



FAIR POLITICAL PRACTICES COMMISSION

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February 25, 1998

John D. Flitner
City Attorney
City of Rohnert Park
Post Office Box 1898
Santa Rosa, California 95402

**Re: Your Request for Advice
Our File No. A-98-021**

Dear Mr. Flitner:

This letter is in response to your request for advice regarding the conflict-of-interest provisions of the Political Reform Act (the "Act").¹ You are the City Attorney for the City of Rohnert Park and have requested advice on behalf of Councilmember Armando Flores.

QUESTION

May Councilmember Flores, who is also the Superintendent of the Bellevue School District, participate in a vote to either annex to or deannex from the city territory which includes Bellevue School District territory?

Would the opinion be different if the city did not have any school district property within the city limits and while the school superintendent was a councilmember, some or all of the school district property was annexed to the city?

CONCLUSION

Under the Act, Mr. Flores does not have a conflict of interest in either situation. Therefore, he may participate in the decision for the city to either annex or deannex territory, which includes part of the Bellevue School District. However, we cannot advise you regarding other provisions of law which are not under our jurisdiction. Since Mr. Flores is also the Superintendent of the Bellevue School District, we suggest that you contact the Office of the Attorney General regarding the doctrine of incompatible offices.

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

FACTS

Mr. Armando Flores is a member of the City of Rohnert Park City Council. Mr. Flores is also the Superintendent of the Bellevue School District. He was hired by the school board and is under contract with the school district.

The Bellevue School District is located partially within the corporate limits of the City of Rohnert Park. There is a decision before the city council for the city to either annex or deannex additional territory, some of which would include Bellevue School District territory.

ANALYSIS

Section 87100 prohibits any public official from making, participating in making, or otherwise using his official position to influence a governmental decision in which the official has a financial interest. Section 87103 defines a financial interest as follows:

“An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.”

Section 87103(c).

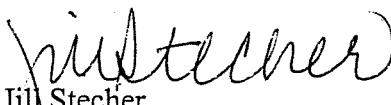
As Superintendent, Mr. Flores is employed by the Bellevue School District and has received more than \$250 in salary from the district during the past 12 months. However, Section 82030(b)(2) provides that salary and reimbursement for expenses or per diem received from a state, local, or federal government agency is exempt from the definition of "income" for purposes of the Act. Therefore, the salary Mr. Flores receives from the school district is not a disqualifying economic interest pursuant to Section 87103(c) and it does not create a conflict of interest with respect to Mr. Flores' participation in the city council annexation decision.

Thus, absent some other disqualifying financial interest as set forth in Section 87103, Mr. Flores may participate in the city council annexation decision. However, as stated above, our advice is limited only to the provisions of the Political Reform Act. We cannot advise you regarding the doctrine of incompatible offices or any other provision of law which is not within our jurisdiction. Please contact the Office of the Attorney General for advice regarding the doctrine of incompatible offices.

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

Sincerely,

Steven G. Churchwell
General Counsel

By: 
Jill Stecher
Staff Counsel, Legal Division

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