

State of California



Fair Political Practices Commission

P.O. BOX 807 - SACRAMENTO, 95834 - 1100 K STREET BUILDING, SACRAMENTO, 95814

June 7, 1977

77-250

Richard M. Ross
Deputy Attorney General
555 Capitol Mall, Suite 350
Sacramento, CA 95814

Dear Mr. Ross:

This letter is in response to your letter of May 5, 1977, requesting the Commission's views with respect to Attorney General opinion number CV 77-75. Initially, we request that your opinion be contained in an indexed letter rather than a published opinion if it interprets any of the provisions of the Political Reform Act.

The facts as I understand them are as follows. A school district wishes to reimburse its employees, such as the superintendent or a school principal, for costs incurred in taking an assemblyman or senator to lunch. You asked whether reimbursement for such activities would constitute a misuse of public funds or be affected by any of the provisions of the Political Reform Act.

The question of whether such reimbursement constitutes a misuse of public funds is an issue which is beyond the jurisdiction of the Commission, and accordingly we decline to comment on it. However, our comments with respect to pertinent provisions of the Political Reform Act are set forth below.

In general, a person is a lobbyist if he is employed or contracts for the purpose of influencing legislative or administrative action on a substantial or regular basis. Clearly the employment/contract standard is met in the instant case if the employee, in his official capacity, meets with an assemblyman or senator. If during the meeting, the school district employee attempts to influence, promote, defeat or similarly affect legislation or proposed legislation, he will be acting for the purpose of influencing legislative action.^{1/} The relevant

^{1/} For the purpose of this letter, we assume that the employees in question are not attempting to influence administrative action.

standard for determining whether the local government employees are attempting to influence legislative action on a "substantial or regular basis" appears in Commission regulation 2 Cal. Adm. Code Section 18239(e)(1)(A). Specifically, the school employee will be a lobbyist if he spends 40 hours in a two-month consecutive period attempting to influence legislative action, 10 hours of which are in connection with direct communication as set forth in 2 Cal. Adm. Code Section 18239(b).

From the facts presented, it appears unlikely that any of the school employees in question satisfy this time threshold. However, if a school employee were a lobbyist, he would be prohibited from making, arranging for the making, or acting as an intermediary or agent in the making of a gift to a state candidate, an elected state officer (including an assemblyman or senator), a legislative official or an agency official of \$10 or more in a calendar month. In addition, he would be required to file statements described in Section 86107.^{2/} Nothing in the Political Reform Act prevents the school district from reimbursing its lobbyists or employees for their expenses.

Even if the school employees are not lobbyists, the school district may be required to file reports pursuant to Section 86108(b) which provides:

Periodic Reports: Employers and Others. Subject to the exceptions in Section 86300, the following persons shall file the statements required by Section 86109:

... (b) Any person who directly or indirectly makes payments to influence legislative or administrative action of two hundred fifty dollars (\$250) or more in value in any month, unless all of the payments are of the type described in Section 82045(c).

In determining whether the \$250 per month threshold has been met, the Commission regulation 2 Cal. Adm. Code Section 18621 should be consulted. In general, the pro rata portion of an employee's salary attributable to influencing legislative action need not be counted unless 10 percent or more of the employee's compensated time is spent on preparing for or engaging in such activities. Costs which clearly must be counted include price of the employee's and official's meals, transportation expenses, and the cost of

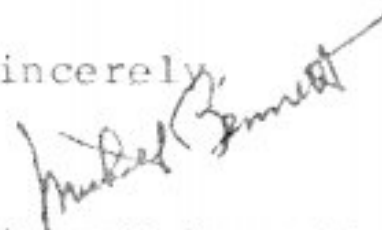
^{2/} All statutory references are to the Government Code unless otherwise noted.

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materials and supplies used in connection with attempting to influence the official.

If you have any further questions as to the application of the Political Reform Act to the activities in question, please do not hesitate to contact either me or Ted Prim.

Sincerely,



Michael Bennett
Executive Director

MB:TP:jo