

# 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	••	Statements of Economic Interest
(916) 322-5662		322-5660		322-5901		322-6441		322-6444

July 15, 1981

Mr. Selby Scott Wilson  
Post Office Box 62  
Cantua Creek, CA 93608

A-81-07-036

Dear Mr. Wilson:

Thank you for your request for written advice regarding possible conflicts of interest arising from your election to the Cantua Elementary School District Board of Trustees.

As we understand the material facts, they are as follows:

1. Prior to your election to the Board of Trustees, your wife was employed as a tenured teacher with the Cantua Creek Elementary School District for more than 24 years. She is still employed in that capacity.
2. Your wife, as a school district employee, has leased a home from the school district. These arrangements are a part of the benefits which she receives as an employee. The rental for the home is \$55/month, which, obviously, is less than fair-market-value. However, due to the unique housing market in rural Cantua Creek, it is not known what fair-market-value would bring in rental for the home. But, it is safe to assume that the school district is subsidizing your rent.
3. The lease between your wife and the school district is a month-to-month tenancy, terminable on 30 days written notice, and the tenancy requires the tenant "to comply with all rules, regulations and orders of the Governing Board of the CANTUA ELEMENTARY SCHOOL DISTRICT...", of which you are now a member.
4. Upon your election to the school board, the board voted 3-2 to terminate the lease agreement with your wife, evicting her and you from the premises. This vote was based upon advice from the Fresno County Counsel's office that you had a conflict of interest under these circumstances and that either the lease would have to be terminated or you would have to be removed from the board.

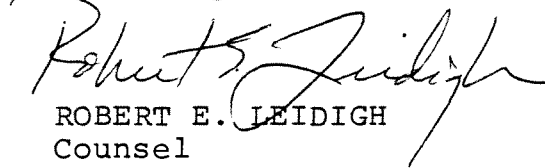
Mr. Selby Scott

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Therefore, under the Political Reform Act, you need not even disqualify yourself in this regard. However, as I indicated to you over the telephone, there are other provisions of law<sup>5/</sup> which may require a different conclusion. The Commission is not engaged in interpreting those provisions. You have indicated that you now have legal counsel and you should consult with them in that regard. You may also wish to contact the Attorney General for an opinion. Since you have indicated that there may be provisions of the Education Code which also apply you may wish to contact the State Department of Education as well.

Sincerely,



ROBERT E. LEIDIGH  
Counsel  
Legal Division

BL:gs

Enclosures

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<sup>5/</sup>For example, Government Code Section 1090, et seq.

July 15, 1981

You have requested our written advice as to whether your situation created any conflict on interest under the Political Reform Act.1/

Initially, it should be remembered that the Political Reform Act only requires disqualification as to certain decisions, not as to membership. Section 87100 prohibits a public official from making, participating in making, or in any way using his official position to influence the making of a decision in which he has a financial interest. Thus, if disqualification is required at all, it would only be as to those decisions involving your financial interest.

Financial interest is defined by Section 87103.2/ Under subdivision (b) you have an indirect interest, through your spouse, in the real property you are renting. However, that interest does not exceed the threshold level of \$1,000, since the lease is only month-to-month, and there are not restrictions on your eviction.3/

Under subdivision (c) of Section 87103, a source of income of more than \$250 during the last 12 months can be sufficient to require disqualification. However, the source of income to your spouse in this case is the school district, which is a local government agency.4/ Under Section 82030(b), "income", as used in the Act, does not include salary and reimbursement for expenses received from a local government agency. The subsidy aspect of this employee housing is a form of salary or fringe benefit provided by the school district to its employees. It is not available to anyone else, and terminates upon termination of the employee.

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1/Government Code Sections 81001-91014, (copy enclosed for your convenience); all citations are to the Government Code unless otherwise specified.

2/Copy enclosed.

3/This fact distinguishes your situation from that of Zona Sage in our Opinion No. 80-010 Overstreet, 6 FPPC 12 (March 2, 1981)

4/Local government agency is defined by Section 82041 to include school districts.