

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of: )  
 )  
Opinion requested by )  
Ralph D. Stern, Legal Counsel )  
Big Five Association of )  
Public School Districts )  
\_\_\_\_\_ )

No. 75-040  
July 2, 1975

BY THE COMMISSION: We have been asked the following questions by Ralph D. Stern, Legal Counsel for the Big Five Association of Public School Districts:

The Big Five Association of Public School Districts is an unincorporated association whose members are the following five public school districts:

Long Beach Unified School District  
Los Angeles Unified School District  
Oakland Unified School District  
San Francisco Unified School District  
San Diego Unified School District

Each member pays annual dues to the Association which provides a vehicle for bringing the special needs of the members to the attention of legislative bodies and appropriate administrative agencies. Each member is represented at meetings of the Association by two members of its Board of Education and its superintendent. All of the Association's work is accomplished through elected officials, employees of or consultants employed by its member public school districts. The Association has no employees of its own. The Association's funds are expended in the holding of membership meetings, printing of stationery, postage and other incidental expenses. Members of the Legislature and their staffs, as well as other officials of state government, have attended meetings of the organization, including luncheon meetings and receptions. At its meetings, the Association discusses pending legislation and often takes positions on such legislation, which are then communicated to members of the Legislature and others through Board members, employees or consultants (including registered lobbyists) of the member school districts. In addition, the Association on occasion requests members of the Legislature to introduce particular legislation.

(1) Is the Association a lobbyist within the meaning of the Political Reform Act?

(2) Is the Association engaging in lobbying activity under Government Code Section 86108(b)?<sup>1/</sup>

(3) Is the Association exempt from reporting since the Association's activities will be reported by both the member school districts in filing lobbyist employer reports and the lobbyists employed by the member school districts, who will be filing lobbyist reports?

#### CONCLUSION

(1) The Association is not a lobbyist under the Act.

(2) It is engaged in lobbying activity under Section 86108(b) of the Act if it is making payments to influence legislative or administrative action.

(3) It is not exempt from reporting.

#### ANALYSIS

(1) A lobbyist under the Political Reform Act of 1974 is one who is employed or retained to communicate with any state official for the purpose of influencing legislation or administrative action. Section 82039. The Association is not within that definition because it is not "employed or retained" to communicate.

The Association is an unincorporated non-profit association composed of the superintendent of each of the member school districts and two current members of the Board of Education of each district. The Association is governed by a Board of Directors consisting of the officers, each of whom is a Board of Education member from different member school districts. Officers are unpaid.<sup>2/</sup>

The Association is not employed to communicate with officials to influence legislative or administrative action. Rather, it is used as a vehicle to accomplish Association goals through cooperation. Those officers of the Association who spend time communicating with officials to influence action are employed or retained by their own districts. Other district

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<sup>1/</sup> All statutory references are to the Government Code unless otherwise noted.

<sup>2/</sup> See the Constitution of the Big Five Association of Public School Districts.

employees may assist in such activities, but these employees are also employed by the individual districts.

(2) Any person who directly or indirectly makes payments of \$250 or more in any month to influence legislative or administrative action has reporting obligations under the Political Reform Act, Section 86108(b).

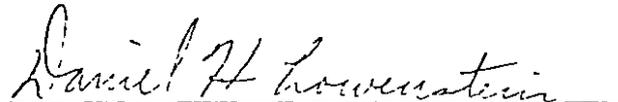
Such payments are defined to include payments which benefit officials and payments in connection with soliciting or urging other persons to enter into direct communication with officials. Section 82045(c) and (e). The Big Five Association makes payments in connection with holding meetings attended by officials and reaches agreement on programs to be presented to public officials by the various districts. These are payments to influence legislative or administrative action. If the payments are \$250 or more in a month, the payments must be reported. The activities may be termed lobbying activity under the Political Reform Act.

(3) The opinion request states that the people making the communications on behalf of the Association may register and report as lobbyists for their respective school districts. The districts each report as lobbyists' employers.

The Association contends that all its activities will be reported by the member school districts and their lobbyists. However, an Association meeting which involved legislative officials and offered gifts to these officials would not be reported by the members of the Association. Furthermore, political contributions made by the Association would not be otherwise reported by members of the Association.

Thus, the Association is not exempt from reporting requirements if it spends in any month \$250 or more in payments to influence legislative or administrative action.

Approved by the Commission on July 2, 1975. Concurring: Brosnahan, Carpenter, Lowenstein and Miller. Commissioner Waters was absent.

  
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Daniel H. Lowenstein  
Chairman