

State of California



Fair Political Practices Commission

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

June 27, 1978

87100
78-06-73

Mr. James R. Christiansen
Attorney at Law
Suite 802-04, Granada Bldg.
1216 State Street
Santa Barbara, CA 93101

Re: Opinion Request No. 78-005

Dear Mr. Christiansen:

Thank you for your letter dated April 25, 1978, seeking an opinion regarding the disqualification provisions of the Political Reform Act. The Commission will not issue a formal opinion because your letter raises no substantive issues of interpretation under the Political Reform Act and because you do not sufficiently identify the person whose duties under the Act are in question. (See 2 Cal. Adm. Code Section 18320(g)(2) and (3).) However, I hope the following informal advice will be helpful.

Specifically, you asked whether the Political Reform Act of 1974 repealed, in whole or in part, the provisions of the Education Code beginning with Sections 1171, et seq., and whether school board members must follow the provisions of Government Code Sections 87100, et seq. Government Code Section 81013 of the Political Reform Act provides:

Nothing in this title prevents the Legislature or any other state or local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title. If any act of the Legislature conflicts with the provisions of this title, this title shall prevail.

Therefore, despite any language in the Education Code which might imply otherwise, the Political Reform Act, including its disqualification provisions, is applicable

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Mr. James R. Christiansen
June 26, 1978

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to all public officials including school board members. In addition, the disqualification provisions of a school district's Conflict of Interest Code adopted pursuant to the Act, are applicable to the district's school board members as well. The Legislature may not enact a law as part of the Education Code which conflicts with, or prevails over, provisions of the Political Reform Act. The Legislature may, however, enact into law, as part of the Education Code, sections which impose requirements in addition to those imposed by the Political Reform Act, if such requirements do not prevent compliance with the Act.

Enclosed is a copy of an opinion requested by Edwin L. Miller, 2 FPPC Ops. 91 (No. 75-125, July 6, 1976), which may be of use to you. If you desire a more complete interpretation of the force and effect of Section 1171 et seq., of the Education Code in light of the Political Reform Act, we suggest that you contact the District's legal counsel and/or state representatives.

We hope that the information provided herein is helpful. If you wish to appeal the denial of your opinion request, you may do so pursuant to Section 18321. If you have any questions concerning this matter, please contact me or Dwight Dickerson, an attorney on our staff.

Sincerely,



Michael Bennett
Executive Director

MB:DD:ma
enclosure

Request No. 78 005

Date Received 5-1-78

Response Due 5-15-78

JAMES R. CHRISTIANSEN
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April 25, 1978

Fair Political Practices
Commission
1100 "K" Street
Sacramento, CA 95814

Gentlemen:

I am writing to you to request an opinion on the application of Government Code Section 87100 et. seq., to school board members, as well as the total application of the Fair Political Practices Act of 1974, in view of Education Section 1175.5. The reason for this question is that the Fair Political Practices Act of 1974 was adopted by the voters pursuant to the initiative process, under the provisions of Section 22 of Article IV (1974 numbering of the Constitution) of the Constitution of the State of California. Pursuant to Section 24 of Article IV (1974 Section numbering) of the California Constitution, the legislature does not have the power to amend or repeal the initiative, except as expressly permitted by the initiative.

Accordingly, it would appear to me that the provisions of Section 1171 et. seq. of the Education Code are in conflict with the initiative and have been repealed by the Fair Political Practices Act of 1974. This would also apply specifically to Education Code Section 1175.5

I would appreciate your opinion as to whether the Fair Political Practices Act of 1974 has repealed,

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in whole or in part, the Provision of Education Code Sections 1171 et. seq., and particularly Section 1175.5 and whether school board members must follow the provision of Government Code Section 87100 et. seq.

Very sincerely yours,



James R. Christiansen

JRC/rlk