



# California Fair Political Practices Commission

May 19, 1989

Robert E. Leidigh  
Olson, Connelly, Hagel & Fong  
300 Capitol Mall, Suite 350  
Sacramento, CA 95814

Re: Your Request for Advice  
Our File No A-89-241

Dear Mr. Leidigh:

You have requested advice on behalf of your client, California School Employees Association, regarding the campaign provisions of the Political Reform Act.<sup>1/</sup>

## QUESTION

Does the California School Employees Association's sponsored committee meet the definition of a "broad based political committee" within the meaning of Section 85102?

## CONCLUSION

Based on the information provided, the California School Employees Association's sponsored committee meets the definition of a "broad based political committee" within the meaning of Section 85102.

## FACTS

The California School Employees Association (hereafter "CSEA") sponsors a recipient committee called PACE of CSEA. The contributions received by PACE of CSEA are collected through

---

<sup>1/</sup>Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Robert E. Leidigh  
May 8, 1989  
Page Two

allocation of membership dues to CSEA. Membership dues are collected by local CSEA chapters and are transmitted to CSEA through various mechanisms, including payroll deduction and direct payment. A portion of each month's membership dues is transferred from CSEA to the PACE account. During the current school year, there are approximately 85,500 CSEA members from whom contributions are received by PACE. PACE of CSEA has been in existence for more than six months, and has made contributions to more than five candidates.

#### ANALYSIS

Proposition 73, which was passed by the voters at the June, 1988 state election, added contribution limitations to the Political Reform Act. The limitations apply to, among other types of committees, "broad based political committees." "Broad based political committee" is defined in Section 85102(d) as:

... a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert, makes contributions to five or more candidates.

At issue in the determination of whether PACE of CSEA meets the definition of a broad based political committee is whether PACE of CSEA "receives contributions from one hundred or more persons."

The contributions received by PACE of CSEA are forwarded to the committee by the various local CSEA chapters. However, because the local chapters merely collect the contributions from the CSEA members and forward the contributions to CSEA, the local chapters are merely acting as "intermediate units" for the purpose of collecting contributions. Regulation 18419(a)(3) provides:

"Intermediate unit" means a chapter, local, branch, unit or similar component of a sponsor that collects money from its members, officers, employees or shareholders which is "earmarked" for use by the sponsored committee within the meaning of 2 Cal. Adm. Code Section 18215(c).

Regulation 18215(c) provides that money is "earmarked" if:

... at the time of making the payment, the donor knows or has reason to know that the payment or funds with which the payment will be commingled will be used to

Robert E. Leidigh  
May 8, 1989  
Page Three

make contributions ... or expenditures .... Factors relevant to a determination that the donor has reason to know that all or part of the payment will be used to make expenditures and contributions include but are not limited to the established practice of the person or organization with respect to expenditures and contributions and any representations made when the payment is solicited.

(Regulation 18215(c),  
copy enclosed.)

Since it is the established practice of CSEA to allocate a specified amount of each member's dues payments as contributions to PACE of CSEA, the payment is considered "earmarked" for the purpose of making contributions and, therefore, the individual member is the actual source of the contribution.

In conclusion, the contributions received by PACE of CSEA are from the 85,500 members of CSEA. Therefore, PACE of CSEA "receives contributions from one hundred or more persons," for the purpose of qualifying as a broad based political committee.

Please call me at (916) 322-5662 if you have any questions about this letter.

Sincerely,

Kathryn E. Donovan  
General Counsel



By: Jeanne Pritchard  
Division Chief  
Technical Assistane and  
Analysis Division

OLSON, CONNELLY, HAGEL & FONG

FPPC

April 20, 1989

APR 20 1 47 PM '89

Kathryn E. Donovan  
Acting General Counsel  
FAIR POLITICAL PRACTICES COMMISSION  
428 "J" Street, Suite 800  
Sacramento, California 95814

RE: REQUEST FOR FORMAL WRITTEN ADVICE

Dear Ms. Donovan:

I write on behalf of my client, California School Employees Association. I request formal written advice.

