



# California Fair Political Practices Commission

February 11, 1988

Mr. William W. Abbott  
County Counsel  
County of Sierra  
1801 "I" Street, Suite 200  
Sacramento, CA 95814

Re: Your Request for Advice  
Our File No. A-88-049

Dear Mr. Abbott:

You have written requesting advice on behalf of your clients, the Sierra County Board of Supervisors, regarding the potential receipt by themselves and other county employees of discount coupons or cards.

## QUESTION

Will receipt and retention of discount coupons or cards by county employees and officers require disqualification by those public officials with respect to decisions affecting the donors?

## CONCLUSION

Where the discount cards are offered to all county employees and officers on an equal basis and are also given to other groups, the discount does not represent a gift and receipt and retention does not result in any potential for disqualification from decisions affecting the donor.

## FACTS

Various potential vendors to the county have expressed the desire to furnish discount cards to the board members and all other county employees. The discount cards will similarly be made available to other non-county groups, although not the public at large, except to the extent that an individual belongs to one of these other groups. Subsequently, some of the donors of these discounts may seek to sell goods or services to the county.

ANALYSIS

The Political Reform Act (the "Act")<sup>1/</sup> prohibits a public official from making, participating in or using his or her official position to influence a governmental decision in which he or she has a financial interest. (Section 87100.) A public official has a financial interest in a decision if it will have a reasonably foreseeable material financial effect distinguishable from the effect on the public generally on an official's economic interest, including:

(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(e).

As used in the Act, the term public official includes every officer or employee of a governmental entity. (Section 82048.) Consequently, this prohibition applies to all county employees, not just members of the board of supervisors. Thus, if the discount cards are considered to be gifts to the county officials who receive and use them and the value equals or exceeds \$250, then the official would be required to disqualify himself or herself from participating in decisions affecting the donor. This would include decisions to purchase materials or services from the donor. (Regulation 18702.1(a), copy enclosed.)

Section 82028 defines the term "gift" to include a discount or rebate if given to a public official unless given without regard to the "official status" of the public official and on terms available to members of the public. Here, you have said that these discount cards will be made available to all county employees on the same terms. In addition, other groups are offered the same discount cards for the use of their membership.

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

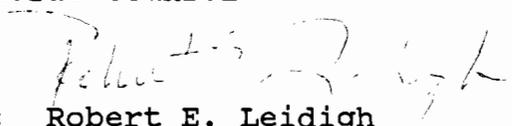
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Under these facts, we conclude that the discounts are made available to members of the public without regard to the official status of the official. For a thorough discussion of the reasoning behind our conclusion, see the enclosed copy of the Commission's opinion, In re Russell (1975) 1 FPPC Ops. 191. We also enclose copies of the Commission's regulations relating to the valuation of gifts, including tickets and passes given to an agency for use by its officers and employees. (Regulations 18726, et seq.)

I trust that this letter has adequately responded to your request for advice. Should you have questions regarding the letter, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Robert E. Leidigh  
Counsel, Legal Division

DMG:REL:jaj

Enclosure

88-44

LAW OFFICES OF  
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January 22, 1988

If this box is checked,  
please reply to Oakland  
address.

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

Re: Request for Opinion

To Whom It May Concern:

This opinion request is submitted on behalf of the Board of Supervisors of the County of Sierra. Both the members of the Board and employees of the County have been, or shortly will be, offered discount cards by various vendors. It may be assumed that these vendors will be in the position of submitting proposals to the County to sell various goods to the County. Assume further that some, but not all, individuals offered the cards are public officials as used in the Government Code. Assume further that the discount cards are made available to other non-county groups, although not the public at large except to the extent that the individual belongs to one of these other groups. The question presented is: To what extent may the Board of Supervisors and/or department heads participate in decisions to purchase goods or materials from the vendors on behalf of the County where they possess or have been offered one of the cards?

Should you need any additional information, please do not hesitate in calling. Thank you in advance for your assistance.

Sincerely,



William W. Abbott

cc: Board of Supervisors

(SIERRA/WA/MM/FPPC.02/#2)



# California Fair Political Practices Commission

January 27, 1988

William W. Abbott  
Balfrey & Abbott  
1801 I Street, Suite 200  
Sacramento, CA 95814

Re: 88-049

Dear Mr. Abbott:

Your letter requesting advice under the Political Reform Act was received on January 27, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert Leidigh, 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. Code of Regs. 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,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths  
General Counsel

DMG:plh