



January 31, 2025

Dr. Joseph Schulman

Via Email: joseph.schulman@dhcs.ca.gov

Advisory Letter re: FPPC No. 2021-00310; Dr. Joseph Schulman

Dear Dr. Joseph Schulman:

The Enforcement Division of the Fair Political Practices Commission (“FPPC”) enforces the provisions of the Political Reform Act (the “Act”).¹ This letter arises from a complaint alleging you, in your capacity as a Public Health Medical Officer III (“PHMO III”) with the Department of Health Care Services (“DHCS”), violated the Act’s conflict of interest provisions. Specifically, the complaint alleged you participated in a governmental decision in which you had a source of income financial interest. Your participation in a governmental decision involved a Scope of Work you drafted that later appeared in a contract between DHCS and the Board of Trustees of the Leland Stanford Junior University (“Stanford”). After conducting our investigation and review of the evidence, the Enforcement Division is closing its file on this matter with this Advisory Letter as discussed below.

The Act prohibits a public official at any level of state or local government from making, participating in making, or in any way attempting to use their official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.² A public official participates in a governmental decision if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review.³ “Significant intervening substantive review” has been interpreted to require more than the mere review of an official’s recommendations by superiors, but rather the independent checking of the official’s results without solely relying on the data of the official.⁴ Making, participating in, or influencing a governmental decision does not include actions by a public official that are solely ministerial, secretarial, or clerical.⁵ While the Act does not define “ministerial” actions, the Commission has said that where an official has no discretion with respect to how the action would be performed or what the results would be, or acts pursuant to clear objective criteria it would be a ministerial act.⁶

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in sections 18104 through 18998 of Title 2 of the California Code of Regulations.

² Section 87100.

³ Regulation 18704, subd. (b).

⁴ *Kriske* Advice Letter, No. A-22-033.

⁵ Regulation 18704, subd. (d).

⁶ *Stratton* Advice Letter, No. A-94-043a.

The Enforcement Division found that while you participated in the decision by drafting a Scope of Work, two exceptions to the conflict of interest provisions apply. First, it appears the Scope of Work you drafted underwent significant intervening substantive review as it was reviewed and approved by another PHMO III, Dr. Maria Jocson, and by your supervisor, Dr. Roy Schutzengel. Second, the Scope of Work you drafted falls into an exception for ministerial actions as the Scope of Work was created pursuant to a clear objective: to collect lower acuity inborn NICU admission data from all California Children's Services ("CCS") approved neonatal intensive care units and the reporting of the aggregated data to CCS. Additionally, you did not provide any recommendations, opinions, or analysis in the Scope of Work. Further, you had no discretion as to the outcome or the results of the Scope of Work. Thus, you did not have a conflict of interest when you drafted the Scope of Work that was later included in a contract between DHCS and Stanford.

Even though we are closing our file on this matter, please be advised of the conflict of interest provisions of the Act in any future actions you may take in your capacity as a public official. The FPPC provides advice and opinions to persons whose duties are in question under the Act. In the future, if you have questions regarding the Act's conflict of interest provisions, you may request advice by submitting an inquiry to the FPPC's Legal Division. Please note that a formal advice letter can provide the requestor immunity from enforcement actions by the FPPC.

Please feel free to contact me at JRinehart@fppc.ca.gov or (279) 237-5910 with any questions you may have regarding this letter.

Sincerely,

A handwritten signature in black ink that reads "Jenna Rinehart". The script is cursive and elegant, with the first letters of the first and last names being capitalized and prominent.

Jenna C. Rinehart
Senior Commission Counsel
Enforcement Division