QUESTION

Is California School Employees Association PACE of CSEA (its sponsored committee PAC) a "broad based political committee" within the meaning of Government Code Section 85101(d)?

FACTS

The California School Employees Association (hereafter "CSEA") is a labor organization (union). Its Constitution sets forth in its Preamble the reasons for its existence. Among those are:

. . . The California School Employees Association exists for the purpose of providing a democratic, member controlled union dedicated to the mutual aid and protection of its members and the improvement of wages, hours and other terms and conditions of employment for all workers. . . .

The CSEA Constitution goes on to set forth the objectives of the organization. Among the enumerated objectives are the following:

. . . (d) To initiate and promote such legislation as may be for the best interests of the members of this organization.

(e) To protect the rights of workers and the welfare of its members through political, educational and legislative activity; to engage in cultural, civic, legislative, political, fraternal, educational, social and other activities which further the interests of the

---

LANCE H. OLSON  
BRUCE J. HAGEL  
LEROY Y. FONG  
ROBERT E. LEIDIGH

OF COUNSEL  
LLOYD G. CONNELLY, Member  
California State Legislature

Letter to Kathryn E. Donovan  
April 20, 1989  
Page Two

organization and its members and/or improve their standing in the community.

(f) To safeguard, advance and promote the principle of free collective bargaining in a democratic society.

(g) To protect and preserve the right of this organization to perform its legal and contractual obligations and to carry out the duties and responsibilities entrusted by the membership. . . .

Membership in CSEA is open to any person employed in providing services to an educational institution, whether private, nonprofit or public. Membership is accomplished by payment of the "established dues and fees." Active members of CSEA ". . . must also be members of an affiliated Chapter. All members of Chapters must also be members of . . . [CSEA]." Thus, members of CSEA are also members of local ("affiliated") chapters.

In this respect, CSEA differs markedly from the situations which the Commission has previously considered in advice letters to Charles P. Scully, II. (Advice Letter Nos. A-89-028 and A-89-055.) Those two letters considered the situations of federations of different labor unions, where the members of the federations were the unions themselves, rather than the individual workers.

The statewide organization of CSEA is divided into nine areas or regions, each consisting of the affiliated chapters in several counties, except for Area G, which consists of certain districts within Los Angeles County. Each area elects by secret ballot an area director and an alternate area director. The area director serves on the Board of Directors of CSEA. In his/her absence, the alternate area director serves.

In addition to the nine area directors, four officers of CSEA also serve on the thirteen member board of directors. The four officer/director members of the board are elected by direct vote at the annual conference through secret ballot of the delegates. Delegates are elected by each chapter, with the number of delegates from a chapter being determined by the number of paid-up members in good standing.

In addition to election of the officers at the annual conference, that is the occasion for amending CSEA's Constitution and/or By-Laws.

The CSEA Constitution provides for several standing committees. Among these is the Political Action Committee which governs PACE of CSEA, the union's PAC. The committee is

Letter to Kathryn E. Donovan  
April 20, 1989  
Page Three

appointed by the CSEA President. In accordance with the Constitution and By-Laws, this is done with the advice and assistance of the other elected officers.

The dues for membership in CSEA are established in the By-Laws and are based upon a formula tied to the member's annual salary. Dues are assessed in 10 equal installments for the ten months of the year when schools are generally in session.

A portion of each month's dues is transferred to the political action fund (unless a member designates in writing that s/he does not desire that his/her dues monies be allocated for political action purposes).

The portion of monthly dues so credited is determined by action of delegates to the annual conference through adoption of the general fund budget of CSEA for the next year. For the most recent year, the allocation was \$0.25 per month, for a total of \$2.50 per year per member. At the annual conference, a detailed report of the activities of PACE of CSEA is presented to the delegates.

The allocated dues money is transmitted to CSEA for transfer into the PACE of CSEA account through various mechanisms. The particular mechanism depends upon the particular employer involved and is handled through payroll deduction, direct payment and otherwise. However, in each instance, the allocated amount is ultimately received by PACE of CSEA in accordance with the established allocation. The affiliated locals have no discretion as to the amount.

