

CONCLUSION

Under the Political Reform Act, you may participate in a decision of the Board of Directors concerning a new personnel policy affecting the employment of relatives unless your mother has provided you with \$250 or more in income, other than gifts or loans, during the preceding 12 months.

ANALYSIS

Section 87100 prohibits a public official from making, participating in, or using her official position to influence a governmental decision in which she knows or has reason to know she has a financial interest. A public official has a financial interest in a governmental 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 official or any member of her immediate family, or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(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.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts 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.

Section 87103(a)-(e).

Ruth M. Ellis
August 22, 1986
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The decision in question concerns the District's policy regarding employment of relatives. Your mother is a staff nurse at the District's hospital, and has worked there for at least 20 years. You have indicated that the proposed policy could affect your mother's continued employment with the Hospital District; therefore the foreseeable effect of the decision on your mother would be considered material. See 2 Cal. Adm. Code Section 18702(a) (copy enclosed).

As a member of the Board of Directors of the Hospital District, you are a public official. Section 82048. The Political Reform Act thus requires you to disqualify yourself from participating in any decision which would have a reasonably foreseeable material financial effect on you, any member of your immediate family, or on any of your economic interests.

Your mother is not a member of your "immediate family" as that term is used in the Political Reform Act. Section 82029 provides that "immediate family" means the official's spouse and dependent children. Therefore, under the facts you have provided, the decision in question would not affect a member of your "immediate family."

In your letter, you also stated that your mother is not a member of your household and is not your dependent, nor are you her dependent. Unless your mother has provided you with \$250 or more in income during the preceding 12 months, there is no basis for a conclusion that you have a conflict of interest regarding a decision which could affect your mother's continued employment with the Hospital District. For purposes of the Political Reform Act, "income" is broadly defined and generally includes gifts and loans. Section 82030(a). However gifts and loans from parents are specifically excluded from the definition of "income" for purposes of the Political Reform Act. Section 82028(b)(3) and Section 82030(b)(9). Thus, your mother would be considered a source of income to you only if, during the preceding 12 months, she has paid you, or promised to pay you, \$250 or more for goods or services you have provided to her.

Therefore, we conclude that you may participate in the decision of the Board of Directors unless your mother has provided you with \$250 or more in income, other than gifts or loans, during the preceding 12 months.

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

Very truly yours,

Kathryn E. Donovan

Kathryn E. Donovan
Counsel
Legal Division

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Enclosure

F P M C
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Ruth L. Ellis
324 Meadowlark Lane
Sanning, Ca. 95220

August 15, 1986

State of California
Fair Political Practices Commission
Post Office Box 907
Sacramento, Ca. 95804

Dear Sirs:

Enclosed is a copy of the new personnel policy to be implemented at the next Board meeting of the San Joaquin Base Hospital District on August 27, 1986. I have also enclosed a copy of the previous policy in regard to the employment of relatives. My question is: Since I was elected a member of the Board of Directors in 1984 and my Mother has been employed as a staff nurse for 20+ years at the hospital is it legal for the board to implement this policy and subsequently force either my mother or myself to resign because of its implementation? This appears to be political blackmail to me. I might add that my mother is not in management therefore the board does not become involved in her performance evaluation nor the specific setting of her wage. She is not a member of my household and is not my dependent nor am I her dependent. May I participate in the discussion and vote on this issue in the upcoming board meeting?

Thank you for your guidance on this matter.

Sincerely,

Ruth Ellis

Ruth L. Ellis, Vice Pres.
San Joaquin Base Hospital Dist.
(714) 841-3435

PERSONNEL POLICY

IMPLEMENTATION DATE:

DISTRIBUTION: All Departments

SUBJECT: Employment of Relative

1. Relatives of hospital employees will be considered for job vacancies on their own merit under certain conditions. Persons are not employed in positions where they will be subject to the supervisory authority of relatives or where they will have supervisory authority over a relative. Relatives cannot be employed in the same work unit on the same shift. Persons in hospital positions with access to confidential employee information may not have relatives employed within the system. If two employees become related through marriage or any other reason and fall into any one of the categories described in this policy, one of the individuals must be reassigned, transfer, or resign as dictated by the situation. If persons involved cannot resolve this matter the appropriate department director or administrator makes the decision. For purposes of this policy, relatives are defined to be:

Husbands, wives, parents, children, parents-in-law, children-in-law, brothers, sisters, grandparents, aunts, uncles, first cousins, brothers-in-law, sisters-in-law, grandchildren, step-children or step-parents.

2. Relatives of the medical Staff, Board of Directors or the Hospital Administrator may not be employed by the hospital.

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work the allowed holiday as stipulated in Part II.

Temporary Employees: All employees who are hired to work for not more than 90 days are classified as Temporary employees and are not authorized any benefits.

PRIOR EMPLOYMENT

If you terminate your employment and are subsequently reemployed at a later date, you are considered as a new employee with regards to tenure and eligibility of benefits.

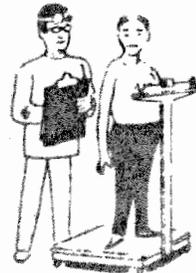
EMPLOYMENT OF RELATIVES

It is the policy of the Hospital not to permit an employee to work in the area of responsibility of a supervisor, department head or administrator to whom he or she is related.

In no event will two or more members of the same family be assigned to the same department on the same time schedule. Special approval may be granted by the Board of Directors.

PHYSICAL EXAMINATION

Pre-Employment and Annual Physical: Regardless of classification, you are required to have a physical examination at time of employment and annually thereafter. If you desire, the test will be given at the hospital at no cost to you. The preemployment tests will include a Chest X-Ray, Urinalysis, and a Serology Test. A Physical Exam Form must be signed by a Physician to state that you are physically fit to perform in your job capacity.





California Fair Political Practices Commission

August 19, 1986

Ruth M. Ellis
324 Meadowlark Lane
Banning, CA 92220

Re: 86-262

Dear Ms. Ellis:

Your letter requesting advice under the Political Reform Act has been received on August 19, 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,

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

Kathryn E. Donovan
Counsel
Legal Division

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PHILOSOPHY OF EMPLOYMENT

It is the policy of the Hospital and its employees to
be respectful of the fact that you are considered as a
employee such as to respect and dignity of patients

EMPLOYMENT OF RELATIVES

It is the policy of the Hospital not to permit an em-
ployee to work in an area of responsibility in a department
department head or administrator is a non-related
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In the event that two or more members of one family
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PHYSICAL EXAMINATION

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