



California Fair Political Practices Commission

July 14, 1989

Frank J. Fekete
Schools Legal Service
P.O. Box 11110
Bakersfield, CA 93389

Re: Your Request for Informal
Assistance
Our File No. I-89-321

Dear Mr. Fekete:

You have requested advice concerning the conflict of interest provisions of the Political Reform Act ("Act").^{1/} Your request is one for general assistance. Accordingly, we are treating it as a request for informal assistance^{2/} pursuant to Regulation 18329(c) (copy enclosed).

QUESTION

Is the Kern County Committee on School District Organization required to adopt a conflict of interest code?

CONCLUSION

The Kern County Committee on School District Organization is exempt from the conflict of interest provisions of the Act unless it makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment by the State Board of Education.

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 of Regs. Section 18329(c)(3).)

FACTS

The Kern County Committee on School District Organization is an advisory board which has no authority to affect school district reorganization. The Kern County Committee on School District Organization submits proposals to the State Board of Education which must then either request elections on reorganization proposals or, in some cases, direct submission of matters by the committee to the voters. The Committee has no employees and makes no financial decisions nor does it enter into contracts.

ANALYSIS

The Act requires that every state and local agency adopt a conflict of interest code enumerating its designated employees (Sections 87300 and 87302.) 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.

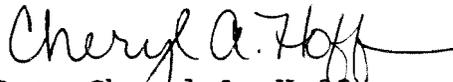
However, a board or commission possesses decision-making authority whenever it makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency. (Regulation 18700(a)(1)(C), copy enclosed.)

The Commission has previously advised that the Kern County Committee on School District Organization (the "Committee") does not possess final decision-making authority. (Greber Advice Letter, No.78-150, copy enclosed.) We have reviewed the current statutory authority of such committees and still reach that conclusion. Accordingly, the Committee is considered to be solely advisory unless it makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment by the State Board of Education.

If I can be of any further assistance, please feel free to call me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Cheryl A. Hoff
Staff Services Analyst
Legal Division

SCHOOLS LEGAL SERVICE

5801 SUNDALE AVENUE P.O. BOX 11110
BAKERSFIELD, CALIFORNIA 93389
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DIRECTOR OF LABOR RELATIONS

PHIL LANCASTER
ANTHONY V. LEONIS
BARGAINING SPECIALIST

May 16, 1989

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

Re: Kern County Committee on
School District Organization

Gentlemen:

This office represents the Kern County Committee on School District Organization. The Committee is formed and operates under Education Code Sections 4000, et seq.

In 1977, the Committee received an opinion from the Kern County Counsel that it was not required to adopt a conflict of interest code. This opinion was based on the fact that the Committee is an advisory board which has no ultimate authority to effect school district reorganization. Rather, its actions result in either submission of proposals to the State Board of Education which must then order elections on reorganization proposals or, in some cases, direct submission of matters by the Committee to the voters. The Committee's budget is adopted by the County Board of Education and the Committee has no employees and makes no financial decisions and enters into no contracts. In fact, although this office represents the Committee it does so because it is engaged by the County Board of Education for that purpose.

Recently, the question of whether the Committee must adopt a code has been raised again. The County Counsel has declined to rely upon his office's earlier opinion and has suggested that an opinion be sought from the Commission. I have been directed by the Committee to seek that opinion. Please accept this letter as a formal request for that purpose.

Please let me know if I can be of any further assistance in providing information for your consideration in answering this request.

Sincerely,



FRANK J. FEKETE

FJF:cp
cc: Mr. Tom Henry

89-321

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Sincerely,
Frank J. Fekete
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FJF:cp
cc: Mr. Tom Henry



California Fair Political Practices Commission

May 25, 1989

Frank J. Fekete
Schools Legal Service
5801 Sundale Avenue
P.O. Box 11110
Bakersfield, CA 93389

Re: Letter No. 89-321

Dear Mr. Fekete:

Your letter requesting advice under the Political Reform Act was received on May 19, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Cheryl Hoff, 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 that reads "John S. McLean".

for
Kathryn E. Donovan
General Counsel