PACE of CSEA has amended its Statement of Organization and files its disclosure reports indicating that it is a "sponsored committee" of CSEA pursuant to Regulation 18419. Pursuant to that regulation, the contributions to PACE of CSEA are considered to be made by the members, even if transmitted through intermediaries such as the chapters, if the contributions were "earmarked." The term "earmarked" is defined in Regulation 18215.

PACE of CSEA has received contributions in the last six months from each of the members of CSEA who have not designated otherwise. There were approximately 85,500 contributing members during the 1988-89 school year. PACE of CSEA has made contributions to more than 5 candidates. PACE of CSEA has been

Letter to Kathryn E. Donovan  
April 20, 1989  
Page Four

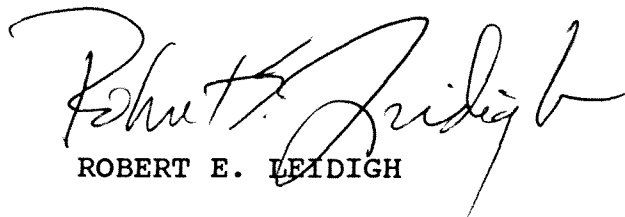
in existence for more than 6 months.

CONCLUSION

On behalf of CSEA, I request that the Commission provide formal written advice on the question presented above.

Very truly yours,

OLSON, CONNELLY, HAGEL & FONG

A handwritten signature in black ink, appearing to read "Robert E. Leidigh". The signature is written in a cursive style with a large initial "R" and "L".

ROBERT E. LEIDIGH

cc: Peter Janiak, Chief Counsel  
California School Employees Assoc.

Law Offices of

OLSON, CONNELLY, HAGEL & FONG

FPPC

April 20, 1989

APR 20 1 47 PM '89

Kathryn E. Donovan  
Acting General Counsel  
FAIR POLITICAL PRACTICES COMMISSION  
428 "J" Street, Suite 800  
Sacramento, California 95814

**RE: REQUEST FOR FORMAL WRITTEN ADVICE**

Dear Ms. Donovan:

I write on behalf of my client, California School Employees Association. I request formal written advice.

QUESTION

Is California School Employees Association PACE of CSEA (its sponsored committee PAC) a "broad based political committee" within the meaning of Government Code Section 85101(d)?

FACTS

The California School Employees Association (hereafter "CSEA") is a labor organization (union). Its Constitution sets forth in its Preamble the reasons for its existence. Among those are:

. . . The California School Employees Association exists for the purpose of providing a democratic, member controlled union dedicated to the mutual aid and protection of its members and the improvement of wages, hours and other terms and conditions of employment for all workers. . . .

The CSEA Constitution goes on to set forth the objectives of the organization. Among the enumerated objectives are the following:

- . . . (d) To initiate and promote such legislation as may be for the best interests of the members of this organization.
- (e) To protect the rights of workers and the welfare of its members through political, educational and legislative activity; to engage in cultural, civic, legislative, political, fraternal, educational, social and other activities which further the interests of the

LANCE H. OLSON  
BRUCE J. HAGEL  
LEROY Y. FONG  
ROBERT E. LEIDIGH

OF COUNSEL  
LLOYD G. CONNELLY, *Member*  
*California State Legislature*

Letter to Kathryn E. Donovan  
April 20, 1989  
Page Two

organization and its members and/or improve their standing in the community.

(f) To safeguard, advance and promote the principle of free collective bargaining in a democratic society.

(g) To protect and preserve the right of this organization to perform its legal and contractual obligations and to carry out the duties and responsibilities entrusted by the membership. . . .

Membership in CSEA is open to any person employed in providing services to an educational institution, whether private, nonprofit or public. Membership is accomplished by payment of the "established dues and fees." Active members of CSEA ". . . must also be members of an affiliated Chapter. All members of Chapters must also be members of . . . [CSEA]." Thus, members of CSEA are also members of local ("affiliated") chapters.

In this respect, CSEA differs markedly from the situations which the Commission has previously considered in advice letters to Charles P. Scully, II. (Advice Letter Nos. A-89-028 and A-89-055.) Those two letters considered the situations of federations of different labor unions, where the members of the federations were the unions themselves, rather than the individual workers.

