

84200, et seq.
82015

State of California



Fair Political Practices Commission

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

Technical Assistance/Administration ••• Executive/Legal ••• Enforcement ••• Conflict of Interest
(916) 322-5660 322-5901 322-6441 322-6444

November 15, 1977

77-11-191

Assemblyman Chet Wray
State Capitol
Sacramento, California 95814

Opinion Request No. 77-029

Dear Assemblyman Wray:

Thank you for your letter of September 21, 1977, in which you ask whether an intern program you would like to establish would give rise to any reporting obligations under the Political Reform Act. Since your letter raises no substantial questions involving an interpretation of the Act, no formal opinion will be issued. However, I hope the following informal comments will be helpful.

From your letter and an October 12th conversation I had with Alan Ross, a volunteer who works in your district office, I understand that the intern program is to be funded from two sources: the interns will be paid through a grant received from California State University at Fullerton, and the administrative costs of the program (salaries for an administrator and secretary and overhead expenses) will be paid by private grants from corporations.

The interns will be placed in the offices of any elected official or government agency in Orange County which requests an intern. No more than two interns will be placed in any one office. The interns will be paid \$3.00 an hour, must commit themselves to two semesters or three quarters of work, and may not work on political campaigns during the hours they serve as interns.

You have provided us with several scenarios and asked us whether or not these situations would create reporting responsibilities under the Political Reform Act. You first ask whether grants made to your office for an intern program which is run in your office exclusively is reportable under the Act. We believe such a payment would be reportable as a campaign contribution.

The Political Reform Act requires payments received by an officeholder to be listed as either gifts or campaign contributions. Gifts are listed on an officeholder's Statement of Economic Interests, and campaign contributions on a campaign statement. (See Government Code Section 84200, et seq.,^{1/} for reporting of campaign contributions, and Section 87200, et seq., for gifts.)

The term "contribution" is defined by Section 82015 of the Act as:

...a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes....

The term "political purposes" as used in that section refers to more than the traditional campaign notion of attempting to influence the voters for or against a candidate in connection with an election. It also refers to actions made for the purpose of assisting the officeholder to perform his duties as a politician. This interpretation recognizes that elected officeholders seek to communicate with constituents and other governmental officials as a regular part of their "political" activities.

The Commission ratified this concept of political purpose in opinions issued to Mayor Janet Gray Hayes, 1 FPPC Opinions 210 (No. 75-145, December 4, 1975), and Assemblyman Willie Brown, 1 FPPC Opinions 67 (No. 75-055, July 2, 1975), in which the Commission stated that payments received by the officeholders from their committees in connection with their official duties were political in nature. Thus, such payments were not reportable as gifts on the officeholder's Statement of Economic Interest but rather were reportable on the officer's campaign statements. The fact that such payments were not

^{1/} All statutory references are to the Government Code unless otherwise noted.

used for the express purpose of influencing voters did not cause the funds to lose their political character and become personal in nature. Moreover, it would make little sense as a matter of policy to construe such donations as gifts rather than contributions in light of the long established practice of officeholders creating committees to raise funds for use in connection with their official duties. Since we believe the situation outlined in example one is very similar to the facts cited in the above mentioned opinions, we conclude that you must report the grants as a contribution.

Your first question is markedly different from your second and third examples in which payments are made to a university or a state agency, both of which place interns in many legislative and public agency offices. We think these latter cases are distinguishable from the first in three respects. First, the grant is made to a university or a state agency. Second, the university or state agency has complete control over the intern program. Third, the university or state agency administers the internship program in connection with a bona fide educational curriculum. Further, these interns would be placed in all offices in Orange County which request them. We believe this is analogous to the situation in which special districts pay for publication of all candidates' statements of qualification. Although the candidate is clearly receiving a benefit, this benefit is extended to all candidates equally and thus is not considered reportable under the Political Reform Act. See opinion requested by H. L. Masini, 2 FPPC Opinions 38 (No. 75-171-B, February 4, 1976). We believe your second and third examples would result in no reporting obligation for the office in which the interns are placed, the university or state agency which administers the program, or the entity which finances it.

Our answer would not be different if an administrator were paid by a private company provided that the facts outlined in your second and third examples were still operative.

