



California Fair Political Practices Commission

May 4, 1988

Frank R. Martinez
President-Superintendent
San Luis Obispo Community College District
P.O. Box 8106
San Luis Obispo, CA 93403-8106

Re: Your Request for Advice
Our File No. I-88-136

Dear Mr. Martinez:

You have requested our assistance regarding your college district's need to amend its conflict of interest code adopted under the provisions of the Political Reform Act.^{1/}

QUESTION

Should the conflict of interest code for the San Luis Obispo County Community College District be amended at this time to reflect changes in the law?

CONCLUSION

Since the San Luis Obispo County Community College District incorporated into its code the Commission's Regulation 18730 (which contains the required provisions of codes), the body of your code should always be up to date. However, it may be appropriate for you to amend Appendix A of your code if it does not reflect the current organizational structure of the college district or does not cover individuals who are in decision-making capacities.

^{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.

ANALYSIS

Section 87302 details the required provisions of conflict of interest codes. Codes basically consist of two parts:

1. The body of the code, which contains the basic provisions including the manner of reporting financial interests and the procedure for filing statements of economic interests; and

2. The appendix to the code, which lists the designated employees of your city and the corresponding disclosure categories for each position.

The Commission has developed Regulation 18730, which contains the required provisions for the body of the code. Since your district incorporated Regulation 18730 into its code in 1981, all changes to the financial disclosure provisions of the Political Reform Act are automatically made a part of your code. The body of the code will always be up to date and in compliance with the law.

The second part of your code, the list of designated employees and the disclosure categories, must be amended when change is necessitated by circumstances within the district. Such amendments are to be submitted to the Fair Political Practices Commission (FPPC) for approval within 90 days after the changed circumstances necessitating the amendments have become apparent.

In conducting a cursory review of your code, there are some amendments we suggest be made.

Your code at present does not provide for the disclosure of financial interests by consultants for the district. The definition of designated employee includes consultants. (Government Code Section 82019.) A consultant is any natural person who provides under contract, information, advice, recommendation or counsel to any agency. (Regulation 18700.) If your district retains consultants, they may need to file statements of economic interests.

The Commission realizes that not all consultants participate in the making of decisions on behalf of public agencies. Rather than amend your code each time you retain a consultant that is in a decision-making capacity, you may use a specialized disclosure category that provides that the disclosure required of consultants shall be determined on a case-by-case basis by the executive officer for the district. The executive officer may make a determination as to what disclosure, if any, is required by any particular consultant. A copy of this consultant disclosure category language is attached, and should be incorporated into your code.

Mr. Martinez
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Page 3

The position "Consultant*" would be the last position designated in the appendix. The asterisk would bring the reader down to the consultant disclosure category at the bottom of that page.

Another area that is in need of amendment is the "NOTE" at the bottom of page 2 of your code. This paragraph provides that investments or income are not reportable if the assets or income of the business entity or source of income each exceeded \$250 million.

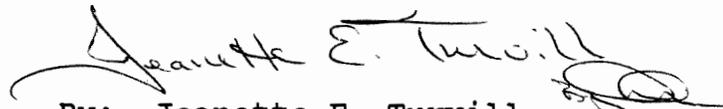
This language was adopted into conflict of interest codes in the early years of the Political Reform Act. There is however no statutory authority for the reporting exception. This NOTE and the explanatory addendum on page 3 should be deleted.

Any amendments to your code must be approved by the FPPC as the code reviewing body. (Sections 82011(a), 87303.) The enclosed regulation, 2 Cal. Code of Regs. Section 18750.1, describes the procedure to follow to amend your code.

I hope this has been helpful to you. Should you have any additional questions or need further assistance, please feel free to call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel



By: Jeanette E. Turvill
Legal Assistant, Legal Division

DMG:JET:da



CUESTA COLLEGE

P.O. Box 8106 • San Luis Obispo, CA 93403-8106 • (805) 544-2943

SAN LUIS OBISPO COUNTY COMMUNITY COLLEGE DISTRICT

88-136
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April 14, 1988

Ms. Jeanette Turvill, Legal Division
California Fair Political Practices Commission
428 J Street, Suite 800
P. O. Box 807
Sacramento, California 95804-0807

Dear Ms. Turvill:

Enclosed is a copy of a letter, which we wrote to you on March 31, 1988, and also a copy of a reply received from Diane Griffiths, General Counsel, indicating that we should write to you in the "Legal Division." Perhaps our original letter has now been forwarded to you in the proper department.

In any case, would you please review our request as outlined in the March 31, 1988, letter for information pertaining to the current Conflict of Interest Code for the San Luis Obispo County Community College District. Any assistance you can give us in this matter would be greatly appreciated.

