

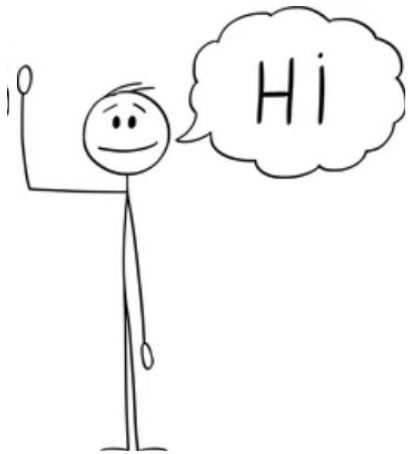


CalEPA  
California Environmental  
Protection Agency

# Conflicts of Interest

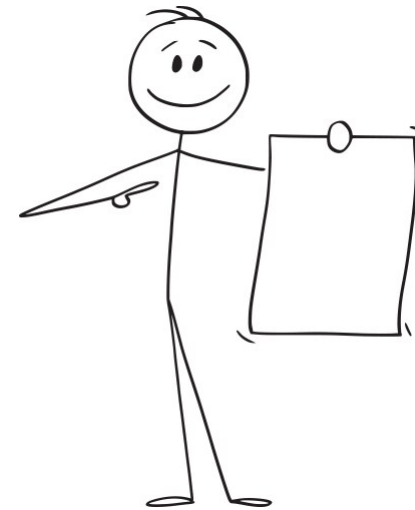
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Senior Staff Counsel

May 1, 2025



# Summary of Topics

- ▶ Applicable Conflict of Interest Rules
  - ▶ Health and Safety Code section 38591.2, subdivision (b)(2)(B)
  - ▶ Government Code section 87104
- ▶ How to Address Conflicts Questions
- ▶ Conflict of Interest Code Exemption



# Health and Safety Code

Section 38591.2, subdivision (b)(2)(B)

# Section 38591.2, subd. (b)(2)(B)

(2) The committee members shall meet all of the following requirements:

(A) Have academic, nonprofit, and other relevant backgrounds.

(B) Lack financial conflicts of interest with entities subject to the regulation adopted by the state board pursuant to subdivision (c) of Section 38562.

