

**CALIFORNIA CODE OF REGULATIONS**

*Title 18. Public Revenues  
Division 2.3 State Board of Equalization—Contribution Disclosure*

**Regulations 7001-7011. Contribution Disclosure.**

**Reference:** Section 15626, Government Code.

**7001. Contributions to Members of the State Board of Equalization.**

(a) Terms used in Government Code Section 15626 are defined in Sections 7002 through 7011.

**7002. Members of the Board of Equalization.**

(a) The provisions of Government Code Section 15626 are applicable to the Members of the State Board of Equalization and the State Controller.

(b) For the purposes of Section 15626, if a deputy to the Controller sits at a meeting of the board and votes on behalf of the Controller, the deputy shall disclose contributions made to the Controller and shall disqualify himself or herself from voting pursuant to the requirements of this section.

**7003. Adjudicatory Proceedings Pending Before the Board Under Government Code Section 15626.**

(a) For purposes of Government Code Section 15626, an “adjudicatory proceeding pending before the board” means any matter pertaining to an issued assessment of tax or fee or refund of tax or fee to a taxpayer or feepayer that has been scheduled and appears as an item on a meeting notice of the board, as required by Government Code Section 11125, as a contested matter for administrative hearing before the board.

(b) A non-appearance agenda item is not considered an adjudicatory proceeding unless the matter has previously appeared on the calendar as a contested matter, or has been removed from the non-appearance agenda for separate discussion and vote, or the agenda item is one about which the member has previously contacted the board staff or a party. A matter which has previously been submitted on the record without an appearance by the taxpayer or taxpayer’s representative and without Board discussion of the matter is a non-appearance matter.

(1) The term “removed from the non-appearance agenda for separate discussion and vote” are those agenda items which have been removed from the non-appearance calendar and which have been the subject of a discussion or vote by the Board. It does not include items about which a Board Member raises a procedural question, or a question concerning whether the requirements of Government Code Section 15626 have been met.

(2) The term “contacted the board staff or a party” does not include procedural inquiries by a Board Member or a party, including, but not limited to, inquiries concerning:

(A) when a case will be scheduled for Board consideration or decision;

(B) the status of a particular case;

(C) whether the requirements of Government Code Section 15626 have been met.

(3) The term “contacted the board staff or a party” means and includes any substantive inquiries from a Board Member and/or his or her staff to the board staff. Substantive inquiries include inquiries which are not procedural inquiries and which request information or discussion of legal issues, staff positions, staff or taxpayer theories or other substantive issues concerning a matter on a non-appearance agenda.

(c) Assessments pursuant to Section 19 of Article XIII of the California Constitution are not considered adjudicatory proceedings under Government Code Section 15626.

(d) Rate setting functions fixed or set by the board, including, but not limited to, rates set pursuant to Revenue and Taxation Code Sections 12202.1, 30123, 38115, and 41031, and Health and Safety Code Sections 25205.3, 25205.4, 25205.5, 25205.7, 25205.9, 25174.2 and 25343 are not considered adjudicatory proceedings under Government Code Section 15626.

(e) Administrative hearings for consideration and adoption of rules and regulations are not considered adjudicatory proceedings under Government Code Section 15626.

(f) A petition for rehearing is not an adjudicatory item unless removed for separate discussion and vote or the agenda item is one about which the member has contacted board staff or a party.

**7004. Party Under Government Code Section 15626.**

(a) For purposes of Government Code Section 15626, "party" means any person who is the subject of an adjudicatory proceeding before the board. It does not include a state agency as that term is defined in Chapter 2 (commencing with Section 82000) of Title 9 of the Government Code.

(b) When a close corporation is a "party" to an adjudicatory proceeding pending before the board, the majority shareholder is subject to the disclosure requirements of Government Code Section 15626. For purposes of Section 15626, "close corporation" means a corporation in which any natural person, or any natural person who together with his or her spouse, owns or controls at least 50 percent of the voting stock of a corporation.

