

Rancho Santiago Community College District
BOARD POLICY
Chapter 3
General Institution

BP 3821 Gift Ban Policy

References:

California Code of Regulations, Title 2, Sections 18730 et seq.
California Government Code, 87200 and 54950
RSCCD Board Policy 6330

A. Preamble

The intent of this gift ban policy is to prohibit District officers and employees from receiving any gift in excess of one hundred dollars (\$100.00) (the "Gift Limit") for their personal benefit from any single source in any calendar year. This gift ban policy is not intended to restrict any gifts made for the benefit of the District. On January 1, of each odd-numbered year, the Gift Limit shall be adjusted to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars (\$10.00).

B. Definitions

For the purposes of this policy:

1. *District* means the Rancho Santiago Community College District, including Santa Ana College, Santiago Canyon College, and the educational centers affiliated with the colleges.
2. *District officer* means every person who is elected or appointed to the District Board of Trustees.
3. *Designated employee* means every employee of the District who is designated in the District's Conflict of Interest Policy/Regulation to file a statement of economic interests and every member of a board or committee under the jurisdiction of the Board of Trustees required to file such a statement.
4. *Doing business with the District* means:
 - a. Seeking the award of a contract or grant from the District; or
 - b. Having sought the award of a contract or grant from the District in the past twelve (12) months; or
 - c. Being engaged as a lobbyist or lobbyist firm, as defined in this article, from the time of such engagement until twelve (12) months after the award of the contract grant, permit, or other entitlement for use, which was the subject of the engagement; or
 - d. Having an existing contractual relationship with the District, until twelve (12) months after the contractual obligations of all parties have been completed; or
 - e. Seeking, actively supporting, or actively opposing the issuance, by the District, of a

discretionary permit, or other discretionary entitlement for use, or having done any of these things within the past twelve (12) months.

5. *Gift* shall have the meaning it is defined to have in the California Political Reform Act, and the regulations issued pursuant to that Act, except that the following shall not be deemed to be gifts:
 - a. Meals, beverages, and free admission at any event sponsored by, or for the benefit of, a bona fide educational, academic, or charitable organization.
 - b. Flowers, plants, balloons or similar tokens which are given to express condolences, congratulations, or sympathy for ill health, or to commemorate special occasions, provided that gifts made or received under this exemption shall not exceed a value of one hundred dollars (\$100.00) from any single source in any calendar year.
 - c. A prize awarded on the basis of chance in a bona fide competition not related to the official status of the District officer or designated employee.
 - d. Gifts from any agency of a foreign sovereign nation, provided that such gifts are unconditionally donated by the District officer or designated employee to the District official designated by the Chancellor in an administrative regulation within forty-five (45) days of receipt, and the District officer or designated employee does not claim any tax deduction by virtue of such donation.
 - e. Food, beverages, and free admission provided by a governmental agency or provided to the public at large, for ceremonial functions commemorating the groundbreaking, opening, or naming of a governmental facility.
 - f. For purposes of this section, a capital contribution or other gift to the District or a campaign donation by a District official or the employer of a District official to a bond campaign shall not be deemed a violation of this policy so long as the donation to the campaign was not made by a municipal finance firm which has contracted with the District for the sale of the bonds, which shall receive reimbursement by the District for the sale of the bonds, or by any third party vendor that has an agreement with the District to directly receive bond funds as a condition of the donation.
 - g. For the purposes of this section, a capital contribution or other gift to the District or a campaign donation by an employee of the District to a bond campaign or the solicitation by a District employee of a donation to a bond campaign during the District employee's off hours, shall not be deemed a violation of this policy so long as the donation to the campaign was not made by a municipal finance firm which has contracted with the District for the sale of the bonds, which shall receive reimbursement by the District for the sale of the bonds, or by any third party vendor that has an agreement with the District to directly receive bond funds as a condition of the donation.
 - h. For the purposes of this section, a capital contribution or other gift to the District or a campaign donation by any person doing business with the District to a bond campaign or the solicitation by a District employee or board member of a donation to a bond campaign shall not be deemed a violation of this policy so long as the donation to the campaign was not made for the individual benefit of the District employee or District officer, by a municipal finance firm which has contracted with the District for the sale of the bonds, which shall receive reimbursement by the District for the sale of the bonds, or by any third party vendor that has an agreement with the District to directly receive bond funds as a condition of the donation.
6. *Lobbyist* shall mean any individual, including an attorney, who is employed or contracts for consideration, other than reimbursement of reasonable travel expenses, to communicate directly with any District officer or designated employees for the purpose of seeking, actively supporting, or actively opposing the award of a contract or grant from the District or the issuance, by the District, of a discretionary permit, or other

discretionary entitlement for use. An attorney shall not be considered a lobbyist when performing activities which can only be performed by a person admitted to the practice of law.

