

RAVI MEHTA
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FAIR POLITICAL PRACTICES COMMISSION

April 8, 1996

Daniel M. Kolkey
Counsel to the Governor
and Legal Affairs Secretary
Governor's Office
Sacramento, California 95814

Re: Your Request for Advice
Our File No. A-96-101

Dear Mr. Kolkey:

This is in response to your request for advice regarding the statement of economic interest disclosure requirements of the Political Reform Act (the "Act").¹

QUESTION

The California Judicial Council reimburses your travel expenses incurred in attending meetings of the Council's Blue Ribbon Commission on Jury System Improvement. Are these reimbursements reportable on your next year's statement of economic interests?

CONCLUSION

No. Because the Judicial Council is considered a state agency, the reimbursements are exempt from the definition of income under Section 82030(b)(2) of the Act.

FACTS

You are the Governor's Legal Affairs Secretary, and in that capacity, you have been appointed to the Judicial Council's Blue Ribbon Commission on Jury System Improvement, which is charged with making recommendations to the Council for improving the jury system.

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 18000-18995.

The Judicial Council was established under Article VI, section 6 of the California Constitution and consists of judges, members of the State Bar, and one member of each house of the Legislature. The Council makes recommendations to the courts and to the Governor and Legislature to improve the administration of justice, and adopts rules for court administration, practice and procedure not inconsistent with statute.

At the Blue Ribbon Commission's meetings, commission members review and discuss various proposals with a view toward developing recommendations for the Judicial Council.

ANALYSIS

Under the Act, payments for travel that are provided to a public official by a third party are generally considered income if the official provided equal or greater consideration for the receipt of the payments, or gifts if the official did not provide equal or greater consideration for such payments.

You serve on the Judicial Council's Blue Ribbon Commission on Jury System Improvement. The Commission is charged with making recommendations to the Judicial Council for improving the jury system. As a member of the Commission, you review and discuss various proposals regarding changes to the jury system and develop recommendations for the Judicial Council. Under these circumstances, it appears that you are providing consideration for the travel reimbursements such that they would be considered income to you, not a gift.²

Under Section 82030 of the Act "income" is defined to include any salary, wage, advance, any gift of food or beverage, reimbursement for expenses, and per diem, among others. However, Section 82030(b)(2) provides that income does not include the following:

Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic, or charitable organization.

(Emphasis added.)

² Note that in order for the travel payments to be considered income, the official must be able to demonstrate that he or she has provided consideration of equal or greater value in return for the payments. (Benninghoven Advice Letter, No. I-93-298; Riddle Advice Letter, No. A-89-200; and Quan Advice Letter, No. A-89-182.)

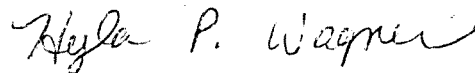
Under Section 82049, a "state agency" means every state office, department, division, bureau, board and commission, and the Legislature. For purposes of the Act, the Judicial Council is considered a state government agency. The Judicial Council has a conflict of interest code. (See Gampell Advice Letter, No. A-85-211.) Section 82011(e) of the Act provides that the Chief Justice or his or her designee is the code reviewing body with respect to the conflict of interest code of the Judicial Council. Further, the Judicial Council is established by the State Constitution and funded by the state.

Therefore, the reimbursements provided to you by the Judicial Council for travel costs you incur attending meetings of the Council's Blue Ribbon Commission on Jury System Improvement would be exempt from the definition of income under the Act. Accordingly, you are not required to report such payments on your next year's statement of economic interests.

I trust this answers your question. If you have any further questions regarding this matter, please contact me at 916/322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Hyla P. Wagner
Counsel, Legal Division

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