

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

March 17, 1997

Robert P. Marshall, Pharm.D.
California Pharmacists Association
1112 I Street, Suite 300
Sacramento, California 95814

**Re: Your Request for Advice
Our File No. I-97-048a**

Dear Mr. Marshall:

On March 5, 1997, I wrote *Marshall* Advice Letter, No. I-97-048 in response to your request for advice dated January 17, 1997. We provide this follow-up letter to elaborate on questions that may arise in connection with the distinction between "gift" and "contribution" which, under Proposition 208, has assumed a new significance.

You had requested advice on the potential impact of the recently enacted Proposition 208 on certain educational events that your organization, California Pharmacists Association, expect to conduct during the coming year. You explained that the Association's member pharmacists would meet with state and local public officials to discuss the changing economic and professional environments for pharmacists, and to discuss legislative measures and other matters of interest to Association members. You indicated that event funding from the Association's political action committee would be used to fund these events, and that no lobbyist would be present at any of these functions.

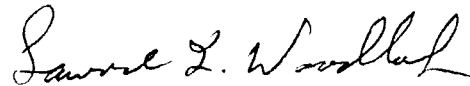
In responding to your inquiry, I focused closely on changes introduced by Proposition 208 that could conceivably affect the type of events you had in mind. Most of the letter was directed to discussion of the potential consequences if valuable goods and services provided to officials in attendance were to be characterized as "contributions" to the officials. This concern, obviously, was motivated by the comprehensive regulation of contributions introduced this year by Proposition 208.

My emphasis on the *potential* for some goods and services to be characterized as “contributions,” implicating the new restrictions of Proposition 208, should not be taken as a suggestion that the food and drink typically provided at such events are now regarded as “contributions.” In the past, we have characterized food and drink as “gifts” to officials in attendance at such functions, not “contributions.” Proposition 208 has done nothing to alter our prior analysis of such goods as “gifts.”¹ The point, rather, is that whenever the Association contemplates furnishing at these events goods or services whose proper characterization is subject to any doubt, the Association would be wise to contact this agency for assistance, to insure that there are no unintended consequences arising out of the Association’s inadvertent provision of goods or services classifiable as “contributions” under the Act.

If you have any further questions regarding these matters, and in particular if you have questions regarding the distinction between “gift” and “contribution” as applied to any particular goods or services, please feel free to contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Lawrence T. Woodlock
Staff Counsel, Legal Division

¹ Proposition 208 states, at section 85202, that all definitions and provisions of the Act remain in effect unless specifically superseded by the provisions of Proposition 208, which does not purport to change the definition of “gift.” As a result, advice and regulations under the Act prior to enactment of Proposition 208 remain good law. The most common form of goods furnished to public officials at events of the sort you describe have always been classified as “gifts.” Regulation 18941.1 defines payments for food as “gifts,” while “informational materials” are neither “gifts” nor “contributions.” (Regulations 18942 and 18942.1.)