



# California Fair Political Practices Commission

January 12, 1994

Mary Stenseth  
District Representative  
Honorable Rebecca Q. Morgan  
State Senator 11th Senate District  
Menlo Park, CA 94025

Re: Your Request for Informal Assistance  
Our File No. I-93-320

Dear Ms. Stenseth:

You have requested confirmation of telephone advice provided to you concerning potential restrictions on your postgovernmental employment under the provisions of the Political Reform Act (the "Act").<sup>1</sup> Since your inquiry is general in nature, we are treating your letter as a request for informal assistance pursuant to Regulation 18329(c)(3).<sup>2</sup>

This letter confirms that your letter dated August 16, 1993, accurately summarizes the telephone advice I provided to you on August 11, 1993. You stated that you are an employee of the Senate and may leave your position to work for a school district either as a lobbyist or in some other position that would require you to have oral communication with legislators to inform them of the school district's position on educational issues. If you decide to accept such employment, your inquiry is whether the Act places restrictions upon your activities.

As I stated in our telephone conversation, Section 87406 now provides that:

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<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, Sections 18000-18954. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

(d)(1) No designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position which entails the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and no member of a state administrative agency, for a period of one year after leaving office or employment, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative<sup>3</sup> action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.

(Section 87406(d)(1); emphasis added.)

Section 87400 defines a "state administrative agency" as every state office, department, division, bureau, board and commission, but excluding the California Legislature. Thus, as a designated employee of the Legislature, you are not subject to the restrictions of Section 87406. (Dudley Advice Letter, No. A-93-123.)

Please note, however, that Section 87407 provides:

No state administrative official, elected state officer, or designated employee of the Legislature shall make, participate in making, or use his or her official position to influence, any governmental decision directly relating to any person with whom he or she is negotiating, or has any arrangement concerning, prospective employment.

Thus, up until the time you leave your position at the Legislature, you are subject to the restrictions of Section 87407.

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<sup>3</sup> Section 87406(d) was amended in 1993 by Senate Bill 230 to expand existing provisions of the Act to prohibit former designated employees of administrative agencies, among others, from engaging in communication designed to influence "legislative action" as well as administrative action. (Chapter 230, Stats. 1993).

If you have any further questions regarding this matter,  
please feel free to contact me at (916) 322-5901.<sup>4</sup>

Sincerely,

Steven G. Churchwell  
General Counsel

*Deanne Stone*

By: Deanne Stone  
Senior Commission Counsel

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<sup>4</sup> Copies of Commission regulations and Opinions are available in many law libraries. Alternatively, copies of these materials and Commission advice letters may be obtained from the Commission at a cost of 10¢ per page.