



December 2022

## **D.R.R.R. - DISCLOSE, RECUSE, REFUSE, AND RETURN!**

In 1982, the California Legislature enacted Government Code section 84308 known as the “Levine Act.” The Levine Act prohibited certain elected or appointed officers or candidates (with exceptions including school board members) from accepting, soliciting, or directing a contribution of \$250 or more from any person or their agent who has an application for a license, permit, or other entitlement for use pending before the body, and for three months following the date a decision is rendered on the application or until the end of the officer’s term, whichever is longer, or from any person or their agent, who actively opposes the application. “License, permit, or other entitlement for use” means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises. Effective January 1, 2023, Senate Bill 1439 extends the Levine Act to school boards, community college districts, and county boards of education.

There are now several important additional duties imposed on school board members:

1. As mentioned, the Act prohibits a board member from accepting, soliciting, or directing a contribution of more than \$250 from any donor or donor’s agent if the donor is involved in a proceeding involving a license, permit, or other entitlement for use before the school board.
2. The Act requires the board member to recuse themselves from any proceeding involving a license, permit, or other entitlement for use, including a contract award, if the member has received a campaign contribution from any donor or donor’s agent involved in the proceeding within the previous 12 months. If the board member returns the contribution within 30 days from the time the board member knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, the officer shall be permitted to participate in the proceeding.
3. The Act states that while a proceeding involving a license, permit, or other entitlement for use is pending, and for 12 months following the date a final decision is rendered in the proceeding, a board member shall not accept, solicit, or direct a contribution of more than \$250 from any donor or donor’s agent if the board member knows or has reason to know that the donor has a financial interest in the decision. If a board member accepts, solicits, or directs a contribution of more than \$250 during the 12 months after the date a final decision is rendered in the proceeding, the board member may cure the violation by returning the contribution, or the portion of the contribution in excess \$250, within 14 days of accepting, soliciting, or directing the contribution, whichever comes latest. The board member can only cure the violation if they did not knowingly and willfully accept, solicit, or direct the prohibited contribution.

For violation of the Levine Act, the Fair Political Practices Commission shall issue an order that may require all or any of the following:

- 1) Cease and desist the violation of the Political Reform Act ("PRA"),
- 2) File any reports, statements, or other documents or information required by the PRA, and/or
- 3) Pay a monetary penalty of up to \$5,000 per violation to the General Fund of the state.

If a board member is going to accept a campaign contribution from someone who has business with the Board, the member might have to disclose, recuse, refuse, and return.

Please contact our office if you need further information on this topic.

- Mark E. Pafford

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