If the interns took leaves of absences from their casework to do campaign work but continued to be paid by the program, reporting obligations would be created since such payments would be in-kind contributions to the campaign. However, we understand your question to mean that the interns will not be expected to work on campaigns, and even if they do, they will not be paid for such work. There is nothing in the Political Reform Act which prohibits interns from working on campaigns in their off-hours.

Finally, if any part of the intern program is financed with campaign funds, the relevant campaign committee would be obligated to disclose such expenditures. However, a partial funding of the program by your campaign would not change our answer that if the program were open to all officials and agencies and was being run by the university or a state agency, there would be no reporting requirement on any private firm making contributions to the program, the university or state agency receiving the contribution, or the officials or agencies using the interns.

Please call on me if you have any further questions.

Sincerely,

Robert M. Stern (initials)

Robert M. Stern
General Counsel

RMS:nc

PLEASE REPLY TO:

SACRAMENTO ADDRESS
STATE CAPITOL
SACRAMENTO 95814

DISTRICT OFFICE:
12062 VALLEY VIEW
SUITE 257
GARDEN GROVE 92645
(714) 898-7944
(714) 898-4691



SEP 21 5 30 AM '77

Request No. 77 029

Date Received 9-27-77

Response Due 10-11-77

LAN...
TRANSIT

Assembly California Legislature

77191

CHESTER B. WRAY
ASSEMBLYMAN, SEVENTY-FIRST DISTRICT

VICE CHAIRMAN
COMMITTEE ON TRANSPORTATION

September 21, 1977

MEMORANDUM

To: Fair Political Practices Commission (FPPC)
From: Assemblyman Chet Wray

ATTN: Bob Stern

Subj: Request for opinion regarding Intern Program.

I am writing to request your opinion regarding the requirements of the Fair Political Practices Act as they apply to an intern program I intend to use in my office.

For the past several months, Alan Ross, a volunteer working with me and my District Office, has been exploring the possibility of establishing an intern program that could be used by my office on casework and legislative research. We had initially thought that this program would include about 35 students at a time who would receive valuable training in political science and public administration, acceptable for college credit, while they also worked in my offices in the District and in Sacramento.

However, as our plans matured, several new considerations emerged. Alan Ross will be working on the program full-time and will require a salary. Second, some of the interns will need to be paid stipends. Third, to pay these expenses, a grant would be required from some foundation, agency or business firm. Fourth, to receive and manage the grant, another agency like a college or other intern program, may have to act as a recipient and other Assembly offices in Orange County may have to be involved.

These new considerations also raise the issue of the FPPC, since it is important for me to avoid any appearance of receiving funds from inappropriate sources or for inappropriate reasons. In other words, I would like my involvement with interns to be kept clearly on an educational and legislative basis that would make this clearly not part of my campaign staff or budget. I am certainly not opposed to reporting any and all campaign income and expenditures, but it is very possible that the public might misinterpret large grants or income received for interns if they were reported along with other regular campaign expenses. For example, unfair criticism might be leveled at my office for excessive campaign expenses if a \$100,000 intern program that involved only casework and legislation had to be reported along with \$150,000 to \$200,000 in regular campaign expenses.

For these reasons, I would appreciate your opinions about whether I would need to report the expenses related to an intern program for casework and legislation under the following circumstances:

1. If a contribution or grant were made to my office and the intern program was run exclusively in my office with some expenses like rent being absorbed by my office budget and campaign budget.
2. If a contribution or grant were made to a university and it used the money to pay staff salaries and stipends to students who worked in my office, other assembly offices and with other public agencies.
3. If a contribution or grant were made to the Western Interstate Commission for Higher Education, a state agency under the Education Code, Chap. 2, Sec. 99100, and WICHE used those funds for staff salaries and stipends for interns in my office and other assembly offices and with other public agencies.

In addition to your opinions on the above questions, would your position be different:

1. If one or more of the intern program staff salaries were provided by having those persons like Alan Ross placed on the payroll of a business firm or other organization which then donated those staff persons to the intern program.

2. If any of the staff or interns took leaves of absence from their casework and legislative assignments to work on my campaign, or
3. If any portion of the expenses of the intern program were paid out of my office or campaign budget.

I would appreciate any assistance you and your staff can give me on this matter. Since we would like to move forward briskly with this effort, a written response would be greatly appreciated as soon as possible.


CHESTER B. "CHET" WRAY

CBW:ms