The statewide organization of CSEA is divided into nine areas or regions, each consisting of the affiliated chapters in several counties, except for Area G, which consists of certain districts within Los Angeles County. Each area elects by secret ballot an area director and an alternate area director. The area director serves on the Board of Directors of CSEA. In his/her absence, the alternate area director serves.

In addition to the nine area directors, four officers of CSEA also serve on the thirteen member board of directors. The four officer/director members of the board are elected by direct vote at the annual conference through secret ballot of the delegates. Delegates are elected by each chapter, with the number of delegates from a chapter being determined by the number of paid-up members in good standing.

In addition to election of the officers at the annual conference, that is the occasion for amending CSEA's Constitution and/or By-Laws.

The CSEA Constitution provides for several standing committees. Among these is the Political Action Committee which governs PACE of CSEA, the union's PAC. The committee is

Letter to Kathryn E. Donovan  
April 20, 1989  
Page Three

appointed by the CSEA President. In accordance with the Constitution and By-Laws, this is done with the advice and assistance of the other elected officers.

The dues for membership in CSEA are established in the By-Laws and are based upon a formula tied to the member's annual salary. Dues are assessed in 10 equal installments for the ten months of the year when schools are generally in session.

A portion of each month's dues is transferred to the political action fund (unless a member designates in writing that s/he does not desire that his/her dues monies be allocated for political action purposes).

The portion of monthly dues so credited is determined by action of delegates to the annual conference through adoption of the general fund budget of CSEA for the next year. For the most recent year, the allocation was \$0.25 per month, for a total of \$2.50 per year per member. At the annual conference, a detailed report of the activities of PACE of CSEA is presented to the delegates.

The allocated dues money is transmitted to CSEA for transfer into the PACE of CSEA account through various mechanisms. The particular mechanism depends upon the particular employer involved and is handled through payroll deduction, direct payment and otherwise. However, in each instance, the allocated amount is ultimately received by PACE of CSEA in accordance with the established allocation. The affiliated locals have no discretion as to the amount.

PACE of CSEA has amended its Statement of Organization and files its disclosure reports indicating that it is a "sponsored committee" of CSEA pursuant to Regulation 18419. Pursuant to that regulation, the contributions to PACE of CSEA are considered to be made by the members, even if transmitted through intermediaries such as the chapters, if the contributions were "earmarked." The term "earmarked" is defined in Regulation 18215.

PACE of CSEA has received contributions in the last six months from each of the members of CSEA who have not designated otherwise. There were approximately 85,500 contributing members during the 1988-89 school year. PACE of CSEA has made contributions to more than 5 candidates. PACE of CSEA has been

Letter to Kathryn E. Donovan  
April 20, 1989  
Page Four

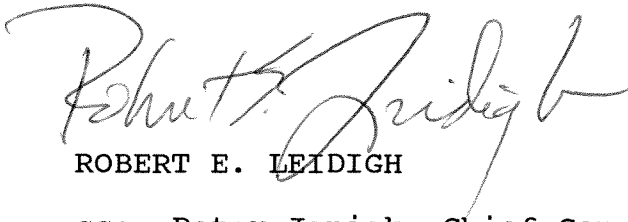
in existence for more than 6 months.

CONCLUSION

On behalf of CSEA, I request that the Commission provide formal written advice on the question presented above.

Very truly yours,

OLSON, CONNELLY, HAGEL & FONG

A handwritten signature in cursive script, appearing to read "Robert E. Leidigh". The signature is written in dark ink and is positioned above the printed name.

ROBERT E. LEIDIGH

cc: Peter Janiak, Chief Counsel  
California School Employees Assoc.



# California Fair Political Practices Commission

April 26, 1989

Robert E. Leidigh  
Olson, Connelly, Hagel & Fong  
300 Capitol Mall, Suite 350  
Sacramento, CA 95814

Re: Letter No. 89-241

Dear Mr. Leidigh:

Your letter requesting advice under the Political Reform Act was received on April 20, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Jeanne Pritchard*  
Jeanne Pritchard  
Chief Technical Assistance  
and Analysis Division

JP:plh