



FAIR POLITICAL PRACTICES COMMISSION

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November 14, 2011

✓ Ms. Shelia Jackson
Board Member
San Diego Unified School District

REDACTED

**Re: Advisory Letter
FPPC Case No. 11/753; Shelia Jackson**

Dear Ms. Jackson:

The Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act (the “Act”)¹. As you may be aware, the Commission initiated a complaint against you alleging violations of the gift limitation provisions of the Act. Specifically, our office investigated allegations that you received a gift of home accommodations valued in excess of the gift limits imposed by the Act in Section 89503 while serving as a San Diego Unified School District Board member. After a full investigation, we have determined that there is insufficient evidence to find that you violated the Act. The Commission has decided to close this case with this advisory letter.

Under the Act, “no elected state officer, elected officer of a local government agency, or other individual specified in §87200 shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars.” (Section 89503). The \$250 gift limit amount is adjusted biennially to reflect changes in the Consumer Price Index pursuant to Section 89503, subdivision (f). The gift amount limit for 2010 and 2011 is \$420 from a single source in a calendar year.

As an elected member of the San Diego Unified School District board, you are a public official under the Act. According to our investigation, you began staying in a spare room at the Kirkland residence in early 2010, after the foreclosure of your home. You informed the Commission that you have not been paying the Kirklands any rent, but have been helping around

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

the house and buying groceries for the household on a regular basis. This was subsequently confirmed in a separate interview with Gwendolyn Kirkland, who stated that the services and groceries were of equal value to the rental value of the room in the Kirkland home.

Staying with a friend at a personal residence may be considered "home hospitality;" which, as used in the Regulations, includes "occasional lodging." Regulation 18942(a)(7) exempts home hospitality from the gift and gift limit rules. Home hospitality applies when the home owner or a member of the individual's family is present.

The phrase "occasional lodging" is not defined in the Act. When applying the exception, however, the Commission has distinguished between infrequent friendly visits on one hand, and ongoing living arrangements on the other. For example, the Commission has advised that the exception did not apply when a legislator stayed at a friend's home two or three nights a week while the Legislature was in session. (See *Hansen* Advice Letter, No. A-90-424.)

As such, the exception for occasional lodging is interpreted to apply to infrequent lodging and not to the type of regular, ongoing arrangement that you have with the Kirklands. Therefore, the exception for occasional home hospitality would not apply to your situation.

Therefore, in order to avoid the application of the gift limitation, you must provide consideration of equal or greater value in exchange for the lodging provided. You indicated in the course of our investigation, and Ms. Kirkland subsequently confirmed, that you have been providing compensation for your accommodations by purchasing groceries and helping with household chores as a form of indirect rent. We would advise, in order to avoid a gift, that you formalize your living arrangement. The rent may be in cash or in kind, but should be agreed upon consideration that is greater or equal to the fair rental value of the lodging provided.

Gwendolyn Kirkland was not the source of a gift to you, and, as such, your decision to vote to appoint Ms. Kirkland interim principle was not a conflict of interest.

Even though we are closing our file on this matter, please be advised of the gift provisions of the Act, as enumerated in Section 89503. The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act. If you need forms or manuals, or guidance regarding your obligations, please call the Commission's Technical Assistance Division at 1-866-275-3772. Please also visit our website at www.fppc.ca.gov. If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

✓ REDACTED

② Zachary W. Norton
Commission Counsel
Enforcement Division