

# 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

April 18, 1985

Lois Shade  
811 East Juanita Avenue  
Glendora, CA 91740

Re: Your Request for Advice  
Our File No. A-85-066

Dear Ms. Shade:

Thank you for your letter requesting advice concerning your duties under the conflict of interest provisions of the Political Reform Act.<sup>1/</sup>

### QUESTION

You are a member of the Glendora City Council and you own residential property adjacent to the Sunflower School, a school which the Charter Oak Unified School District has scheduled for closure. Is it a conflict of interest for you to serve as a member of the advisory committee on school site utilization which will make recommendations to the governing board of the Charter Oak Unified School District about site utilization for schools that are being closed?

### CONCLUSION

The Political Reform Act does not prohibit you from serving as a member of the advisory committee on school site utilization.

### DISCUSSION

Pursuant to Education Code Section 39296, the governing board of a school district may, and in certain cases is required

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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to, establish an advisory committee on school site utilization to advise the governing board in the development of district-wide policies and procedures governing the use or disposition of school buildings or space in school buildings which is not needed for school purposes. The advisory committee is required to, among other things, determine the amount of surplus space in the district, establish a priority list for use of surplus space that will be acceptable to the community, provide for hearings of community input to the committee on acceptable uses of space, and forward to the district governing board a report recommending uses of surplus space. Education Code Section 39298. The governing board of the school district must make the final decision on the use of surplus real property of the school district. Education Code Section 39360. The provisions regarding the establishment of an advisory committee on school site utilization will be repealed December 31, 1986. Education Code Section 39299.5.

Section 87100 prohibits any public official from making, participating in, or attempting to use his official position to influence any governmental decision in which he knows, or has reason to know, he has a financial interest. Section 87100 does not apply to members of a board or commission which is purely advisory and possesses no decisionmaking authority, such as the advisory committee on school site utilization. 2 Cal. Adm. Code Section 18700(a)(1).

Although Section 87100 does not apply to members of the advisory committee on school site utilization, that section does apply to any member of a city council. Because you are a member of the Glendora City Council, Section 87100 requires you to refrain from making, participating in, or attempting to use your official position to influence any governmental decision in which you have a financial interest. There is currently no decision pending before the Glendora City Council which would affect the use of the Sunflower School property. However, your question requires a discussion of the prohibition on using your official position to influence a governmental decision in which you have a financial interest when that decision is before another agency.

Commission regulation, 2 Cal. Adm. Code Section 18700 currently provides that a public official attempts to use his official position to influence a governmental decision if the official furthers, or attempts to affect in any manner, any decision within or before his own agency, or any decision before any agency which is appointed by or is subject to the budgetary control of his agency. 2 Cal. Adm. Code Section 18700(e). A

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public official is not prohibited from appearing before an agency as a member of the general public to represent himself on matters related solely to his personal interest. 2 Cal. Adm. Code Section 18700(f)(1).

The advisory committee on school site utilization and the governing board of the Charter Oak Unified School District are independent of the appointive or budgetary control of the Glendora City Council; therefore, current law does not restrict your actions as a member of the advisory committee on school site utilization due to your position as a Councilmember for the City of Glendora.

The current provisions of 2 Cal. Adm. Code Section 18700 may be amended by the Commission. I have enclosed a copy of the Notice of Proposed Changes and the text of the proposed regulation, which is scheduled to be heard by the Commission on May 7, 1985. If the regulation is amended and you wish to request additional advice, please contact me at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan  
Counsel  
Legal Division

KED:Plh  
Enclosures

Barbara Milman  
General Counsel  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, California 95804

MAR 14 9 12 AM '85

Dear Ms. Milman:

March 9, 1985

Please give written advice as per Section 83114 (b) on the following:

On March 5, 1985, I received a letter addressed to Mrs. Lois Shade from the Charter Oak Unified School District requesting that I sit with the committee to study site utilization for two schools that are being closed in our area. The enclosed map indicates that relationship of one of the schools to my home. This issue is further complicated by the fact that I am a council member with the City of Glendora. The second school site to be closed is a considerable distance (approximately two miles) away and within the jurisdiction of the City of Covina. One other member of the committee, Mr. Roy Maddock and myself have sat down with each one of the School Board members and discussed school reorganization and its effects on the community and their reasons for the closure. Another committee member is my neighbor directly to the east and adjacent also to the Sunflower school site.

The concerns I have and those of my constituents in this case relate to the land use issues and the fact that the school district, to this point, has not been in touch with the City of Glendora concerning the appropriate use of this facility in this area. You will see other material that was given to the school board by myself and Mr. Maddock.

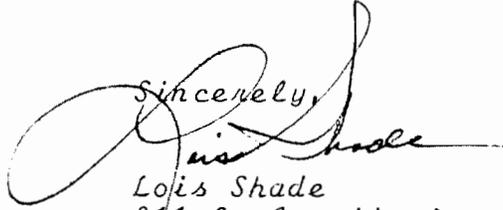
Because of the sensitivity of this issue I am concerned about a potential conflict of interest if I sit with this committee either as a citizen or city council member because of past actions and because of location of my property and that of my neighbor and the fact that I am a council member.

As I understand it, this committee is formed and will function under guidelines set within the education code to deal with school closure. Other members of the committee include:

Betty Banks	Supervisory employee Charter Oak Unified Schools
Joe DeCarolis	teacher within the District
Craig Jennings	Planning Director for City of Covina
Bob Frick	Ass't. Superintendent of Business Services for Charter Oak Unified School District
Roy Maddock	Homeowner and Parent and former employee of Glendora
Eleanor Miller	Homeowner, Parent, and Personnel Commissioner
Eleanor Rich	Citizen, Homeowner adjacent to one of the schools to be closed
Shirley Shaffer	retired educator
Wayne Thomas	Parent, homeowner and employed by General Telephome Company

Any help and quick response would be much appreciated. Additional information may be obtained by calling me at my home. Ususally early morning is best.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lois Shade". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Lois Shade  
811 E. Juanita Avenue  
Glendora, California 91740  
818-963-3895

# Memorandum

To : File No. A-85-066

Date : July 15, 1985

From : **FAIR POLITICAL PRACTICES COMMISSION**

Kathy Donovan *Ked*

Subject : Deadline Extension

On April 8, 1985, I spoke with Lois Shade about her request for advice. I informed her that, since the school site utilization committee is purely advisory, her participation as a citizen member of that committee did not present a conflict of interest situation. However, I informed her that in her capacity as a member of the City Council, she could have a conflict of interest if the City Council decides to take any action on the subject. However, she would be able to appear before the City Council to represent her own personal interests. I told her the letter would be finished soon, but probably not by April 12. She indicated that was not a problem for her.