7. *Lobbyist firm* shall mean (1) any business entity, which is employed or contracts for consideration, other than reimbursement of reasonable travel expenses, to communicate directly with a District officer or designated employee for the purpose of seeking, actively supporting or actively opposing the award of a contract or grant from the District, or the issuance, by the District, of a discretionary permit, or other discretionary entitlement for use, or (2) any business entity of which any member or employee is a lobbyist.
8. *Principal* shall mean any individual or business entity which employ or contracts with a lobbyist or lobbyist firm for any of the purposes stated in subsection (6) or (7) of section B of this policy.
9. An individual or business entity shall be deemed to be employed or contracting to communicate directly with a District officer or designated employee if it is reasonably foreseeable that in the course of employment or in the course of performing the contract the individual or an employee of the entity will have a telephone conversation or a discussion with any District officer or designated employee, outside of any meeting governed by the Ralph M. Brown Act (which is codified in the California Government Code commencing with section 54950), for the purpose of seeking, actively supporting, or actively opposing the award of a contract or grant from the District, or the issuance, by the District, of a discretionary permit, or other discretionary entitlement for use.
10. An individual lobbyist who is an officer, partner or employee of his or her Principal shall be deemed to be "engaged" within the meaning of this section on the first occasion on which he or she engages in a telephone conversation or discussion described in subsection (9) of section B of this policy. A lobbyist firm, or an individual lobbyist who is not an officer, partner or employee of his or her Principal shall be deemed to be "engaged" within the meaning of section B of this policy upon the completion of an agreement, oral or written, to provide the services specified in subsection (6) or (7) of section B of this policy.

C. Prohibitions

1. No person who is doing business with or soliciting business from the District shall make any gift to any District officer or employee.
2. No person who is doing business with or soliciting business from the District shall make any gift to any designated employee who, by virtue of his District employment, could make a governmental decision, participate in making a governmental decision, or use his or her official position to influence a governmental decision regarding the pending business of the donor, or who has done any of the above during the twelve (12) months preceding the donation. However, a capital contribution or other gift to the District or a campaign donation by any person doing business with the District to a bond campaign or to a fundraising campaign of the District or the solicitation by an employee of the District of a capital contribution or other gift to the District or a campaign donation to a bond campaign or fundraising campaign of the District, shall not be deemed a violation of this policy so long as the donation to the campaign was not made for the individual benefit of the employee,

and was not made by a municipal finance firm which has contracted with the District for the sale of the bonds, which shall receive reimbursement by the District for the sale of the bonds; or by any third party vendor that has an agreement with the District to directly receive bond funds as a condition of the donation.

3. No District officer shall solicit or accept any gift from any person whom he knows, or has reason to know, is doing business with or soliciting business from the District. However, the mere attendance at a campaign fundraiser or employment by a company, which makes a capital contribution or other gift to the District or a donation or to a bond campaign involving the District, shall not constitute the solicitation of a gift from an officer of the District. A capital contribution or other gift to the District or a campaign donation by any person doing business with the District to a bond campaign or to a fundraising campaign of the District or the solicitation by a District officer of a capital contribution or other gift to the District or a donation to a bond campaign or fundraising campaign of the District, shall not be deemed a violation of this policy so long as the donation to the District or the campaign was not made for the individual benefit of the District officer; was not made by a municipal finance firm which has contracted with the District for the sale of the bonds, which shall receive reimbursement by the District for the sale of the bonds; or by any third party vendor that has an agreement with the District to directly receive bond funds as a condition of the donation.
4. No designated employee shall solicit or accept any gift from any person whom he knows, or has reason to know, is doing business with or soliciting business from the District, when such employee, by virtue of his District employment, could make a governmental decision, participate in making a governmental decision, or use his or her official position to influence a governmental decision regarding the pending business of the donor, or has done any of the above during the twelve (12) months preceding the donation. However, the mere attendance at a campaign fundraiser, which makes a capital contribution or other gift to the District or a campaign donation to a bond campaign involving the District, shall not constitute the solicitation of a gift from a designated employee of the District. A capital contribution or other gift to the District or a campaign donation by any person doing business with the District to a bond campaign or to a fundraising campaign of the District, or the solicitation by a designated employee of a donation to a bond campaign or fundraising campaign of the District, shall not be deemed a violation of this policy so long as the donation of the campaign was not made for the individual benefit of the designated employee; was not made by a municipal finance firm which has contracted with the District for the sale of the bonds, which shall receive reimbursement by the District for the sale of the bonds; or by any third party vendor that has an agreement with the District to directly receive bond funds as a condition of the donation.
5. No District officer nor designated employee shall accept any gift in excess of one hundred dollars (\$100.00) for their personal benefit.

D. Violations and Enforcement

1. Any District officer in violation of this policy shall be subject to removal from a position of a Board officer, removed as a Chair or member of a standing or ad hoc committee and may be censured or reprimanded pursuant to enforcement of the Board's ethics policies. The Board must take action on any alleged violation of this policy in open session.

2. Any designated employee in violation of this policy shall be subject to discipline, including reprimand, suspension and dismissal. A designated employee who sits on a board or committee under the jurisdiction of the Board of Trustees may be removed by the Board if found to be in violation of this policy.
3. The Trustees, Chancellor and College Presidents will ensure there is an annual training session on ethics for District officers and all employees, and the ethics training shall include discussions about this policy, the Board policies on ethics and updates on the Fair Political Practices Commission's rulings and policies concerning gifts. All new employees of the District must take a training course on ethics arranged by the District. While all employees are not covered by the prohibitions and restrictions of this policy, it is important that all employees are aware of the District's policy on gifts to ensure compliance.
4. The Chancellor shall establish an administrative regulation that includes appropriate exempted activities and ensures District employees and officials follow this policy.
5. Unless otherwise provided in an employee's job description, no one shall be compelled to participate in or solicit for any bond, capital or other gift campaign for the District and the lack of participation or solicitation shall have no adverse consequences on their employment.
6. Pursuant to Government Code Section 84224 and the Fair Political Practices Commission ("FPPC") regulations section 18215.3, all District officers are required to report on FPPC form 803, any payments made at their behest, principally for legislative, governmental or charitable purposes.

Adopted: April 25, 2016
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