

# State of California



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement  
(916) 322-5662 322-5660 322-5901 322-6441

June 15, 1984

David E. Ross  
School Board President  
Oak Park Unified School District  
6477 E. Bayberry Street  
Agoura, CA 91301

Re: Your Letter  
Our File No. A-84-133

Dear Mr. Ross:

Thank you for your letter dated May 15, 1984, expressing your views on the lobbyist registration and reporting requirements in the Political Reform Act.<sup>1/</sup> As you pointed out correctly in your letter, there is an exemption in the statutes to these requirements for all elected public officials. There is also an exemption for state employees. See Section 86300. However, other public officials (both appointed and civil servant) must register and report as lobbyists if they engage in regular and direct communication with state legislative or administrative officials for the purpose of influencing legislative or administrative action. I have enclosed a copy of Commission regulation, 2 Cal. Adm. Code Section 18239, as recently amended, which defines all of these terms.

We are sympathetic to the concerns you expressed, and while we cannot always divine the purposes of a statute, it appears that at the time the exemption was drafted, most or all lobbying of state officials was done by local elected officials rather than by other local officials. In the ten years since the Act was enacted, we have seen an increase in lobbying of state

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<sup>1/</sup> Government Code Sections 81000-91014. All statutory references are to the Government Code.

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officials by local governments. In any event, the type of changes you suggest in your letter, would have to be made by legislative action, and I will give a copy of your letter to our Legislative Coordinator for consideration as he prepares our 1985 legislative proposals.

If I can be of further assistance, please feel free to contact me at (916) 322-5901.

Sincerely,



Diane Maura Fishburn  
Staff Counsel  
Legal Division

DMF:plh  
Enclosure

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MAY 21 2 15 PM '84

6477 E. Bayberry St.  
Oak Park  
Agoura, CA 91301  
15 May 1984

Fair Political Practices Commission  
1100 K Street  
Sacramento, CA 95814

As a school board member, I often communicate with both state legislators and local officials regarding issues of concern to my school district. Your staff informed me that I will not have to register as a lobbyist when I engage in such activity because I am an elected public official. On the other hand, I was also informed that my school superintendent, as an employee of the school district, does have to register as a lobbyist if his contacts with legislators and county officials exceed some small number in a two-month period.

I feel this requirement on my school superintendent to register as a lobbyist is inappropriate. Under the policies adopted by the School Board, only our superintendent can be the official spokesman for the district; I can communicate with legislators only as a very interested individual but not as officially representing the district.

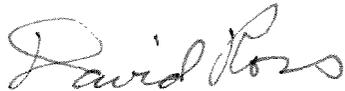
It must be expected that a unit of government such as a school district or a city would necessarily engage in lobbying activities with other units of government such as counties or the state. When the elected governing body of a unit of government directs its executive officer to express that unit's position on an issue in front of other officials, that chief officer should not be subjected to the record-keeping and filing requirements of a lobbyist. (On the other hand, a unit of government that has designated someone else to serve as a lobbyist has explicitly subjected that person to those requirements.)

I must point out that the present requirement applies differently to different units of the same type of government. Many charter cities have mayors as their executive officers; these mayors are exempt from registration -- even if they are paid a salary -- because they are elected officials. On the other hand, general-law cities have city managers as their executive officers; these appointed officials must register as lobbyists if they represent their cities to the Legislature. Ventura County has an elected county superintendent of schools who is exempt from registering as a lobbyist; San Diego County has an appointed county superintendent of schools who must register as a lobbyist if he often discusses education issues with his legislators.

I suggest that the executive officer of each independent unit of government -- each unit governed by an elected body -- be exempted from the registration requirement whether that official is elected or appointed as long as the executive officer restricts all lobbying activities to the benefit of his or her unit of government. This would mean that, in addition to elected officials, one individual per unit of government -- an individual who might be an elected official anyway -- would be exempt from the registration requirement. I feel the constraints on the operations of local governments are sufficient to prevent this exemption from resulting in lobbying abuses.

The comments expressed in this letter are my own and do not reflect the official position of the Oak Park Unified School District or its School Board. I have not discussed this letter with my superintendent, who is the only person authorized to express such official positions; such an expression on this issue might constitute a lobbying contact that would require him to register as a lobbyist.

Sincerely,



David E. Ross, School Board President  
Oak Park Unified School District

cc: Assemblywoman C. Wright  
State Senator E. Davis  
CSBA

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May 22, 1984

David E. Ross  
School Board President  
Oak Park Unified  
School District  
6477 E. Bayberry St.  
Agoura, CA 91301

Re: A-84-133

Dear Mr. Ross:

Your letter requesting advice under the Political Reform Act has been referred to Diane Maura Fishburn, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

  
Barbara A. Milman  
General Counsel

BAM:plh