



# California Fair Political Practices Commission

July 29, 1987

Edward H. Boyce, Director  
Cooperative Personnel Services  
1820 Tribute Road, Suite A  
Sacramento, CA 95815-4389

Re: Your Request for Advice  
Our Advice File No. I-87-179

Dear Mr. Boyce:

This is in response to your letter requesting advice regarding the applicability of the conflict of interest provisions of the Political Reform Act (the "Act") 1/ to Cooperative Personnel Services (CPS), a joint powers agency. Since your letter states only general questions and does not seek advice regarding any particular official, we will consider it to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed). 2/

## QUESTIONS

1. Is CPS required under the Act to develop a conflict of interest code?
2. Are the members of the CPS board of directors required to file financial disclosure statements?

## CONCLUSIONS

1. CPS is required to adopt a conflict of interest code.
2. The members of the CPS board of directors are required to file financial disclosure statements.

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1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

2/ Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

### FACTS

CPS is a joint powers agency established under Section 6500 et seq. Its primary purpose is to provide consulting services, training, research and personnel management services to its member agencies. CPS receives all of its revenues from contracts entered into with other governments.

The board of directors for the agency has opted to deal only with the broadest policy issues such as personnel rules, salary ranges and hiring and firing policies. A full-time staff is responsible for the day-to-day operations of the agency. The board members receive no compensation for their services and intend to meet only once a year.

### ANALYSIS

Government Code Section 87300 requires that every agency shall adopt and promulgate a conflict of interest code. <sup>3/</sup> The term "agency" means any state agency or local governmental agency. The term "local government agency" is in turn defined as follows:

"Local government agency" means a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.

(Section 82041.)

The Commission has previously concluded that agencies formed pursuant to joint powers agreements meet this definition. (See Siegel Advice Letter, No. A-81-03-015, copy enclosed.) We see no basis here for distinguishing that conclusion. Accordingly, CPS is required to adopt a conflict of interest code.

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<sup>3/</sup> You have provided us with a copy of a memorandum of informal advice from the Office of the Attorney General dated September 9, 1985. In that memorandum, the attorney general concluded that CPS meets the definition of "local agency" in Section 53090, but does not meet the definition of "local agency" in Section 53530. For our purposes, we must determine whether CPS meets the definition of "local government agency" contained in Section 82041. We conclude that it does.

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Conflict of interest codes are required to specifically enumerate the positions within an agency that make or participate in decisions which could foreseeably have a material effect on any economic interest. (Section 87302.) Persons who hold the enumerated positions are referred to as "designated employees."

A designated employee makes a decision when he or she votes on a matter, appoints a person, obligates or commits the agency to any course of action, or enters into a contractual agreement. (Regulation 18700(b), copy enclosed.) Designated employees should not be limited to salaried positions. (Regulation 18700(a)(1).)

Since the members of the board of directors possess authority to make decisions which may affect their economic interests, it is appropriate for them to be included in the conflict of interest code. The fact that the board of directors has not chosen to exercise its full authority at the present time does not alter our conclusion. (See Rourke Advice Letter, No. A-84-141, copy enclosed.)

Enclosed with this letter is a package of information to assist you in developing your conflict of interest code. If you have any questions, please feel free to call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

By: Jeanette E. Turvill  
Legal Assistant

JET:jaj  
Enclosures