

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

May 24, 1978

Donald L. Reidhaar, General Counsel
 University of California
 590 University Hall
 2200 University Avenue
 Berkeley, California 94720

A-78-288

Dear Mr. Reidhaar:

This is a tardy response to your letter of April 4, 1978, regarding the Commission's procedures for soliciting public comment on its proposed public actions and, specifically, its consideration in April of proposed regulation Section 18234 defining when interests in a trust are reportable under the Political Reform Act.

With respect to the specific regulation, I regret that you did not have sufficient time to consider the matter and provide comments to the Commission prior to their adopting the regulation. Unfortunately, your letter of April 4 did not arrive in our office until April 7, by which time the Commission had adopted the regulation--now 2 Cal. Adm. Code Section 18234 (copy enclosed)--and adjourned its meeting. I would, however, be pleased to receive the comments of your office on the regulation and the Commission will, of course, be glad to entertain a petition for reconsideration pursuant to California's Administrative Procedure Act Sections 11426 and 11427.

I hope we can avoid this problem in the future by your being aware that all regulations proposed for adoption--unless they are of an emergency nature--are noticed in the San Francisco Recorder the Sacramento Daily Recorder and the Los Angeles Daily Journal at least 30 days prior to their consideration by the Commission. In addition, we provide specific notice of proposed action on Commission regulations to anyone who requests it. If you would like to receive these notices, please let me know and we will add your name to the mailing list. If, upon noting a matter of concern to the University, you will call our Legal Division at (916) 322-5901, you or a member of your staff can easily be put in touch with the attorney who is working on a specific item. Any of our attorneys will be glad to discuss the matter with you and provide you a draft of the regulation as soon as possible.

Donald L. Reidhaar
May 24, 1978
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Realizing that it is difficult to keep track of legal notices in newspapers, we have also done what we could to provide more time between the date the FPPC Bulletin coupon requests are answered by our office and the date of actual Commission consideration. We have increased that time period from seven to nine days, which I hope will be of benefit to all persons interested in presenting views to the Commission.

Thank you for bringing this matter to our attention. I hope what I have outlined above will obviate similar problems in the future.

Sincerely,


Michael Bennett
Executive Director

MB:cjb
Enclosure

THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA



OFFICE OF THE GENERAL COUNSEL
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April 4, 1978

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California Fair Political
Practices Commission
1100 Kay Street
Sacramento, CA 95814

Re: Conflict of Interest --
Proposed FPPC Regulations --
Opportunity to Comment

Dear Members of the Commission:

I am writing to bring to your attention a matter which has adversely affected the University's ability to comment on proposed FPPC regulations in the area of conflict of interest and to request that you establish a longer period of time between the date proposed regulations are described in FPPC Bulletins and the hearing date on those regulations.

These requests are made with particular reference to § 18234 of the Commission's proposed regulations, which would define when an interest in a trust is reportable under the Political Reform Act. The FPPC Bulletin describing the proposed regulation and announcing a preliminary agenda for Commission hearings on April 4, 5 and 6, at which the regulation was to be considered was dated March 17, 1978. My office received it on March 20. On March 21, 1978, Assistant Counsel Kate K. Alderman of my staff mailed to you an order coupon requesting copies of the proposed regulation. I believe that Mrs. Afton E. Crooks, the University's Conflict of Interest Coordinator, also requested a copy. Ms. Alderman received her copy of the proposed regulation Friday, March 31; Mrs. Crooks received hers Monday, April 3. The proposed regulation is set for hearing on April 4, 5 or 6.

California Fair Political
Practices Commission
April 4, 1978

2.

The reporting of trust interests, and the circumstances under which the establishment of a blind trust will relieve a designated official of reporting requirements under the University's Conflict of Interest Code, are matters of considerable interest to the University community. We cannot comment effectively or intelligently on such short notice, and therefore ask that a final decision on this proposed regulation be deferred for at least 30 days. We also would appreciate your consideration of procedures which will provide sufficient comment time to all interested parties with respect to proposed regulations in the future. Finally, I ask that you advise me of any other procedures through which the University may obtain proposed regulations before they are referenced in the FPPC Bulletin.

*Legal
notice
30 days
before
ring*

Thank you for your attention to these matters. Please call me or Assistant Counsel Alderman if you have any questions.

Sincerely,


Donald L. Reidhaar

cc: President Saxon
Vice President Kleingartner
Conflict of Interest Coordinator Crooks

Memorandum

To : File

Date : March 2, 1978

From : FAIR POLITICAL PRACTICES COMMISSION
Alan Herndon *Alan*

M-78-289

Subject: Advice

The attached letter from Mr. Palmer Madden, dated February 17, 1978, clearly sets forth advice given to him, with the exception of the following sentence on page 2: "As in all instances when one is considering the 'substantial or regular' test, the exception provided by Regulation 18621 for a person to devote less than 10% of their compensated time during any one month is applicable".

On March 2, 1978, I phoned Mr. Madden and indicated to him that the 10% exception provided in Regulation 18621 is only applicable for determining whether compensation of employees is reportable under Section 86109 and that it is not applicable for determining whether a person is a lobbyist under Regulation 18239. Mr. Madden agreed and indicated he would send a follow-up letter correcting this discrepancy.