

State of California



Fair Political Practices Commission

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Technical Assistance •• Administration •• Executive/Legal •• Enforcement •• Statements of Economic Interest
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December 2, 1980

Vigo G. Nielsen, Jr.
Dobbs & Nielsen
Suite 2500, The Alcoa Building
One Maritime Plaza
San Francisco, CA 94111

A-80-12-059

Dear Mr. Nielsen:

I am writing in response to your request for advice as to when lobbyists' gifts to elected, legislative and administrative officials need to be reported. You asked whether the repeal of Government Code Section 86106(a), which was contained in the original Political Reform Act of 1974, had any effect on the duty of lobbyists or others to report gifts to elected, legislative, or agency officials. The answer is that it did not.

Lobbyists are required to report all expenses "which benefit in whole or in part any elective state official, legislative official, agency official, state candidate or member of their immediate family." Government Code Section 86107(b). Gifts are reportable "expenses" within the meaning of Section 86107(b). Employers are required to report the total amount of "payments to influence," legislative or administrative action, and to itemize all payments of \$25 or more. Government Code Section 86109(c). "Payments to influence" include any payment "which directly or indirectly benefits any elective state official or agency official or a member of the immediate family of any such official." Government Code Section 82045(c). Thus gifts to such persons are reportable "payments to influence."

You have raised the question of whether the repeal of former Section 86106(a) of the Government Code had any effect on the proper interpretation of these sections. Section 86106 provided that:

✓86107(b)
86109(c)

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(a) Except as provided in subsection (b) of this section, no person shall pay any expense incurred by a lobbyist in connection with his activities as a lobbyist unless such payment is made directly from the lobbyist's account. Any lobbyist who makes a gift to an elected state official, legislative official or an agency official is deemed to be acting in connection with his activities as a lobbyist.

(b) The Commission shall promulgate regulations permitting the use of cash which has been withdrawn from a lobbyist's account to defray petty cash items.

Section 86106 did not deal with the question of what expenses had to be reported by lobbyists or others; it dealt only with particular accounting procedures for lobbyists. The definition of term "in connection with his activities as a lobbyist" in Section 86106(a) was significant only in connection with the accounting rules of Section 86106. It did not constitute a definition of a "gift" for purposes of other sections of the Act. Thus repeal of Section 86106 had no effect on Sections 86107(b) and 86109(c).

I should point out that the Commission has, by regulation limited the reporting required under Sections 86107(b) and 86109(c) in the case of payments or gifts to agency officials. Such payments or gifts need be reported only if they are made to officials (or members of their immediate families) of agencies whose actions the lobbyist or employer has attempted or is attempting to influence. 2 Cal. Adm. Code Section 18600. The statutory requirements for reporting gifts to legislative and elected officials, candidates and their families under Sections 86107(b) and 86109(c) are unchanged by the regulation.

I hope this has answered your questions in this matter. If you have any further problems in this regard, please feel free to call me.

Very truly yours,



Barbara A. Milman
Staff Counsel
Legal Division

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November 5, 1980

Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

Re: Advice on When Gifts to Legislative and
Administrative Officials Need Be Reported

Dear Commission Staff:

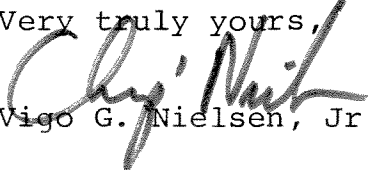
The original language in Section 86106(a) of the Political Reform Act of 1974 defined a gift made by a registered lobbyist as a lobbying expense if it was made to a state constitutional or legislative official or an agency official of an agency being lobbied by that person, irrespective of whether the intent or circumstances had anything to do with a lobbying situation. When Chapter 6 was amended by SB 810, this language was removed from the Act. Since this language has been removed from the lobbyist provision, we seek clarification on a similar situation for Form 650 filers.

We have been asked a number of times during this past year whether gifts need be reported by Form 650 filers in situations that have nothing to do with any attempt to influence legislative or administrative action.

A number of these filers have informed us that they find no statutory authority or interpretation of the Political Reform Act requiring reporting of such gifts to such state officials.

Your clarification of this matter is sincerely appreciated.

Very truly yours,


Vigo G. Nielsen, Jr.

VGN:dc