



FAIR POLITICAL PRACTICES COMMISSION

December 23, 1997

Matt Weyuker
Executive Director
Osteopathic Physicians and Surgeons of California
455 Capitol Mall, Suite 230
Sacramento, California 95814

**Re: Your Request for Advice
Our File No. A-97-576**

Dear Mr. Weyuker:

This letter is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹

QUESTIONS

1. May the Osteopathic Public Affairs Committee, a political action committee, loan its sponsoring organization, the Osteopathic Physicians and Surgeons of California, funds to pay for the operating expenses and overhead of the sponsoring organization?
2. May the Osteopathic Public Affairs Committee, a political action committee, "reimburse" its sponsoring organization, the Osteopathic Physicians and Surgeons of California, for the cost of operating expenses and overhead?

CONCLUSIONS

1. No. A loan by a sponsored organization to its sponsoring organization for normal operating expenses is not reasonably related to a political, legislative, or governmental purpose.
2. Because it is unclear what you mean by "reimburse," we cannot answer this question conclusively. Please see Analysis below.

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

FACTS

The Osteopathic Physicians & Surgeons of California ("OPSC"), an association of osteopathic physicians, is the sponsor of the Osteopathic Public Affairs Committee ("Committee"), a political action committee.

ANALYSIS

The Act places certain restrictions on the use of campaign funds. "Campaign funds" include any contributions, cash, cash equivalents and other assets received or possessed by a committee. (Section 89511(b)(1).) Section 89512.5 governs expenditures by committees that are not controlled by candidates. Expenditures made by such a committee are required to be "reasonably related to a political, legislative, or governmental purpose." (Section 89512.5(a).) However, if expenditures made by such a committee confers a substantial personal benefit on any individual or individuals with authority to approve the expenditure of campaign funds held by the committee, those expenditures shall be "directly related to a political, legislative, or governmental purpose of the committee." (Section 89512.5(b).)

The questions you have asked do not implicate the higher "directly related" standard based on the few facts provided.² Therefore, the "reasonably related" standard governs your questions.

Commission staff has consistently stated that a refund of contributions by a sponsored committee to its sponsoring organization for normal operating expenses is not reasonably related to a political, legislative, or governmental purpose. (*Pappy* Advice Letter, No. A-94-031; *Brown* Advice Letter, No. I-90-412.) While we have not had the prior opportunity to analyze a loan from a sponsored organization to its sponsor for general operating expenses we find that the same conclusion is appropriate since a loan is an expenditure. (Section 82025.) Therefore, a loan by a sponsored committee to its sponsor for normal operating expenses is prohibited under Section 89512.5(a).

Next you ask whether the Committee may "reimburse" funds to OPSC for the costs of funds received by OPSC used to pay the Committee's normal operating expenses. The analysis is the same for payments made by OPSC to the committee for its operating expenses and overhead payments prior to January 29, 1997. Any such payments made on or after that date are not deemed to be contributions under the Commission's recent amendments to Regulations

² The Commission does not act as the finder of fact in providing advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

18215 and 18428. Thus the committee could reimburse OPSC for these amounts.³

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel

By: Marte Castaños
Staff Counsel, Legal Division

SGC:MC:tls

³ These regulations have been challenged in state court. They are in effect pending appeal. (*Californians for Political Reform Foundation v. Fair Political Practices Commission*, 3 Civil No. C026314.)