



California Fair Political Practices Commission

April 11, 1995

Andrea Ravas, Esq.
Bay Area Rapid Transit District
P.O. Box 12688
Oakland, CA 94604-2688

Re: Your Request for Advice
Our File No. A-95-091

Dear Ms. Ravas:

You have requested confirmation of telephone advice concerning the conflict-of-interest disclosure provisions of the Political Reform Act.¹ The advice I provided you is discussed below.

QUESTIONS

1. Is a position listed in Section 87200 required to be included under any local government agency's conflict of interest code?

2. Must an agency amend its code to delete any positions designated under its conflict-of-interest code, which are determined to be 721 filers as "other officials who manage public investments" pursuant to Regulation 18720?

3. Are officials who fall under the provisions of Regulation 18720 considered "other public officials who manage public investments" even though such officials may participate in agency decisions other than those involving the management of public investments?

4. Should officials who are determined not to be "other public officials who manage public investments" under the definition of Regulation 18720 file Form 730?

¹ 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.

CONCLUSIONS

1. A position listed in Section 87200 is not required to be included under any local government agency's conflict of interest code.

2. An agency should amend its conflict of interest code to delete any positions designated under the code which are determined to be 721 filers as "other public officials who manage public investments" pursuant to Regulation 18720. However, there is no prohibition in the Act for including positions, for informational purposes, of officials who manage public investments in the agency's conflict of interest code.

3. Yes. Officials who are within the scope of Regulation 18720 are considered "other public officials who manage public investments" even though they may participate in agency decisions other than those involving the management of public investments.

4. Yes. These officials should file Form 730 if they are subject to the conflict-of-interest disclosure requirements of their agency's conflict of interest code.

ANALYSIS

You have asked various questions concerning "other public officials who manage public investments."

1. Positions listed in Section 87200 are not required to be included under any local government agency's conflict of interest code.

Section 87200 et seq., specifically requires specified public officials to disclose their economic interests under the provisions of the Political Reform Act. These public officials are required to disclose certain investments, interests in real property and sources of income in their jurisdiction on a statement of economic interests (Form 721).

Section 87300 et seq., requires every agency to adopt and promulgate a conflict of interest code designating those positions within the agency which should similarly be required to disclose their personal economic interests on a statement of economic interests (Form 730). Section 87302 requires that every conflict of interest code must specifically enumerate the positions within the agency, other than those positions specified in Section 87200, which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest. Regulation 18730 contains all of the basic provisions required by the Act.

Pursuant to Regulation 18730(b)(3), a conflict of interest code does not establish any disclosure obligation for persons who

are also listed in Section 87200 if they serve in essentially the same capacity or if the geographical jurisdiction of the agency is the same as or wholly included within the jurisdiction in which those persons must report their financial interests under Section 87200. Therefore, a position listed in Section 87200 is not required to be included under any local government agency's conflict of interest code as specified above.

2. An agency should amend its code to delete any positions which are determined to be 721 filers as "other public officials who manage public investments" pursuant to Regulation 18720.

Section 87200 includes other officials who manage public investments. An agency must now identify the officials who manage public investments as described in Regulation 18720. Obviously, some of these officials are currently included in the agency's conflict of interest code. As to these officials, an agency should amend its code to delete any positions designated under the code, which are determined to be 721 filers as "other public officials who manage public investments." However, there is no prohibition in the Act for including positions, for informational purposes, of officials who manage public investments in the agency's conflict of interest code. Therefore, we have advised that a conflict of interest code may include a note listing the positions which are determined by the agency to be positions which manage public investments and will now file Form 721.

3. Officials are "other public officials who manage public investments" even though they may participate in other agency decisions.

You also asked whether officials who fall under the provisions of Regulation 18720 would be considered "other public officials who manage public investments" even though such officials may participate in agency decisions other than those involving the management of public investments. I indicated that, regardless of their other duties, if the requirements of the regulation are met these officials should file Form 721.

4. Officials who are not 721 filers should file Form 730 if they are subject to the conflict-of-interest disclosure requirements of their agency's conflict of interest code.

Finally, you asked whether officials who do not meet the narrow definition of Regulation 18720 should file Form 730, provided their position participates in governmental decisions. The comment to Regulation 18720 provides that individuals not coming within the definition contained in Regulation 18720(b) may be subject to the conflict-of-interest disclosure requirements of their agency's conflict of interest code. If this is the case, those individuals must file a statement of economic interests

(Form 730). (See also, Regulation 18700(a) and Section 82019;
Randolph Advice Letter, Our File No. I-95-045.)

If you have any questions or need further assistance, please
contact me at (916) 322-5901.

Sincerely,

Steven G. Churchwell
General Counsel

A handwritten signature in cursive script that reads "Luisa Menchaca".

By: Luisa Menchaca
Counsel, Legal Division