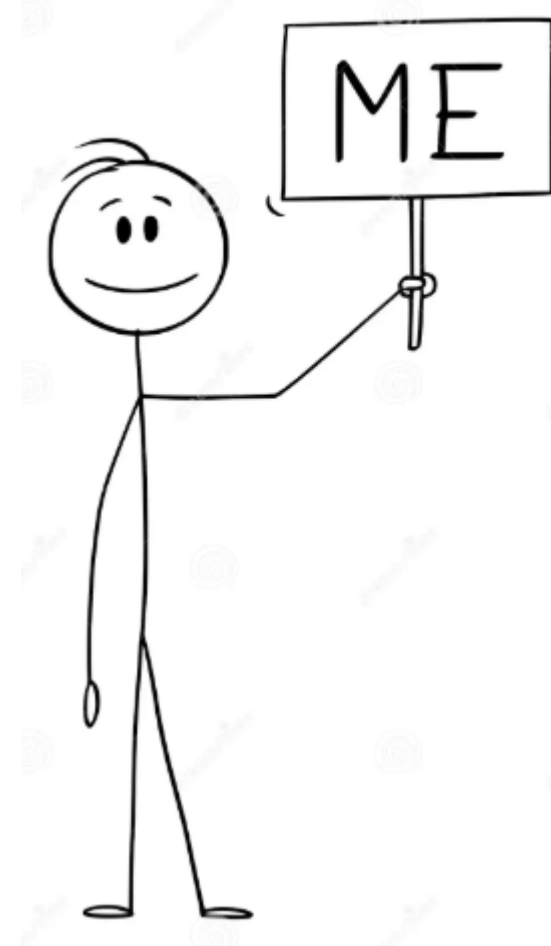
# Government Code

Section 87104

# To whom does Section 87104 apply?

Applies to Members of the IEMAC

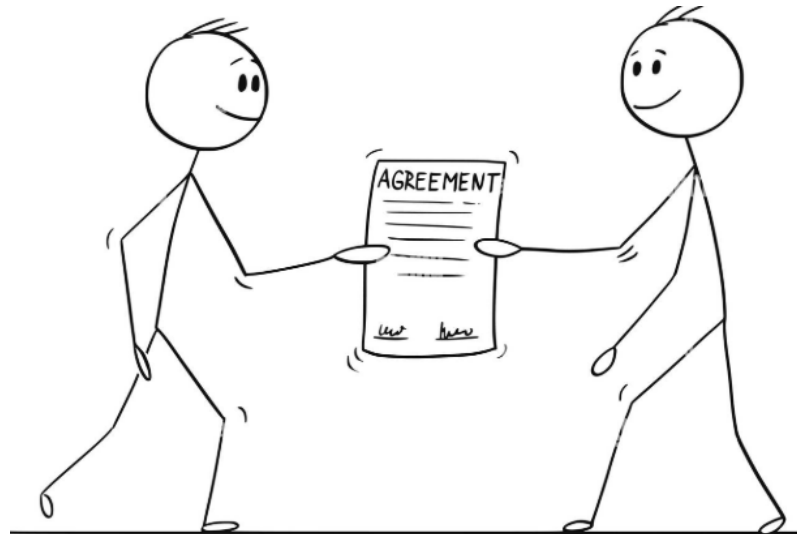
The rule is personal to the member



# Which agencies are restricted from communicating with me by virtue of 87104 & my IEMAC membership?

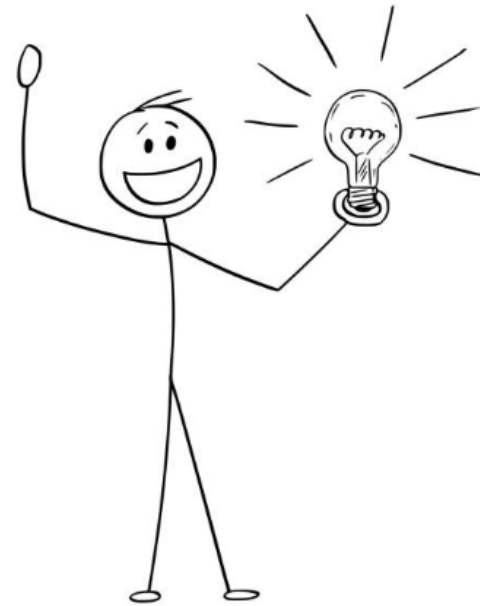
## CalEPA & CARB

This means your comms with other CalEPA BDOs and other state agencies aren't impacted by 87104, unless you're also an advisory member for the other agency/BDO.



# What does 87104 restrict me from doing with CalEPA & CARB?

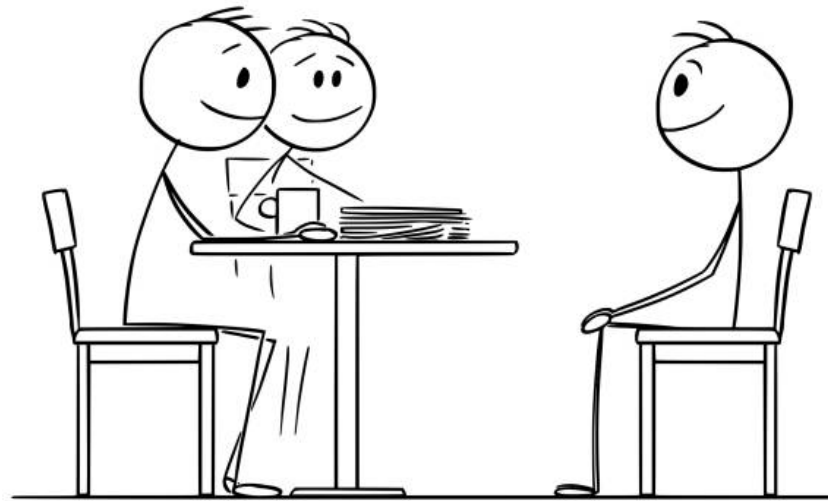
With limited exceptions, Section 87104 prohibits Members from making formal or informal appearances or oral or written communications to CalEPA & CARB to influence a decision on a specific contract, grant, loan, license, permit, or other entitlement for use (“covered decision”) if the appearance or communication is compensated by a third party.