Sincerely yours,

Frank R. Martinez
President-Superintendent

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Enclosures: 2

CONFLICT OF INTEREST CODE FOR THE
SAN LUIS OBISPO COUNTY COMMUNITY COLLEGE DISTRICT

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the San Luis Obispo County Community College District.

Pursuant to Section 4(A) of the standard Code, designated employees shall file statements of economic interests with the agency. Upon receipt of the statements of the President/ Superintendent and members of the Board of Trustees, the agency shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission.

CONFLICT OF INTEREST CODE FOR THE
SAN LUIS OBISPO COUNTY COMMUNITY COLLEGE DISTRICT

APPENDIX

<u>Designated Employees</u>	<u>Disclosure Categories</u>
Board of Trustees	1, 2, 3
President/Superintendent	1, 2, 3
Vice President/ Assistant Superintendent Educational Services	2, 3
Assistant Superintendent Business Services	2, 3
Dean of Student Services	2, 3
Bookstore Manager	2
Director of Athletics	2
Director of Community Services	2
Director of Purchasing	2, 3
Director of Data Processing	2

Disclosure Categories

Category 1

A designated employee assigned to this category shall disclose:

(a) Any interest in real property which is located within one mile of any land purchased or leased for ten years or longer by the District during the last reporting period.

(b) Investments in business entities or income from sources which engage in building construction or design.

Category 2

A designated employee assigned to this category shall disclose investments in business entities or income from sources which manufacture or sell supplies, books, machinery or equipment of the type utilized by the department for which the designated employee is Manager or Director.

Category 3

A designated employee assigned to this category shall disclose investments in business entities or income from sources which are contractors or subcontractors engaged in the performance of work or services of the type utilized by the department for which the designated employee is Manager or Director.

NOTE: An investment in a business entity or a source of income of a type listed in the above disclosure categories is not disclosable if the reported assets and the reported gross annual income of the business entity or source of income each exceeded \$250 million in the year preceding the filing of a disclosure statement under the provisions of this Code.

EXPLANATORY ADDENDUM

Please notice that the disclosure responsibilities of designated employees relating to business entities and sources of income have been limited as shown in the Note following the disclosure categories. This exclusionary language serves to eliminate the necessity for disclosure of very large corporate entities which may, in fact, contract with the District but which are so large that it is unlikely that the corporation could be financially affected materially by the decisions of the District regarding the award of a contract. This limitation applies only to the disclosure obligation of the designated employee and not to the disqualification obligation contained in Government Code Section 87100 or in Section 8 of the standard Conflict of Interest Code, 2 Cal. Adm. Code Section 18730(b)(8).

(LAST PAGE OF AMENDMENTS TO THE CONFLICT OF INTEREST CODE OF THE SAN LUIS
OBISPO COUNTY COMMUNITY COLLEGE DISTRICT)

CERTIFICATION OF FINAL VERSION

After having read and approved the amendments to the
§87311 and §87312 of the San Luis Obispo County

Code, the Conflict of Interest Code,
San Luis Obispo County C.C.D.

was approved and adopted by the Board of
County Administration on

January 12, 1981
at the County Administration Center

By: *Mary Antye*
Chairman 2-11-81

*revisions herein incorporated.



CUESTA COLLEGE

P.O. Box 8106 • San Luis Obispo, CA 93403-8106 • (805) 544-2943

SAN LUIS OBISPO COUNTY COMMUNITY COLLEGE DISTRICT

APR 4 9 19 AM '88

March 31, 1988

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

Dear Ms. Turvill:

Since you are the representative from the Fair Political Practices Commission with whom we last corresponded, we are writing to ask your advice because of information we have recently received indicating that we might have to add amendments or changes to our current Conflict of Interest Code. We are concerned as to what additions we should make because of Regulation 2, California Administrative Code Section 18730.

The code for the San Luis Obispo County Community College District was first approved by the Commission on June 7, 1978, with an amendment approved and signed by Mary Arntzen on February 11, 1981.

We would appreciate it greatly if you could stipulate to us what must be added to our present code to bring us up to date and in compliance with any new legislation or regulations.

Your attention and help in the past have been most helpful, and we look forward to your advice to assist us in complying with the law. Please call us if you wish additional information.

Thank you again for your gracious assistance in this matter.

Sincerely yours,

Frank R. Martinez
President-Superintendent

FRM/sc
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California Fair Political Practices Commission

April 5, 1988

Frank R. Martinez
President-Superintendent
Cuesta College
P.O. Box 8106
San Luis Obispo, CA 93403-8106

Re: 87-136

Dear Mr. Martinez:

Your letter requesting advice under the Political Reform Act was received on April 4, 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,

A handwritten signature in cursive script, appearing to read "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh