

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

May 30, 1997

Jane Willet
2433 Bunya Street
Newport Beach, CA 92660

**Re: Your Request for Informal Assistance
Our File No. I-97-028**

Dear Ms. Willet:

This letter is a response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹ Because your inquiry is general in nature, we will treat your letter as a request for informal assistance pursuant to Regulation 18329(c).²

QUESTION

Section 84308 provides for disqualification in proceedings involving licenses, permits or other entitlements for use if certain officials have received contributions of more than \$250 from a party or participant within the 12 months preceding the decision. You are asking if contributions to an officeholder account are aggregated with campaign contributions for purposes of reaching this threshold.

CONCLUSION

Contributions to an officeholder account are aggregated with campaign contributions for purposes of reaching the disqualification threshold in Section 84308.

¹ Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

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

ANALYSIS

Section 84308 provides that no officer³ of an agency⁴ shall accept, solicit, or direct a **contribution**⁵ of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest.

Section 85313 permits elected officers to establish one segregated officeholder expense fund for expenses related to assisting, serving, or communicating with constituents, or with carrying out the official duties of the elected officer, provided aggregate **contributions** to such a fund do not exceed ten thousand dollars (\$10,000) within any calendar year and that the expenditures are not made in connection with any campaign for elective office or ballot measure. Section 85313 further provides that no person shall make, and no elected officer shall solicit or accept from any person, a contribution or contributions to the officeholder account totaling more than \$250 during any calendar year.

Since sections 84308 and 85313 do not contain any exclusionary language preventing contributions from being aggregated, we conclude that contributions to an officeholder account count toward the disqualification threshold in section 84308.

³"Officer" is defined in Section 84308 as any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

⁴"Agency" is defined in Section 84308 as any state agency or local government agency except that it does not include the courts or any agency in the judicial branch of government, local governmental agencies whose members are directly elected by the voters, the Legislature, the Board of Equalization, or constitutional officers. However, it does apply to any person who is a member of an exempted agency but is acting as a voting member of another agency.

⁵"Contribution" is defined in Section 84308 to include contributions to candidates and committees in federal, state, or local elections.

If you have questions concerning this letter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel

A handwritten signature in black ink that reads "Dixie Howard". The signature is written in a cursive, flowing style.

By: Dixie Howard
Political Reform Consultant
Technical Assistance Division