**7005. Agents Under Government Code Section 15626.**

(a) For purposes of Government Code Section 15626, a person is the "agent" of a party to, or a participant in, an adjudicatory proceeding pending before the board only if he or she represents that person in connection with the proceeding. If an individual acting as an agent is also acting as an employee or member of a law, accounting, consulting or other firm, or a similar entity or corporation, both the entity or corporation and the individual are "agents."

(b) To determine whether a contribution of \$250 or more has been made by a person or his or her agent, contributions made by that person within the preceding 12 months shall be aggregated with those made by his or her agent within the preceding 12 months or the period of the agency relationship, whichever is shorter. Contributions from other employees or members of the agent's law, accounting, or consulting firm, or similar entity, or contributions from participants, shall not be aggregated with those of the party and his or her agent.

(c) A person who has not represented a party or a participant during the preceding 12 months shall not be considered an agent for purposes of determining whether Section 15626 applies. A person who has ceased to represent a party or a participant is no longer an agent for purposes of determining whether Section 15626 applies.

**7006. Participants Under Government Code Section 15626.**

(a) A "participant" means any person who is not a party but who actually supports or opposes a particular decision in an adjudicatory proceeding pending before the board and who has a financial interest in the decision.

(b) For purposes of Government Code Section 15626, a person actually "supports or opposes a particular decision" when he or she:

- (1) Communicates directly, either in person or in writing, with a board member or employees of the board for the purpose of influencing the decision in a proceedings; and/or
- (2) Testifies or makes an oral statement before the board during an adjudicatory proceeding pending before the board for the purposes of influencing the decision of the board; and/or
- (3) Communicates with the employees of the board, or when his or her agent lobbies in person testifies in person or otherwise communicates with board members and/or the employees of the board, for the purpose of influencing the board member's decision in a proceeding and the board member knows or has reason to know that the communication has occurred.

(c) A person does not "actively support or oppose a particular decision" when he or she communicates to the public at large, other than those oral or written communications made in proceedings before the agency.

(d) "Financial interest" has the meaning described in Article I (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code.

(e) A Political Action Committee organized pursuant to 2 U.S.C. Section 441(a)-(b) and/or Government Code Section 82013 is not considered a participant under Government Code Section 15626.

(f) When a close corporation is a participant in an adjudicatory proceeding pending before the board, the majority shareholder is subject to the disclosure requirements of Government Code Section 15626.

**7007. Receipt of Contributions Under Government Code Section 15626.**

For purposes of Government Code Section 15626,

(a) The term "contribution" has the same meaning prescribed in Government Code Section 82015 and the regulation adopted pursuant thereto. A contribution made pursuant to Section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C.A. 431(2)) to a candidate for federal office or to a committee formed for the purpose of electing a candidate for federal office is not considered a contribution within the meaning of Section 15626. A contribution is deemed to be received if it has been accepted or received within the meaning of Government Code Section 84211(q).

(b) A person "accepts" or "receives" a contribution only if the contribution is for that person's own candidacy or own controlled committee.

(c) A person "makes a contribution" to a board member or candidate only if the contribution is made for that board member's or candidate's own candidacy or controlled committee.

(d) A contribution to a board member from a political action committee organized under 2 U.S.C. Section 441(a)-(b) and/or Government Code Section 82013, affiliated with a party participant or agent to a party or participant is not a "contribution" for the purposes of Government Code Section 15626.

**7008. Prohibitions and Disqualification Under Government Code section 15626.**

(a) For purposes of Government Code Section 15626,

(1) A board member knows or has reason to know that a person has a financial interest in the decision in a pending adjudicatory proceeding if:

(A) The person is a named party; or

(B) The person is a participant and reveals facts in his or her written or oral support or opposition before the board which makes the person's financial interest apparent.

(2) A board member knows, or should have known, about an adjudicatory proceeding pending before the board if either:

(A) The member has received notice of the pending adjudicatory proceeding. Notice includes receipt of an agenda or other written document from the staff identifying the proceeding and the party by name; or

(B) The board member has actual knowledge of the proceeding.

