



FAIR POLITICAL PRACTICES COMMISSION

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September 30, 2010

Richard Holst
Assistant Court Executive Officer
Butte County Superior Court
1 Court Street
Oroville, CA 96965

**RE: Your Request for Advice
Our File No. A-10-135**

Dear Mr. Holst:

This letter is in response to your request on behalf of the Butte County Superior Court ("Court"), for advice regarding the conflict-of-interest code provisions of the Political Reform Act (the "Act").¹

QUESTIONS

1. Is the Court the appropriate code reviewing body for the Butte County Law Library Board of Trustees?
2. Is the Court the appropriate code reviewing body for the Butte County Board of Parole Commissioners?

CONCLUSIONS

1. No, the Butte County Board of Supervisors is the code reviewing body for the Butte County Law Library Board of Trustees.
2. No, the Butte County Board of Supervisors is the code reviewing body for the Butte County Board of Parole Commissioners.

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.

FACTS

The Court is currently in the process of revising its conflict-of-interest code (code). Appendix B of the code lists the Law Library Board of Trustees and the Board of Parole Commissioners as committees or commissions for which the members must file Statements of Economic Interest (Form 700) with the Court. This was a requirement prior to the transfer of the Court from County control to the exclusive control of the State Judicial Branch.

Neither the Law Library Board of Trustees nor the Board of Parole Commissioners are agencies of the judicial branch of government. As such, the Court would like to amend its conflict-of-interest code to remove both agencies from its code.

Other areas of law grant the power of appointment of Trustees to the County Board of Supervisors. The Law Library Board of Trustees functions independently of the Court; and its jurisdiction is wholly within Butte County. The Court does not have the power to appoint additional members to the Law Library Board of Trustees, nor does it have control, supervision, or direction over the actions carried out by the Trustees.

The Board of Parole Commissioners in Butte County consists of the Sheriff (or his or her designee), the Chief Probation Officer (or his or her designee) and a member of the public selected by the Presiding Judge of the Court. Although a member of the Board of Parole Commissioners is appointed by the Court, the Board of Parole Commissioners acts independently of the Court. The establishment of rules and regulations governing a prisoner's eligibility for parole and subsequent release is carried out with no supervision by the Court, and the Board of Parole Commissioners acts autonomously from the Court in its respective duties. The Court has no direct control or supervision over the decisions. As such, the Court believes that the Board of Parole Commissioners is an agency with jurisdiction wholly within Butte County and that the appropriate filing agency is the County Board of Supervisors.

In cooperation with Butte County, you seek advice addressing the appropriate code reviewing body for both agencies.

ANALYSIS

The Act, specifically Section 87300, requires every state and local government agency to adopt a conflict-of-interest code. The code must enumerate the positions within the agency that involve the making or participation in the making of decisions that may foreseeably have a material financial effect on any financial interest held by the person filling the position. Further, the code specifies which financial interests must be disclosed by persons holding those positions designated in the code, all with a view to avoiding conflicts of interest. (Sections 87300-87302.) The issue addressed in your request for advice is whether the Butte County Superior Court should be the code reviewing body for the Law Library Board of Trustees and Board of Parole Commissioners, or if the Butte County Board of Supervisors should be the code reviewing body.

Section 82011 defines "code reviewing body" to mean the following:

"(b) The board of supervisors, with respect to the conflict-of-interest code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, with jurisdiction wholly within the county . . ."

"(g) The Chief Justice of California, the administrative presiding judges of the courts of appeal, and the presiding judges of superior and municipal courts, or their designees, with respect to the conflict-of-interest code of any agency of the judicial branch of government subject to the immediate administrative supervision of the court . . ."

Under Section 82011(b), the board of supervisors is the code reviewing body with respect to the conflict-of-interest code of any local government agency, other than a city agency, with jurisdiction wholly within the county. Therefore, it is the duty of the board of supervisors to review and approve the conflict-of-interest code for any agency for which it is the code reviewing body. The facts you provided, and a review of California Penal Code Section 3075 (governing county boards of parole commissioners) and California Business and Professions Code Sections 6340-6350 (governing county law libraries), indicate that the Butte County Board of Parole Commissioners and the Butte County Law Library Board of Trustees are county agencies, rather than judicial branch agencies subject to the immediate administrative supervision of the Butte County Superior Court. Therefore, the Butte County Board of Supervisors is the code reviewing body for county agencies and local government agencies with jurisdiction wholly within the county, including the Board of Parole Commissioners and the Law Library Board of Trustees.

Please be aware that whether a separate code is established or the officials are included in Butte County's code is a determination to be made by the Board of Supervisors, the code reviewing body. (Sections 87301 and 82011; see also Regulation 18329.5.)

If you have any other questions regarding this matter or need technical assistance regarding the establishment or amendment of a code, please contact the Technical Assistance Division at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel



By: Sarah Olson
Political Reform Consultant

SO:jgl