

A Question of Ethics

Are local agencies complying with new ethics law?

Synopsis

The Santa Cruz Grand Jury investigated whether county, city and special district government agencies are complying with a new ethics law, Assembly Bill (AB) 1234. Each agency was asked if staff had taken the required ethics training, if they could provide any written ethics policy, and if they had any comments on the new law. The Grand Jury found complete compliance by all 26 agencies in the county.

Background

"...all power is a trust; ... we are accountable for its exercise."

— British Prime Minister Benjamin Disraeli

According to more than a decade of research by the Institute for Global Ethics, most people around the world — regardless of nationality, culture or religion — agree that acting ethically, or doing what is considered good and/or right, is of primary importance. And although they express the concepts in different ways, most people believe that to act ethically means to be compassionate, fair, honest, respectful, and responsible.¹ As elected officials are expected to act in the best interests of the public, office holders should be held to a high standard of ethical behavior. Citizens need to know that government officials not only understand but follow the ethical standards that are required of them. On October 7, 2005, the governor signed Assembly Bill No. 1234² into law. Effective January 1, 2006, AB 1234 requires (among other things) that local officials who receive compensation, salary, stipends, or expense reimbursements must receive training in public service ethics laws and principles by December 31, 2006. The requirement applies not only to the governing body of a local agency but also to commissions, committees, boards, or other local agency bodies, whether permanent or temporary, decision-making or advisory. Training must be renewed every two years.

Information and resources have been established by the Office of the Attorney General.³ On-line training is supplied by the attorney general⁴ and the Fair Political Practices Commission (FPPC)⁵. The California Special Districts Association offers a DVD of

¹ Institute for Global Ethics, <http://www.globalethics.org/about/faq.htm>

² California State Senate website, information about AB 1234, http://info.sen.ca.gov/pub/05-06/bill/asm/ab_1201-1250/ab_1234_bill_20051007_chaptered.html

³ Office of the Attorney General, Ethics Training Courses for State Officers; hereafter cited as OAG, <http://caag.state.ca.us/ethics/>

⁴ OAG. <http://caag.state.ca.us/ethics/>

⁵ Online AB 1234 Ethics Training; hereafter cited as Online Training, <http://localethics.fppc.ca.gov/ab1234/>

ethics training.⁶ The Institute for Local Government also provides AB 1234 Compliance Resources.⁷

Online training is free and available to all citizens at <http://localethics.fppc.ca.gov>. The state recommends that a copy of Proof of Participation of Ethic Training is retained in personal records by agencies that fall under this law for at least five years.⁸

As explained in the online course provided by the FPPC,⁹ ethics law falls into four categories, each of which relate to certain ethical principles:

- Personal financial gain.
- Personal advantages and perks.
- Governmental transparency.
- Fair processes.

The objectives of the FPPC course are:

- To familiarize you with laws that governs your service.
- To help you recognize when to ask questions of your agency counsel.
- To encourage you to think beyond legal restrictions and provide tools for doing so.
- To help you comply with the state mandatory ethics education requirements.

Among the best practices recommended by the FPPC are:

- Make all decisions with only the public's interests in mind.
- Before you make a decision, carefully consider whether you have a benefit or personal interest in the matter under consideration.
- Consider very carefully whether receiving a particular benefit is worth the risk that someone will try to correlate it with your actions as a decision-maker.
- Assume all information is public or will become public.
- Don't discuss agency business with fellow board members outside meetings.
- Be aware of the kinds of economic interests that can trigger a need to step aside from being involved in a decision.
- Talk with your agency counsel early on to enable him or her to perform the complex analysis required to help you determine whether you will need to step aside from participating in a decision.
- Avoid the temptation to look at public service as an opportunity for financial gain.

