted June 4, 2002 - Ordinance 2184)

(Amended August 20, 2002 - Ordinance 2195)

(Amended November 18, 2003 - Ordinance 2275)