

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

October 6, 1997

Edward R. Callahan
42300 Acacia Avenue
Hemet, CA 92544-5082

Re: Your Request for Advice
Our File No. A-97-498

Dear Mr. Callahan:

This is in response to your request for advice under the lobbying provisions of the Political Reform Act (the "Act").¹

QUESTION

Is your group, the "Social Work Network for Elimination of the Oral Exam," conducting activities which would require it to file lobbying reports?

CONCLUSION

From the facts provided, it does not appear that any individual within the group will qualify as a lobbyist, nor would the group qualify as a lobbyist employer. However, the group may be required to file disclosure reports if it spends \$5,000 or more in a calendar quarter to influence legislative or administrative action.

FACTS

The facts stated in this letter have been provided in your September 18, 1997, letter as well as in our earlier telephone conversation.

The "Social Work Network for Elimination of the Oral Exam," (the "group") is a group comprised of approximately 300 licensed clinical social workers and candidates for licensure. All members of the group are unpaid volunteers with the common goal of eliminating the oral examination from the licensing process. The group's activities include:

¹Government Code Section 81000-91014. Commission regulations appear at title 2, sections 18109-18995, of the California Code of Regulations.

1. Telephone and written communications to all members of the legislature in support of S.B. 288;
2. Networking with other social workers and social worker candidates; and
3. Advertisements in the National Association of Social Workers California newsletter.

All expenses thus far have been paid by the original two members. You would like to now solicit funds from other members of the group to help offset expenses of postage, printing, telephone and advertisements. In our telephone conversation, you indicated that you anticipated the cost to be \$10 per member. Also in our telephone conversation, you indicated that the written communications to legislative members would be sent under your spouse's name as the designated representative of the group. No form of compensation will be paid to her for this activity.

ANALYSIS

The Act requires that persons who are compensated to communicate with legislative or state administrative officials register and file quarterly lobbyist reports. Lobbyist reports disclose money paid to lobbyists for their activities, the specific legislative or administrative action which is lobbied and money spent to influence legislative or administrative action. A similar requirement is imposed on persons who employ, or contract with, a lobbyist to conduct such activities and on persons who spend \$5,000 or more on such activity, commonly referred to as a "\$5,000 filer."

The Act defines a "lobbyist" to be an individual who:

(1) Receives or becomes entitled to receive \$2,000 or more in compensation in any calendar month for engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action; or

(2) Spends one-third or more of the time, in any calendar month, for which he or she receives compensation from his or her employer, engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action.

(Section 82039; Regulation 18239.)

"Direct communication," as used above, means appearing as a witness before, talking to (either by telephone or in person), corresponding with, or answering questions or inquires from, any qualifying official, either personally or through an agent who acts under one's direct supervision, control or direction. (Regulation 18239(d)(2).)

A "lobbyist employer" is a person who employs one or more lobbyists for economic consideration, or contracts for the services of a lobbying firm for economic consideration, for the purpose of influencing legislative or administrative action. (Section 82039.5.)

While your group is engaging in direct communication with legislative members, there is at present no one working either under contract, or as salaried employee, for the group to perform such communication. Accordingly, no one individual within the group qualifies as a lobbyist. Additionally, since the group does not have a lobbyist, it is not a lobbyist employer.

A remaining question is whether or not your group is a "\$5,000 filer." The Act provides that any person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars (\$5,000) or more in value in any calendar quarter must also file periodic reports similar to that of a lobbyist employer. (Section 86115.)

"Person" is defined as any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert. (Section 82047.)

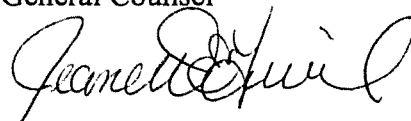
Your informal group, comprised of social workers and candidates for the examination, is acting in concert for the purpose of effectuating a particular result on S.B. 288. The group would be required to complete periodic reports if it collectively spends \$5,000 or more in a calendar quarter to influence legislative action. Additionally, if any member of the group spends \$5,000 in a calendar quarter on such activity, the member will also be required to file as a "\$5,000 filer." (Romig Advice Letter, No. I-96-142.)

On the telephone, you indicated that the group is a grassroots operation and that a payment of \$5,000 from any person to the group would never occur. Each of the 300 members is only expected to contribute \$10 towards this legislative effort. If, by chance, this situation changes, the Commission should be contacted for assistance in completing the necessary reports.

I trust this answers your question sufficiently. If you have additional questions, or need to discuss this further, please feel free to contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Jeanette E. Turvill
Political Reform Consultant
Technical Assistance Division

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