⁶ California Special Districts Association website, <http://www.csda.net/>

⁷ Institute for Local Government website, <http://www.ca-ilg.org/trust>

⁸ League of California Cities, Ethics Law: Reference for Local Officials, http://www.cacities.org/resource_files/25287.ELR2007.pdf

⁹ Online Training, <http://localethics.fppc.ca.gov/ab1234/>

- Look at every decision and ask yourself whether it involves a financial interest for you.
- Comply with legal reporting requirements on your Statement of Economic Interests (threshold: anything \$50 or more from a single source over a calendar year).
- Avoid exceeding the annual gift limit of \$360.
- Know when you need to disqualify yourself in matters involving a person who has given you \$360 in gifts over the preceding 12 months.
- Know what kinds of gifts are prohibited, not just limited.
- Ask the value of all gifts so you can track and properly report them.
- Avoid perks and the temptation to rationalize about them.
- Be guided by principles of fairness and merit-based decision-making in contracting decisions.

Scope

“Even the most rational approach to ethics is defenseless if there isn't the will to do what is right.”
— Alexander Solzhenitsyn

The scope of this investigation was to determine if government agencies in Santa Cruz County were following the requirements of AB 1234 by taking the online course or the classroom training. In November 2006, the Special Districts Committee of the Grand Jury mailed questionnaires to local government agencies that fall under the requirement to comply with AB 1234.

This questionnaire consisted of the following questions:

- Has your organization met the ethics training requirements of AB 1234?
- If yes, how and when did you accomplish this task?
- If no, what is your plan to obtain training? Note that this must be accomplished by December 31, 2006.
- How did your organization find out about AB 1234?
- If you have a written ethics policy, please submit it with this survey.
- Do you have any additional comments about AB 1234?

Findings

“Relativity applies to physics, not ethics.”

— Albert Einstein

1. The Grand Jury received verification of compliance of AB 1234 from these agencies:
 - Santa Cruz County:
Davenport Sanitation District, Freedom Sanitation District, Graham Hill Rd. County Service Area, Pajaro Storm Drain Maintenance District, County Flood Control & Water Conservation District, County Sanitation District, Solid Waste Disposal District, County Service Area Manager
 - Cities:
Santa Cruz, Scott Valley, Capitola, Watsonville
 - Water Districts:
Scotts Valley, Soquel Creek, San Lorenzo Valley, Pajaro Valley
 - Fire Protection Districts:
Central, Pajaro Valley, Zayante, Aptos/La Selva, Ben Lomond, Scotts Valley, Boulder Creek, Felton
 - Salsipuedes Sanitary District
 - Pajaro Valley Cemetery District
2. The County Administrative Office reported to the County Board of Supervisors outlining requirements of AB 1234, who then directed all county department heads to comply.
3. All county employees are subject to the provisions of Government Code Section 1126, et seq., Santa Cruz County Code Section 3.40 and Section 173 of the County Personnel Rules and Regulations regarding incompatible activities.
4. The County Board of Supervisors directed the Personnel Department to maintain records of training completed by officials.
5. Special district agencies learned of ethics training requirements from counsel, district associations and financial auditors.
6. Seven agencies provided their written ethics policies.
7. Most county officials opted to take the ethics course online.
8. At least four special district agencies had staff who took an online ethics course.
9. Three agencies staff received training from their independent auditors.
10. Five identified legal counsel as providing training.
11. District Association meetings provided training classes to at least eight agencies.

12. Two agencies reported the training was helpful and informative.
13. One agency commented that state officials would benefit from this training.

Conclusion

The agencies in Santa Cruz County are complying with AB 1234 by participating in ethics training and developing policies to comply.

Commendation

The Santa Cruz County Grand Jury thanks all county agencies for responding to our survey and complying with AB 1234.

“The government is merely a servant — merely a temporary servant; it cannot be its prerogative to determine what is right and what is wrong, and decide who is a patriot and who isn't. Its function is to obey orders, not originate them.”

— Mark Twain

Sources

- Responses to Grand Jury questionnaire by 26 county agencies
- Web sites:
 - Institute for Global Ethics
<http://www.globalethics.org/about/faq.htm>
 - California State Senate
http://info.sen.ca.gov/pub/05-06/bill/asm/ab_1201-1250/ab_1234_bill_20051007_chapterd.html
 - Office of the Attorney General
<http://caag.state.ca.us/ethics/>
 - OnLine AB 1234 Ethics Training
<http://localethics.fppc.ca.gov/ab1234/>
 - California Special Districts Association
<http://www.csda.net/>
 - Institute for Local Government
<http://www.ca-ilg.org/trust/>
 - League of California Cities
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