



California Fair Political Practices Commis

This advice letter is SUPERSEDED by *Olson*, Advice Letter No. I-15-065 to the extent that it conflicts with amendments to Section 82015 and Regulation 18215 and the conclusions in that letter that lobbyists are prohibited from hosting in-home fundraisers.

September 20, 1994

Peggy Watson
Law Office of William J. Thomas
770 L Street, Ste. 1150
Sacramento, CA 95814-3325

Re: Your Request for Informal
Assistance
Our File No. I-94-219

Dear Ms. Watson:

You have requested advice concerning the campaign and lobbying provisions of the Political Reform Act (the "Act").^{1/} Because your questions are general in nature, we are treating your letter as a request for informal assistance pursuant to Regulation 18329(c).^{2/}

QUESTIONS

1. You have asked what restrictions and reporting requirements apply to a lobbyist's participation in hosting a fundraiser for a legislative candidate. Specifically, you have asked the following:

a. If a lobbyist hosts a fundraiser with other parties, is the cost of the fundraiser considered a contribution to the candidate?

b. May the fundraiser be held in the lobbyist's home?

c. Is there a limit on how much can be spent on the fundraiser, e.g., \$10 per person?

^{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. (Section 83114; Regulation 18329(c)(3).)

d. May contribution checks be mailed to the lobbyist's place of business or personally delivered at the fundraiser?

e. What are the recordkeeping and reporting requirements in connection with the lobbyist's participation in the fundraiser? Must a record be made of who attends the fundraiser, or the names of contributors and the amounts contributed?

2. Must contributions be made by check and, if so, must checks be made payable to the campaign committee or may they be made payable to the candidate?

3. Are there limits on how much can be contributed?

CONCLUSIONS

1.a. Except as indicated in b. below, if two or more individuals or entities pay the costs associated with holding a fundraiser for a candidate, their payments will be deemed non-monetary contributions to the candidate. In addition, the contributors may incur campaign reporting obligations under the Act.

b. The Act does not prohibit a lobbyist from holding a campaign fundraiser in his or her home. In addition, if a lobbyist hosts a fundraiser in his or her home and the entire cost of the fundraiser is \$500 or less, the lobbyist's payments are excluded from the definition of "contribution" under the Act.

c. The Act does not impose a limit on how much can be spent per attendee in connection with a campaign fundraiser. However, where the cost of the event is a contribution to a candidate, there may be limits on the overall amount that can be spent, as discussed in item 3. below.

d. The Act does not prohibit contributors from mailing contribution checks to a lobbyist's business, or delivering them at a campaign fundraiser. However, contribution checks may not be personally delivered in the State Capitol, any state office building, or any office for which the State pays the majority of the rent other than a legislative district office.

e. Lobbyists must disclose on their quarterly lobbying reports contributions of \$100 or more made or delivered by the lobbyist during a calendar quarter to elected state officers and state candidates. It is not necessary to record or disclose the names of individuals who merely attend a campaign-related event. However, as discussed in the following analysis, records of contributions received in connection with the fundraiser and additional reporting may be required.

2. Contributions of \$100 or more must be made by check or other written instrument containing the name of both the recipient and the donor. Contribution checks may be made payable to the candidate or to the candidate's campaign committee.

3. Contributions to legislative candidates are not subject to limits unless the candidate is running in a special election to fill a vacant elective office.

ANALYSIS

The Act does not restrict participation by lobbyists in campaign-related activities. Therefore, with regard to questions 1.b. through e., the Act does not prohibit a lobbyist from holding a campaign fundraiser in his or her home, or from receiving or delivering campaign contributions. Although certain campaign recordkeeping and disclosure requirements may be imposed in connection with fundraising activities, an event which is clearly a campaign fundraiser is not subject to the restrictions and disclosure requirements imposed on lobbyists with regard to gifts. The Act also does not limit a lobbyist's contributions or other payments in connection with campaign activities merely because of his or her status as a lobbyist. However, lobbyists must disclose on their lobbying disclosure statements contributions of \$100 or more made or delivered during a calendar quarter to elected state officials and state candidates. (Section 86113.)

In addition, the Act requires candidates and committees to disclose contributions made and received and expenditures made in connection with campaign activities. (Section 84100, et seq.) The term "contribution" is defined as any payment^{3/} made for political purposes for which full and adequate consideration is not provided to the donor and includes any payment made to or at the behest of a candidate or committee. (Section 82015; Regulation 18215.)

When individuals or entities make payments in connection with holding a fundraiser for a candidate, ordinarily such payments are contributions to the candidate. However, excluded from the definition of contribution are payments made by the occupant of a home or office for a fundraising event held in the home or office if the total cost of the event is \$500 or less. Therefore, payments made by a lobbyist to host a fundraiser in his or her home are not contributions as long as the total cost of the event is \$500 or less. If other parties donate money or goods in connection with the event, their payments are contributions. Payments made by persons other than the occupant must also be

^{3/} Section 82044 defines "payment" to include a distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.

counted to determine if \$500 has been spent in connection with the fundraiser.

If the cost of the event exceeds \$500, all payments are counted as contributions. In addition, in some circumstances, two or more individuals may qualify as a "committee" and incur filing obligations under the Act if the cost of the fundraiser is \$1,000 or more. Section 82013(a) defines "committee" to include persons that receive contributions totaling \$1,000 or more in a calendar year. If the lobbyist and other individuals or entities pool funds, or receive donations, totaling \$1,000 or more to pay the costs of the fundraiser, they will qualify as a committee pursuant to Section 82013(a) and will be subject to the Act's campaign recordkeeping and reporting requirements. (Section 84100, et seq.) These requirements are discussed in detail in the enclosed campaign information manual.

Section 84300 prohibits cash contributions and cash expenditures of \$100 or more. Therefore, all contributions of \$100 or more must be made by written instrument containing the name of the recipient and the name of the donor. The Act does not specify that contributors must make checks payable to the candidate's campaign committee, although it is recommended that they do so. Contributions may be mailed to the lobbyist's business or delivered to the campaign fundraiser. However, contributions may not be personally delivered at the State Capitol, any state office building, or any office for which the State pays the majority of the rent other than a legislative district office. (Section 84309.)

In addition, it should be noted that individuals who act as intermediaries for contributions must provide to the recipient candidate or committee information concerning the true source of the funds. (Section 84302.) A person is an intermediary for a contribution if the recipient of the contribution would consider the person to be the contributor without disclosure of the identity of the true source of the contribution. (Regulation 18432.5.) For example, if a contributor makes a check payable to the lobbyist which is intended for the candidate, when delivering the funds to the candidate the lobbyist must provide the candidate with the information required by Regulation 18432.5(b) (copy enclosed).

There currently are no limits in the Act on contributions made to state or local candidates unless a candidate is running in a special election to fill a vacant elective office. If the candidate in question is running in a special election, please contact this office for information concerning contribution limits. There also is no limit on the amount that can be spent per person when hosting a political fundraiser. Although Section 86203 prohibits a lobbyist from providing gifts totaling more than

Peggy Watson
Our File No. I-94-219
Page 5

\$10 in a calendar month to certain public officials, Regulation 18946.4 provides that a free ticket or other admission privilege to a political fundraiser has no value. However, this exception is not applicable to events that are not clearly campaign related.

If you have questions concerning this letter, please contact me at (916) 322-5662.

Sincerely,

Carla Wardlow
Division Chief
Technical Assistance Division

Enclosures