



California Fair Political Practices Commission

October 21, 1987

Marie Milne
Office of Planning and Research
1400 10th Street, Room 150
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A 87-250

Dear Ms. Milne:

You have requested advice on behalf of the California Commission on Educational Quality relative to their duties under the Political Reform Act (the "Act").^{1/}

QUESTION

Does the Act require the California Commission on Educational Quality to adopt a conflict of interest code? Are the members of the commission required to file statements of economic interests?

CONCLUSION

Because the commission is a purely advisory body, the Act does not require that it adopt a conflict of interest code, nor does it require that the members of the commission file statements of economic interests.

FACTS

Executive Order D-65-87 creates the California Commission on Educational Quality to study California's elementary and secondary education system, and to recommend needed reforms. The chair and the other fourteen members of the commission serve without compensation, but receive reimbursement for necessary expenses.

^{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.

The commission has the responsibility to:

1. Identify successful reforms and education techniques, and develop a plan of statewide application.
2. Examine the effectiveness of special categorical programs.
3. Develop methods for more accountability regarding financial planning and management practices.
4. Explore financial incentives to encourage sound management and compliance with previously enacted education reforms.
5. Evaluate the need for better defined policies and practices on student discipline, and make recommendations to ensure a safe and crime-free school environment.

The commission shall provide the Governor with a preliminary report of its findings and recommendations by December 1, 1987, and a final report by June 1, 1988. The commission is given no power to implement its recommendation.

ANALYSIS

Conflict of interest codes are required of public agencies in order to identify "designated employees" who, by virtue of their positions, will be involved in making decisions which may foreseeably have a material financial effect on any private economic interest. The codes must assign appropriate categories of financial disclosure to those designated positions. (Section 87302.) The term "designated employee" is defined in Section 82019. That definition specifically excludes "...any unsalaried member of any board or commission which serves a solely advisory function."

Regulation 18700 provides guidance in determining whether a board or commission is "solely advisory" or has decision-making authority:

. . . A board or commission possesses decision-making authority whenever:

(A) It may make a final governmental decision;

(B) It may compel a governmental decision; or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or

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(C) It makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency.

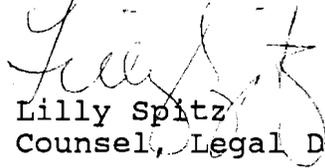
Regulation 18700(a)(1)(A)-(C).

Based on the language in the Executive Order, the commission's authority is purely advisory, and the commission's responsibility ends with submission of its final report in June 1988. We conclude that the activities of the commission do not constitute governmental decisionmaking for purposes of the Act, and the members are not required to be "designated employees." Accordingly the commission is not required to adopt a conflict of interest code, nor are its members required to file statements of economic interests. (See Cunningham Advice Letter, No. A-85-068, copy enclosed.)

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

Sincerely,

Diane M. Griffiths
General Counsel


By: Lilly Spitz
Counsel, Legal Division



State of California

GOVERNOR'S OFFICE
OFFICE OF PLANNING AND RESEARCH

1400 TENTH STREET
SACRAMENTO 95814 SEP 29 9 34 AM '87

GEORGE DEUKMEJIAN
GOVERNOR

August 19, 1987

TO: Legal Division
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

FM: Marie Milne (322-3170)
Office of Planning and Research A-8
1400-10th Street, Room 150
Sacramento, CA 95814

RE: CALIFORNIA COMMISSION ON EDUCATIONAL QUALITY

Per my telephone conversation this date with Jeanette Turvill, I am enclosing a copy of Executive Order D-65-87 which establishes the above mentioned Commission. Hopefully this information will help you determine if a conflict code needs to be adopted, as well as determine if the Commission members and staff need to file an economic statement.

If you have any question, please don't hesitate to call me at 322-3170.



EXECUTIVE ORDER D-65-87

WHEREAS, Education is the key to California's future and is the top spending priority of this administration.

WHEREAS, the budget for Kindergarten through 12th grade schools has been increased \$6.5 billion in five years; and

WHEREAS, despite this unprecedented increase in funding, accompanied by educational reforms enacted in 1983, many schools are reporting serious financial difficulties and an inability to improve their educational programs; and

WHEREAS, other California public schools, receiving the same per pupil level of funding, are in sound financial condition and have achieved solid student results; and

WHEREAS, the State Auditor General and the Commission on State Government Organization and Economy have recently raised concerns as to whether public school districts are adequately managed and are held sufficiently accountable for their fiscal policies; and

WHEREAS, California's essential school reform movement needs both greater accountability and a clear and creative direction for the future.

NOW, THEREFORE, I, **GEORGE DEUKMEJIAN**, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

1. The California Commission on Educational Quality is hereby created to study California's elementary and secondary education system, and to recommend needed reforms.
2. The Commission shall be composed of a chairman and 14 members.
3. The Commission shall have the following responsibilities:
 - a. To identify specific reforms and education techniques which have been proven to work in California's exemplary schools, and develop a plan to apply them statewide in all schools.

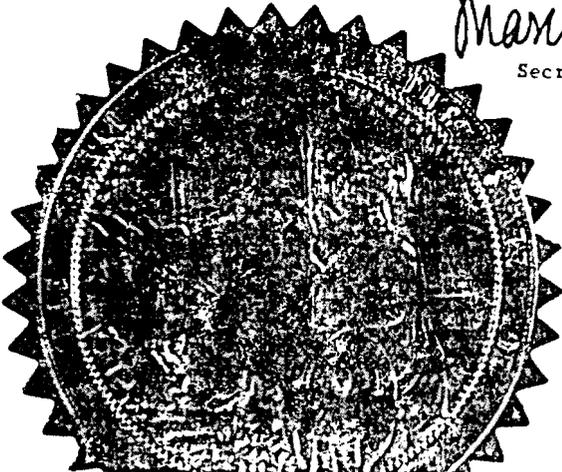
- b. To examine the effectiveness of California's 40 special categorical education programs..
 - c. To develop methods to make school districts and state education officials more accountable for sound financial planning and management practices.
 - d. To explore the use of financial incentives to encourage sound management practices and compliance with reforms previously enacted in Chapter 498, Statutes of 1983.
 - e. To evaluate the need for better defined policies and practices on student discipline and suggest additional steps to ensure that all students in the state enjoy the benefits of a safe and crime free school environment.
4. Members of the Commission shall serve without compensation, but shall receive payment for necessary expenses.
 5. The Commission shall provide the Governor with a preliminary report of its findings and recommendations by December 1, 1987, and a final report by June 1, 1988.
 6. All state agencies, departments, boards and commissions are directed to assist the Commission in the implementation of this executive order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 22nd day of July 1987.

George Deukmejian
Governor of California

ATTEST:

Mark Fong Eu
Secretary of State





California Fair Political Practices Commission

October 2, 1987

Marie Milne
Office of Planning and Research
P.O. Box 807
Sacramento, CA 95804

Re: 87-250

Dear Ms. Milnen:

Your letter requesting advice under the Political Reform Act was received on September 28, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Lilly Spitz, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
Diane M. Griffiths
General Counsel *My Rich*

DMG:jaj