



California Fair Political Practices Commission

July 2, 1986

Michael J. Keebler, General Counsel
Office of Legal Services
San Juan Unified School District
P.O. Box 477
Carmichael, CA 95609-0477

Re: Your Request for Informal
Assistance
Our File No. I-86-197

Dear Mr. Keebler:

You have written requesting our general guidance as to the interpretation and application of Government Code Section 87100. Because your request is not made on behalf of an identified requester, we will treat it as a request for Informal Assistance under regulation 2 Cal. Adm. Code Section 18329 (copy enclosed).

QUESTION

You indicated that one of your district's top level administrators has been approached by a private company that is developing computer-assisted learning materials. The company wants your administrator to serve on an advisory committee to review curriculum programs and to advise the company on school district curriculum needs and priorities. In return, the administrator would receive expenses and possibly an honorarium of no more than \$500 for each meeting. You have asked: If your school district becomes involved with this company and wishes to purchase services or materials, including computer-assisted learning systems, would the administrator be involved in a conflict of interest situation?

CONCLUSION

The facts stated would give rise to a conflict of interest on the part of the administrator, unless he or she does not participate in any way in the decision to purchase services or material from the company.

ANALYSIS

The Political Reform Act (the "Act")^{1/} prohibits a public official^{2/} from making, participating in making, or using his or her official position to influence the making of any governmental decision in which he or she has a financial interest. Section 87100. Section 87103 provides as follows:

An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

* * *

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made....

If the administrator accepts the travel or the \$500 honorarium, he or she will have received income and would have a financial interest in the decision, if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the company.

In order to assist public officials in determining when disqualification from decisionmaking is required, the Commission has adopted regulations. Regulation 2 Cal. Adm. Code Section 18702.1 provides in pertinent part:

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

^{2/} Under Section 82048, "public official" means every member, officer, employee, or consultant of a state or local government agency this includes school districts. Section 82041.

Michael J. Keebler, General Counsel
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... a public official shall not make, participate in making, or use his or her official position to influence a governmental decision if ... any business entity which which has been a source of income (including gifts) to the official of \$250 or more in the preceding 12 months ... appears before the official in connection with the decision.

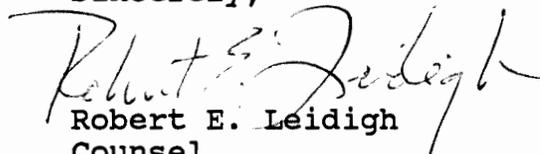
The regulation further provides that a business entity appears before an official in connection with a decision when that entity is "a named party in the proceeding concerning the decision before the official or the body on which the official serves." 2 Cal. Adm. Code Section 18702.1(b)(2).

If the School Board were to vote on whether or not to purchase services or materials, including computer-assisted learning systems, the private company would be a "party in the proceeding." The company, therefore, would be "appearing before the body" which the administrator serves. Because the effect of such a decision would be distinguishable from its effect on the public generally, disqualification from any participation in the decision process would be required.

It should also be noted that there is no per se conflict of interest if the administrator in question does not participate in any way in the decision and the school board decides to purchase services or materials from the company.

I trust that the foregoing has been of assistance to you. Should you have any questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,


Robert E. Leidigh
Counsel
Legal Division

REL:plh
Enclosure

SAN JUAN UNIFIED SCHOOL DISTRICT

3738 WALNUT AVENUE • CARMICHAEL, CALIFORNIA 95608-3099 • (916) 971-7100
FRED J. STEWART, Superintendent of Schools

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Please address all correspondence to:
P. O. BOX 477, CARMICHAEL, CALIFORNIA 95609-0477

June 12, 1986

Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

Dear Sir/Madam:

One of our top level administrators has been approached by a private company which is developing computer-assisted learning materials. The company is forming an advisory committee to review curriculum programs and to advise the company on school district curriculum needs and priorities.

The advisory committee would meet once or twice a year. Members of the committee would have their entire expenses paid for the meetings and possibly receive a modest honorarium of no more than \$500.00 for each meeting.

If our school district became involved with this company and wished to purchase services or materials, including computer-assisted learning systems, would the administrator be involved in a conflict of interest situation?

Please feel free to contact me at 971-7110 if you have any questions regarding my inquiry.

Thank you for your assistance.

Sincerely,



Michael J. Keebler, General Counsel
Office of Legal Services

MJK/pb



California Fair Political Practices Commission

June 17, 1986

Michael J. Keebler, General Counsel
Office of Legal Services
San Juan Unified School District
3738 Walnut Avenue
Carmichael, CA 95608-3099

Re: 86-197

Dear Mr. Keebler:

Your letter requesting advice under the Political Reform Act has been received on June 16, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me 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,

Robert E. Leidigh
Counsel
Legal Division

REL:plh