



California Fair Political Practices Commission

March 24, 1988

James Bratt, Assistant Director
Employment Training Panel
P.O. Box 942880
Sacramento, CA 94280-0001

Re: Your Request for Advice
Our File No. I-88-064

Dear Mr. Bratt:

You have requested advice regarding the duties of the members of the Employment Training Panel's Research Advisory Council under the conflict of interest provisions of the Political Reform Act (the "Act").^{1/}

Your letter states a general question regarding your conflict of interest code. Therefore, we consider it to be a request for informal assistance pursuant to Section 87312.^{2/}

QUESTION

Must the members of the Panel's Research Advisory Council be designated in the conflict of interest code for the Employment Training Panel?

CONCLUSION

The members of the Research Advisory Council need not be designated in the panel's conflict of interest code.

FACTS

The Advisory Research Council is comprised of 15 individuals with labor, business and academic backgrounds. The council will advise the panel, through the Policy Review Committee, on general policy issues and suggest topics for

^{1/} 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.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code Regs. Section 18329(c)(3).)

research projects. An example of the general issues for review by the council are the impact of the panel's program on economic development, labor management relations, employment security and related issues.

To date, the council has only had two meetings. The first was an organizational meeting and the second a historical update on the panel. The council will meet only three or four times a year. It is anticipated that future meetings will more specifically define the council's role.

The panel intends for the council to be a non-binding advisory body. The council may point out issues which it may want the panel to develop, but development of policy itself will remain with the panel.

ANALYSIS

Government Code Section 82019 defines a designated employee as any officer, employee, member or consultant of any agency whose position with the agency is designated in a conflict of interest code because the position entails the making or participation in the making of decisions which may foreseeably affect any financial interest. Unsalariated members of boards or commissions which serve a solely advisory function are excluded from the definition.

However, a board or commission possesses decision-making authority whenever 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)(C), copy enclosed.)

Since the council has only had two organizational meetings, there is no history of their recommendations being approved or modified by the final decisionmaker. Regulation 18700(a)(1)(C) does not apply at this time.

A public official participates in the making of decisions when he or she:

- (1) Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or

- (2) Advises or makes recommendations to the decision-maker, either directly or without significant intervening substantive review, by:

James Bratt
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(A) Conducting research or making any investigation which requires the exercise of judgment on the part of the official or designated employee and the purpose of which is to influence the decision; or

(B) Preparing or presenting any report, analysis or opinion, orally or in writing, which requires the exercise of judgment on the part of the official or designated employee and the purpose of which is to influence the decision.

Regulation 18700(a)(1)

The recommendations for policy development or research projects are not made by the council directly to the panel, but rather through the Policy Review Committee, which is a subcommittee of the panel. The council may point out areas in need of policy development, but the decision to develop any policy rests with the panel. The panel intends for the council to be a non-binding advisory body.

Based on the facts presented in your letter, the Advisory Research Council is a solely advisory body and need not be covered under the conflict of interest code for the Employment Training Panel. Should future meetings of the council result in changes to the council's authority, we may need to re-evaluate the issue to determine if its solely advisory status has changed. In particular, if the council makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment by the panel, please contact us for further advice.

If you have any further questions or wish to discuss this, please feel free to call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel



By: Jeanette E. Turvill
Legal Assistant
Legal Division

JET:jaj



Employment Training Panel

89-50-4

F P P O
FEB 5 1 42 PM '88

Retraining and Economic Development for California

February 5, 1988

Georgs Deukmejian
Governor

Fair Political Practices Commission
Legal Division
428 J Street, Suite 800
Sacramento, CA 95814

Robert C. Thierry
Chairman

RE: Request for Written Advice

Elinor Glenn
Vice Chair

Dear Sirs:

Jeffrey Groendorfer
Member

I am requesting written advice as to the status of the Advisory Research Council (ARC) under the conflict of interest code of the Employment Training Panel.

Judi Martin
Member

The Chairman of the Employment Training Panel has, under Section 10205 [f] of the Unemployment Insurance Code, appointed an Advisory Research Council (ARC). The ARC is comprised of fifteen individuals with business, labor and academic backgrounds and will advise the Panel, via the Policy Review Committee, on general policy issues and suggest topics for research projects.

Robert Munoz
Member

Among the general issues for discussion and review by the ARC, are the impact of the Panel's program on economic development, labor management relations, employment security, and related issues. It is expected that the ARC will convene an average of three to four times a year, for one-day meetings. To date there have been two meetings, the first an organizational and planning meeting and the second a historical update on the Panel. The next meeting should fix the organizational structure and begin the process of defining the ARC's charge.

James Quillin
Member

Pat Williams
Member

Steve Duscha
Executive Director

The Panel is specifically keeping the role of the ARC to an non-binding advisory body. The ARC may point out issues upon which it may want the Panel to develop policy, but the development and introduction of policy to the Panel will remain the sole responsibility of the Panel itself.

Sincerely,

James Bratt
Assistant Director

cc: Steve Duscha, Executive Director





California Fair Political Practices Commission

February 8, 1988

James Bratt
Employment Training Panel
MIC64
P.O. Box 942880
Sacramento, CA 94280-0001

Re: 88-064

Dear Mr. Bratt:

Your letter requesting advice under the Political Reform Act was received on February 5, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jeanette Turvill, 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, we will contact you shortly to advise you as to the 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,

Diane M. Griffiths
General Counsel

DMG:plh