

State of California



Fair Political Practices Commission

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

Technical Assistance
(916) 322-5662

•• Administration ••
322-5660

•• Executive/Legal ••
322-5901

•• Enforcement ••
322-6441

•• Statements of Economic Interest
322-6444

March 22, 1985

William L. Cunningham
Education Advisor to the Governor
Governor's Office
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-85-068

Dear Mr. Cunningham:

Thank you for your request for advice concerning the reporting duties of the members of the Commission for the Review of the Master Plan for Higher Education under the Political Reform Act^{1/}

QUESTION

Does the Political Reform Act require the members of the Commission for the Review of the Master Plan for Higher Education to file Statements of Economic Interests.

CONCLUSION

The Political Reform Act does not require the members of the Commission for the Review of the Master Plan for Higher Education to file Statements of Economic Interests.

DISCUSSION

Education Code Section 66903.7, as added by Chapter 1507 of the Statutes of 1984, establishes the Commission for the Review of the Master Plan for Higher Education. The Commission consists of 16 appointed members. The members serve without

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise specified.

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compensation but receive reimbursement for their actual and necessary travel expenses. Education Code Section 66903.7(b).

The Commission for Review of the Master Plan for Higher Education is required to review relevant reports submitted by the California Postsecondary Education Commission, the University of California, the California State University, the Board of Governors of the California Community Colleges, the Department of Finance, the Legislative Analyst, and any other relevant reports. The Commission must also conduct public hearings on, and formulate and submit recommendations regarding, the policies, content, goals, programs, functions, funding and interrelationships of the Master Plan for Higher Education. The Commission is required to submit a management plan for review by the Joint Legislative Committee for Review of the Master Plan for Higher Education by March 1, 1985, and must submit a report to the Legislature and the Governor by January 1, 1986, relative to its findings and recommendations. Education Code Section 66903.7(c) and (d). The Commission is required to select and designate a state administrative agency to carry out the personnel, contractual, and all other fiscal services required by it, but has no authority to hire personnel. Education Code Section 66903.7(c).

Pursuant to Education Code Section 66903.7(f), the provisions establishing the Commission for the Review of the Master Plan for Higher Education will become inoperative on July 1, 1987, and will be repealed on January 1, 1988.

Section 87302 provides that public officials who participate in or make decisions which may foreseeably have a material effect on any financial interest should be "designated employees" in a conflict of interest code. See also Section 82019. Regulation 2 Cal. Adm. Code Section 18700 defines "public official" to include unsalaried members of boards which make substantive recommendations which are, and over an extended period of time, have been, regularly approved by another public official or government agency. However, Section 82019(d) expressly excludes from the definition of "designated employee" any unsalaried member of any board or commission which serves a solely advisory function.

Applying these definitions, I conclude that the activities of the Commission for the Review of the Master Plan for Higher Education do not constitute governmental decisionmaking, and the members of the Commission are not required to be "designated employees." The Commission's actions are purely advisory, and the Commission will remain in existence only for the relatively short period of time that it must prepare and submit its report

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and recommendations. Accordingly, the members of the Commission for the Review of the Master Plan for Higher Education are not required to file Statements of Economic Interests.

If you have any further questions about this matter, please contact me at (916) 322-5901.

Very truly yours,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
Counsel
Legal Division

KED:plh



GEORGE DEUKMEJIAN
GOVERNOR

State of California

GOVERNOR'S OFFICE
SACRAMENTO, CA 95814

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March 14, 1985

Mr. John Keplinger
Executive Director
Fair Political Practices Commission
1100 K Street
P.O. Box 807
Sacramento, CA 95804

Dear Mr. Keplinger:

RE: Applicability of FPPC Filing Requirements to Members of
the Commission for the Review of the Master Plan for
Higher Education

I respectfully request an opinion on the necessity for members of the recently-constituted Commission for the Review of the Master Plan for Higher Education (created by Chapter 1507, Statutes of 1984) to file economic disclosure statements. This opinion is required prior to the first meeting of the Commission, scheduled for March 25-26, 1985.

The Commission consists of sixteen members appointed by nine different appointing powers. Its mandate is to review various reports and plans relating to higher education in California and to submit a report and recommendations to the Governor and Legislature not later than January 1, 1987, after which time it will expire. The Commission is strictly advisory and has no regulatory or program implementation responsibilities. A copy of the statute creating the Commission is attached.

Because the first meeting will be held very shortly, I will appreciate your giving this request your immediate attention. If you need any additional information, please call Carol Gates at 323-0611.

Sincerely,



William L. Cunningham
Education Advisor to the Governor

Attachment