

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance/Administration (916) 322-5660 Executive/Legal 322-5901 Enforcement/Conflict of Interest 322-6441

March 3, 1977

77-125

Mr. Richard T. Gleed
4547 Laurelwood Way
Sacramento, California 95825

Dear Mr. Gleed:

This is in response to your letter of February 22, 1977, in which you request the Fair Political Practices Commission to direct the Franchise Tax Board (FTB) to release for your inspection petitions of Board employees requesting exemption from or modification of the Conflict of Interest Code of the Franchise Tax Board approved by the Fair Political Practices Commission on September 21, 1976.

On February 10, 1977, you requested copies of petitions for amendment submitted to the FTB by employees pursuant to Government Code §§87307 and 81008. On February 17, 1977, the Franchise Tax Board denied your request, because in its view, Government Code §81008 did not require the production for public inspection of a "voluntary statement filed by an employee seeking an administrative review of designated status".

Government Code §81008 provides that "Every report and statement filed pursuant to this title is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received. No conditions whatsoever shall be imposed upon persons desiring to inspect or reproduce reports and statements filed under this title, nor shall any information or identification be required from such persons". The clear import of §81008, and indeed, all references to "reports" or "statements" in Government Code §§81001-81010 lead to the conclusion that petitions, whether formal or informal, filed with an agency pursuant to Government Code §87307, are not "statements" or "reports" within Government Code §81008.


Richard T. Gleed
March 3, 1977
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In the event that review of petitions submitted by designated employees within the Code of the Board demonstrates the necessity for amendment to the Code as adopted and approved, the Board, prior to submitting its proposed amendments to the Fair Political Practices Commission, will be obliged to hold a public hearing regarding proposed changes in the Code. In this event, any interested person may secure, pursuant to the Administrative Procedure Act, relevant documents or materials necessary for the full participation of such person in the public hearing regarding the Board's proposed amendment. If, however, the Board determines that petitions before it are without merit, there is no need to hold a public hearing since no amendment would be contemplated. Based upon the response of Mr. Martin Huff of February 16, 1977, to your request, it is apparent that the Board views petitions for modification or removal from a Code as an internal personnel matter until such time as the Board decides to act upon the petitions or until the petition has been denied and appeal taken to the code reviewing body. This seems both a reasonable and permissible point of view, the alternative to which would be a never-ending series of petitions for review of designations when such review should have taken place in the context of Code development.

I am informed also that any petitioning employee may request that you or the California State Employee's Association be permitted an opportunity to view his or her petition during the pendency of the Board's review of his or her petition.

Pursuant to Government Code §87307, a petitioning employee may appeal to the code reviewing body for a review of the action or non-action of the agency whose Code is in question. It is the intention of this Division to recommend to the Commission that persons seeking appeal before the Commission pursuant to Government Code §87307 be given an opportunity for an appropriate hearing. Thus, all petitions submitted to the Fair Political Practices Commission calendared for hearing will be open for public inspection for a reasonable period prior to any hearing thereon.

Sincerely,


Delbert L. Spurlock, Jr., Chief
Conflicts of Interest Division

DLS:glb
cc: Jack Gordon
Noel Robinson

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Richard T. Gleed
4547 Laurelwood Way
Sacramento, California 95825

February 22, 1977

Delbert Spurlock, Chief
Conflict of Interest Division
Fair Political Practices Commission
P.O. Box 807
Sacramento, California 95804

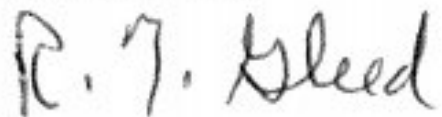
Dear Mr. Spurlock:

During January 1977 employees of the Franchise Tax Board submitted petitions to the Board requesting an amendment to the Department's Conflict of Interest Code pursuant to Government Code section 87307 (a copy of the form used by the employees is enclosed). According to the Department approximately forty such petitions were submitted.

On February 10, 1977 I requested copies of the petitions submitted by the employees pursuant to Government Code section 81008 (see enclosed wire). On February 16, 1977 the Franchise Tax Board denied my request stating that Government Code section 81008 referred only to financial statements required by law and did not extend to voluntary statement filed by the employees seeking administrative review of their designated status. (a copy of letter enclosed)

I do not believe that the Franchise Tax Board has acted in accordance with the law and, therefore, I request that the Board be directed to immediately comply with the provisions of Government Code section 81008.

If you have any questions regarding this request, please contact me at 444-8134.

Sincerely,

R. T. Gleed



Telefax

CALL LETTERS

FBG

CHARGE TO

CSEA

NIGHT LTR 2/10/77

(1 of 2)

Mr. Noel J. Robinson, Counsel
Franchise Tax Board
Aerojet Center
Aerojet/Nimbus
Sacramento, California

(REPORT DELIVERY)

Pursuant to Government Code Section 81008 I am formally asking for a copy of each petition requesting amendment of the conflict of interest code for the Franchise Tax Board filed by employees of the board in accordance with the provisions of paragraph (g) (4) (A) of Section 17005, Title 18, California Administrative Code

SENDING BLANK

Send the above message, subject to terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER-DO NOT FOLD

WU 1269 (R2/69)



Telefax

CALL LETTERS

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CHARGE TO

CSEA

NIGHT LTR 2/10/77

(2 of 2)

I am prepared to appear at your facility and pay for the requested copies in accordance with the law.

Richard T. Gleed
4547 Laurelwood Way
Sacramento, CA 95825

SENDING BLANK

Send the above message, subject to terms on back hereof, which are hereby agreed to

PLEASE TYPE OR WRITE PLAINLY WITHIN BORDER-DO NOT FOLD

WU 1269 (R2/69)



FRANCHISE TAX BOARD

SACRAMENTO, CALIFORNIA 95867
TELEPHONE: (916) 355-0529

February 16, 1977

Richard T. Gleed
California State Employees Association
1108 O Street
Sacramento, CA 95814

This will acknowledge your formal demand to inspect and copy petitions of employees who seek an administrative review of their designated status under the Franchise Tax Board's Conflict of Interest Code.

Your demand relies on Government Code, Section 81008, as authority to inspect and copy such petitions. Because of the location and structure of that section in the Political Reform Act, we view it as applying to the reporting required of candidates, committees, lobbyists, and public officials (including designated employees) but not to the voluntary statement filed by an employee seeking an administrative review of designated status.

We will, however, inform those employees, whose petitions have been denied, of CSEA's interest in their case and will furnish them with your telephone number should they wish to contact you.

A handwritten signature in cursive script, appearing to read "Martin Huff".

Martin Huff
Executive Officer