



# California Fair Political Practices Commission

January 25, 1989

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

Re: Your Request for Advice  
Our File No. I-88-473

Dear Mr. Martinez:

This is in response to your request for advice as to whether the Political Reform Act<sup>1/</sup> ("the Act") prohibits the spouse of the President of Cuesta College's Board of Trustees from leading an educational tour for the college. Since your request concerns the duties of another person under the Act and was initiated by you, we treat the request as one for informal assistance.<sup>2/</sup>

### QUESTION

Does the Political Reform Act ("the Act") prohibit Mrs. Marci Laurent, the spouse of the President of Cuesta College's ("the college") Board of Trustees, from leading an educational tour for the college?

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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.

<sup>2/</sup> 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 of Regs. Section 18329(c)(3).)

#### CONCLUSION

The Act does not prohibit the college from selecting Mrs. Laurent to lead an educational tour. However, Mr. Laurent is prohibited from participating in this decision. Also, Section 1090 must be considered in determining whether the college may select Mrs. Laurent.

#### FACTS

Cuesta College, which is part of the San Luis Obispo Community College District, offers educational tours through its Community Education and Services Program. These tours are arranged through a private travel agent that is selected through a contract bid process. The groups are led by either college employees or community experts selected by the college.

With the exception of the tour's leader, individuals who participate in a tour pay all of their own expenses. Tour leaders do not pay expenses associated with the tour, but instead have their tour expenses (lodging, meals and transportation) paid by the travel agent. Tour leaders also are not compensated by the college for their work in leading the tour.

The college is considering Mrs. Marci Laurent as a leader for a tour to Alaska. Mrs. Laurent is the spouse of Bud Laurent, President of the college's board of trustees.

#### ANALYSIS

Section 87100 sets forth the general rule concerning potential conflicts of interest confronting public officials. It states:

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

This rule makes clear that an official with a potential conflict of interest may not participate in a government decision affecting his or her financial interests. However, neither this rule nor any other part of the Act preclude the government agency involved from actually making the decision. Therefore, the question we consider is whether Mr. Laurent can participate in the college's decision of whether or not to select Mrs. Laurent as a tour leader.

As part of the San Luis Obispo Community College District, the college is an entity of local government covered by Section 87100.<sup>2/</sup> Furthermore, Mr. Laurent, as a member of the college's board of trustees, is a public official.<sup>3/</sup>

Section 87103 defines "financial interest in a decision" within the meaning of Section 87100. It states that a public official has the requisite financial interest if it is reasonably foreseeable that the decision will have a material financial effect on the official or a member of his or her immediate family.

Section 82029 includes the official's spouse in his "immediate family." It is also reasonably foreseeable that a decision by the board of trustees on whether or not to select Mrs. Laurent as a tour leader will have a financial effect on her. We next consider, therefore, whether the board's decision will have a "material" financial effect on Mrs. Laurent.

Regulation 18702 sets forth the general approach to the question of whether the effect of a decision is material. If the decision affects an official's immediate family then the question of materiality is analyzed under Regulation 18702.1.

Subdivision (a) of Regulation 18702.1 states that the effect of a decision is material if:

- (4) ... The decision will result in the ... expenses ... of the official or his or her immediate family increasing or decreasing by at least \$250.

In applying these provisions to the facts of this matter, it is apparent that Mr. Laurent cannot participate in the decision of whether or not to select Mrs. Laurent as a tour leader. This is because Mrs. Laurent's expenses for the Alaska tour will be paid if she is in fact selected as tour leader. Since the expenses include the costs of transportation, meals and lodging, it is likely that they will far exceed the \$250 threshold under Regulation 18702.1.

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<sup>2/</sup> Section 82041 defines "local government agency" as "a county, city or district of any kind ...."

<sup>3/</sup> Section 82048 defines "public official" as "every member, officer, employee or consultant of a state or local government agency ...."

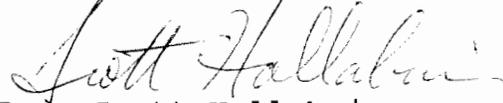
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Finally, please note that the facts of this matter may give rise to the application of Section 1090. The Commission has no jurisdiction over the application of Section 1090 and therefore cannot render a decision pertaining to that section. Please contact your legal counsel or the Attorney General in this regard.

I hope that this response has been of assistance to you. However, should you have additional questions please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel



By: Scott Hallabrin  
Counsel, Legal Division

DMG:SH:ld



CUESTA COLLEGE

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

SAN LUIS OBISPO COUNTY COMMUNITY COLLEGE DISTRICT

546-3100

December 15, 1988

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

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TTTTT

Gentlemen:

The Community Education and Services Program of Cuesta College provides educational tours throughout the world where individuals may travel and study under the direction of an educational resource person (leader) appointed by the college. We have been conducting these tours for over seven years with the leaders being both college employees and selected community experts, who receive no compensation from the college district. (The leader is eligible to receive certain land and air arrangements by the travel agent--not the district.)

This coming spring semester, we are planning a study tour to Alaska. We are considering Mrs. Marci Laurent for the position as leader, who is the wife of the current President of our Board of Trustees, Mr. Bud Laurent. We are asking her to lead this tour because of a previous experience where she and her husband were participants in a similar research expedition.

She may be eligible to receive the cost of air transportation from here to Alaska and return and hotel accommodations from the travel agent, and nine evenings aboard an intersea research vessel. There would be no compensation in cash whatsoever other than the lodging, meals, and transportation she would receive as provided by the travel agency and research vessel. The individuals on the trip pay for their own expenses. A travel agency usually provides the travel arrangements for a tour leader for every 12 to 15 individuals who have paid their way for the study tour.

College district expenses for such a trip are only those of the normal office work to provide publicity for the study tour and the exchange of correspondence leading up to the commitment between the travelers on the trip and the travel agency. The travel agency that conducts the trip receives the appointment for the trip through a bidding process. Once the trip is scheduled by the college and the travel agency is selected, this determines the end of much of the work done by the college; since, at this point, most other correspondence and action is between the individual on the tour and the travel agency.

Legal Division  
Fair Political Practices Commission  
December 15, 1988 - 2

It has been suggested that I write to the Legal Division of the Fair Political Practices Commission in order to receive a reply as quickly as possible in order to complete our plans as stipulated in this letter. Thank you for your attention to this matter. We would appreciate a reply as soon as possible.

Cordially yours,

A handwritten signature in cursive script that reads "Frank R. Martinez".

Frank R. Martinez  
President-Superintendent

FRM/sc  
dw654





December 15, 1988

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

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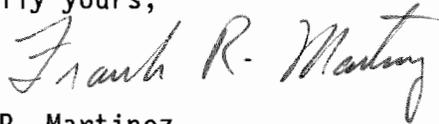
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Frank R. Martinez  
President-Superintendent

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dw654