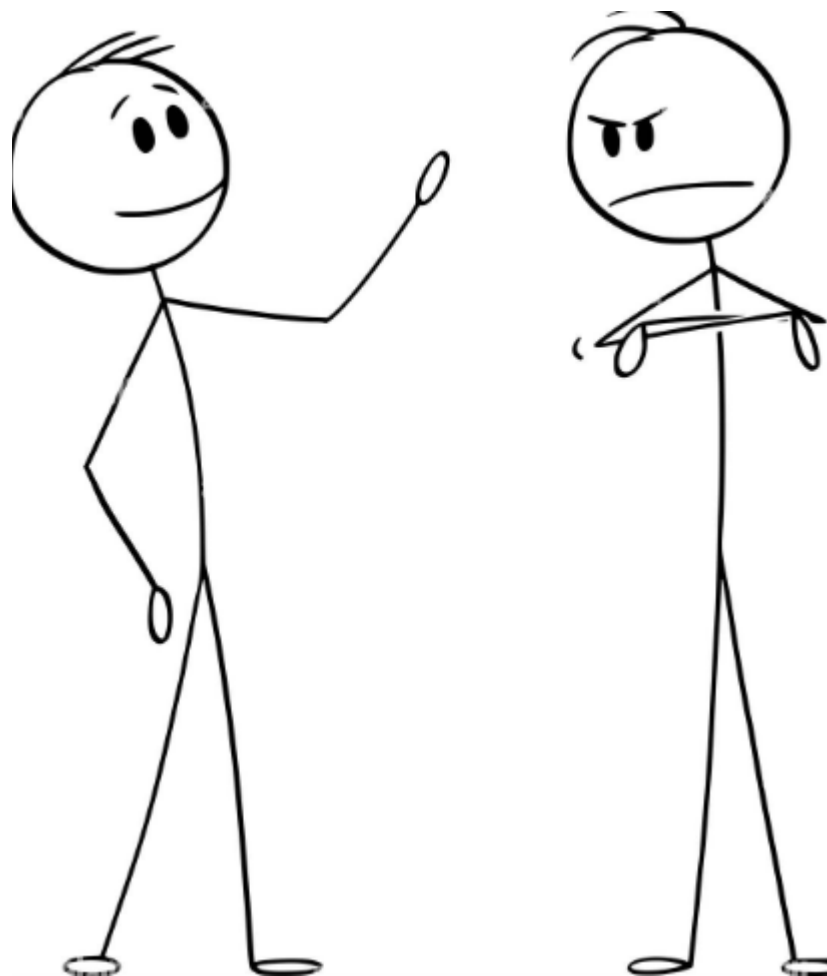
# What you can do...

- ▶ Wide array of comms are OK if they aren't related to "covered decisions"
- ▶ Uncompensated comms related to your personal interests
- ▶ Comms before appt or after membership ends
- ▶ Comms on an unpaid, voluntary basis on behalf of a non-profit



## What you can't do...

- ▶ Compensated communications & appearances on behalf of another to influence *specific* “covered decisions” (contracts, grants, loans, licenses, permits, or other entitlements for use)
- ▶ Only applies during term, not before or after



# How to

Address Conflicts Questions

# Contact

- ▶ FPPC
  - ▶ 1-866-ASK-FPPC
  - ▶ [Advice@fppc.ca.gov](mailto:Advice@fppc.ca.gov)
- ▶ CalEPA
  - ▶ Contact CalEPA Liaison:  
[William.Dean@calepa.ca.gov](mailto:William.Dean@calepa.ca.gov)
  - ▶ CalEPA 87104 FAQ (12/2023)
- ▶ Appointing Authority
- ▶ Personal Attorney



**Remember!** Each member is personally responsible for complying with conflict-of-interest laws and rules.

# Conflict of Interest Code Exemption

Cal. Code Regs., tit. 2, 18751, subd. (d) (criteria for approval)

Cal. Code Regs., tit. 2, 18700, subd. (c)(2) (decision-making authority defined)

# Political Reform Act

- CalEPA filed the initial exemption request in 2018 and has consistently filed a renewal every 2 years.
- IEMAC continues to meet the criteria for an exemption, therefore, CalEPA has applied for a renewal the next 2-year period.
- CalEPA and the general IEMAC membership (current and future) are entitled to relief from the administrative burdens that would otherwise attach.
- Under the current exemption, there's no legal requirement for Members to file Form 700s.

# Summary

- ▶ Applicable Conflict of Interest Rules
  - ▶ Health and Safety Code section 38591.2, subdivision (b)(2)(B)
    - ▶ Consistent with common law requirement prohibiting actual or perceived conflicts
  - ▶ Government Code section 87104
    - ▶ Regulates comms with CalEPA and CARB about specific covered decisions
- ▶ How to Address Conflicts Questions
  - ▶ Contact FPPC, CalEPA, Appointing Authority, your own legal counsel
- ▶ Conflict of Interest Code Exemption
  - ▶ Though there's an exemption each member is personally responsible for complying with conflict-of-interest laws and rules.

Thank you!