



California Fair Political Practices Commission

September 6, 1988

Melvin G. Cooper, Executive Director
State Ethics Commission
817 South Court Street, Suite 2B Annex
Montgomery, AL 36104

Re: Your Request for Advice
Our File No. I-88-314

Dear Mr. Cooper:

We have received your August 1, 1988 letter regarding California's Political Reform Act (the "Act").^{1/}

QUESTION

Does the Political Reform Act prohibit state university and college faculty from selling complimentary textbooks provided by textbook publishers?

CONCLUSION

The Political Reform Act does not prohibit state university and college faculty from selling books. The income received, however, may need to be disclosed by faculty members.

DISCUSSION

The Political Reform Act (enclosed) was a ballot initiative approved overwhelmingly by the voters in 1974. The Act was designed to accomplish several purposes. It requires the public disclosure of campaign contributions and expenditures during elections, regulates the activities of lobbyists, and requires public officials to disclose their private financial interests and, in appropriate circumstances, disqualify themselves from participating in decisions which may affect those interests.

^{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.

Melvin G. Cooper
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The Act requires public officials who participate in governmental decisionmaking to disclose their financial interests that could be affected in the course of their official duties. Financial interests which must be disclosed are investments, real property interests, and sources of income (including loans and gifts). (Sections 87200-87313.)

State college and university faculty members generally do not participate in governmental decisions which affect their private financial interests. The Commission has considered the potential for conflicts of interest in academic decisions and has adopted a regulation on the subject. Regulation 18705 (copy enclosed) exempts teaching decisions, including selection of textbooks, from the conflict-of-interest laws.

The Act does not prohibit faculty members from selling complimentary textbooks provided by textbook publishers. Receipt of a textbook is not a "gift" to the faculty members for purposes of the Act. (Section 82028(b)(1).) Thus, no faculty member would be required to disclose receipt of textbooks from publishers. However, if any faculty member is required to disclose his or her financial interests, he or she would be required to report income totaling \$250 or more in a year that he or she received from any person as a result of textbook sales. (Sections 87207(a) and 87302(b).)

I hope this answers your questions satisfactorily. If we can be of further assistance, please do not hesitate to contact us at (916) 322-5901.

Sincerely,

Diane Griffiths
General Counsel



By: Jeanette E. Turvill
Political Reform Consultant
Legal Division

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Enclosures



STATE OF ALABAMA
STATE ETHICS COMMISSION

817 SOUTH COURT STREET
SUITE 2B ANNEX
MONTGOMERY, ALABAMA 36104

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August 1, 1988

TELEPHONE (205) 261-2997

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J. Ray Warren

Mr. John Keplinger
Director
California Fair Political Practices Commission
1100 "K" Street, Post Office Box 807
Sacramento, CA 95804

Dear Mr. Keplinger:

I have attached a copy of Advisory Opinion No. 1155 approved by the members of the Alabama Ethics Commission on November 13, 1987.

Since this Opinion was issued, considerable controversy has arisen from groups and textbook publishers supporting the Opinion and groups of faculty members and small textbook publishers vigorously opposing the Opinion. As a result, the Ethics Commission members directed me to canvass other States having Ethics laws and ask the following questions:

1. Has your Commission or Board considered a similar question and, if so, how did they rule? (Would you be kind enough to send us a copy of the Advisory Opinion.)
2. If not, what is your personal opinion based on the wording of your law as to how your Commission or Board would rule if a similar situation confronted them?

We always appreciate your help, and I hope that you can give me a quick answer since the Alabama Ethics Commission meets in three weeks.

With continued warm personal regards to you, I remain,

Sincerely,

Melvin G. Cooper
Executive Director

MGC/bh

Atch

ADVISORY OPINION NO. 1155

FACTS:

In a promotional effort to encourage professors in institutions of higher learning to use their textbooks, publishers furnish faculty members with complimentary copies of their publications. Those textbooks not selected for use in their classes by professors are often sold to bookstores and/or individuals for personal profit.

QUESTION:

May faculty members at institutions of higher learning sell complimentary copies of textbooks furnished by textbook publishers without violating the Alabama Ethics law?

OPINION:

No. While the Alabama Ethics Commission recognizes that the only method faculty members have to select the correct textbook for a particular course of instruction is to review the various books in that field, it is also recognized that complimentary copies of texts are furnished faculty members because of their public positions in the hope that such texts will be chosen for use. Consequently, it is the opinion of the Commission that those texts which faculty members do not keep for their personal use be donated to the institutional library so as to avoid any possible violation of Section 36-25-5(a), Code of Alabama 1975 (the Ethics law), which reads as follows:

"No public official or employee shall use an official position or office to obtain direct personal financial gain for himself, or his family, or any business with which he or a member of his family is associated unless such use and gain are specifically authorized by law."

The foregoing is in keeping with Section 16-36-5, Code of Alabama 1975, which provides that samples of textbooks provided by publishers to local textbook committees which are not adopted and not reclaimed by the publishers shall become the property of the library service.

AUTHORITY:

Vote of the Commission on November 13, 1987.

James J. Hicks, M

James J. Hicks
Chairman
Alabama Ethics Commission



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STATE ETHICS COMMISSION

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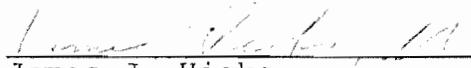
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