(3) A board member knows, or has reason to know about a contribution if:

(A) The contribution has been disclosed by the party or participant or agent pursuant to Section 15626; or

(B) The board member has actual knowledge of the contribution.

(b) A board member will be considered to have participated under Government Code Section 15626 in a matter if he or she, acting within the authority of his or her office:

(1) Votes on a matter.

(2) Takes part in the discussion regarding the matter.

(3) Urges other board members to reach a particular result in the matter.

(4) Is present and determines not to act when a vote is called without disclosure of the reasons for disqualification.

(c) Nothing in this section shall prevent any member of the board from making, or participating in making, a governmental decision to the extent that the member's participation is legally required for the action or decision to be made. However, the fact that a member's vote is needed to break a tie does not make the member's participation legally required.

(d) In the event a board member's participation is legally required for the action or decision to be made, the board may bring back as many disqualified members as is necessary to establish a quorum. The preferred means of selecting which disqualified member should participate is by lot. Other means of random selection or other impartial and equitable means of selection may also be used.

**7009. Disclosure Under Government Code Section 15626.**

- (a) A board member who is required by Government Code Section 15626 to disclose the receipt of a contribution shall make the disclosure on the public record at the beginning of the adjudicatory hearing or decision, if a hearing is held.
- (b) A written record of any disclosure of receipt of a contribution made by a board member pursuant to Government Code Section 15626 shall be made available to the public.
- (c) All statements filed pursuant to Government Code Section 15626 by parties, participants, and agents shall be incorporated into the written record of the proceeding and shall be made available to the public.
- (d) The board staff shall report on the record if a hearing is held, or into the written record if no hearing is held:
  - (1) Whether any party or participant is a close corporation, and if so, the name of its majority shareholder:
  - (2) Whether any agent is an employee or member of any law, accounting, consulting or other firm, or similar entity or corporation, and if so, its name and address and whether a contribution has been made by any such person, firm, corporation, or entity.

**7010. Return of Contribution Under Government Code Section 15626.**

- (a) If a member receives a contribution which would otherwise require disqualification and he or she returns the contribution within 30 days from the time he or she knows, or has reason to know, about the contribution and the adjudicatory proceeding pending before the board, his or her participation in the proceeding shall be deemed lawful.
- (b) For purposes of Government Code Section 15626, a return of that portion of any contribution or contributions over \$249 will be deemed a return of contribution which would otherwise require disqualification and the board member's participation in the proceeding shall be deemed lawful.

**7011. Notice of Contribution.**

- (a) The Notice of Contribution to be completed by all parties, participants and agents, a close corporation and its majority shareholder, shall be on the forms described as Contribution Disclosure forms for parties, participants, or agents.
- (b) The Contribution Disclosure form shall inquire of each party, participant, agent and close corporation and majority shareholder whether a contribution has been made to a member, and if so, in what aggregate amount and on what date or dates within the 12 months preceding an adjudicatory proceeding or decision.
  - (1) Every party, participant, agent and close corporation and majority shareholder shall complete the Contribution Disclosure form prior to any pending adjudicatory proceeding or decision.
  - (2) Completion of a Contribution Disclosure form is required whether or not the party, participant, agent and close corporation and majority shareholder appears at the pending adjudicatory proceeding or decision.
  - (3) All parties, participants and agents shall disclose any and all fictitious business names they have utilized.
- (c) The disclosure form filed by any party, participant, or agent shall be part of the public record of the related adjudicatory proceeding.
- (d) The opinions issued by the Office of the Chief Counsel of the Board of Equalization interpreting Government Code Section 15626 and these regulations thereunder shall be maintained by the Office of Board Proceedings and shall be available to the public.

*History:* Effective August 20, 1994.

- 1. New division 2.2 and section filed 7-21-94; operative 8-22-94
- 2. Renumbering of former division 2.3 to division 2.4 and renumbering of former division 2.2 to division 2.3 filed 1-7-2008; operative 2-6-2008