



## FAIR POLITICAL PRACTICES COMMISSION

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February 4, 1999

Dave Beardsley  
Director  
Cameron Park Community Services District  
Post Office Box 925  
Cameron Park, California 95682

**Re: Your Request for Advice  
Our File No. I-99-003**

Dear Mr. Beardsley:

This letter is in response to your request for advice regarding the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1</sup> Since your request does not pertain to a specific governmental decision, we are treating your request as one for informal assistance.<sup>2</sup>

### QUESTIONS

1. Under the Act, may you continue to volunteer as a fireman for the Cameron Park Fire Department and maintain your position as Director to the Cameron Park Community Services District Board of Directors?
2. Does your compensation as a board member prevent you from participating in decisions affecting the district?

### CONCLUSIONS

1. Yes. The Act does not prohibit public officials from holding two offices simultaneously. Please note, however, that our advice is limited to the Act. You may wish to contact the Attorney General's office with respect to other provisions of law, such as Government Code Section 1090 and the law governing incompatible public offices.

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

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

2. Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency is expressly exempted from the definition of "income" for purposes of the Act. Consequently, your compensation received as Director to the Cameron Park Community Services District Board of Directors is not an economic interest recognized by the Act. Therefore, the payments would not create a conflict of interest with respect to district decisions.

### FACTS

You are a newly elected director to the Cameron Park Community Services District Board of Directors ("district"). You are also a volunteer fireman for the Cameron Park Fire Department (the "department"), which is run by the Cameron Park Community Services District. The department is currently under contract by the California Department of Forestry ("CDF"). As a volunteer, you are still a member of the Cameron Park Community Services District because CDF does not recognize volunteers. You informed me in a telephone conversation on January 29, 1999, that you receive approximately \$300 per month as a director of the district.

### ANALYSIS

Section 87100 prohibits public officials from making, participating in making, or using their official position to influence a governmental decision in which they know or have reason to know they have a financial interest. As a director to the Cameron Park Community Services District Board of Directors, you are a public official. (Section 82048.)

An official has a financial interest in a governmental 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 on a member of the official's immediate family, or among other things, on:

"(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

\* \* \*

(c) Any source of income ... 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(a) and (c).)

The district is a local governmental agency. (Section 82041.) Salary from a state, local or federal governmental agency is expressly exempted from the definition of "income" for purposes of the Act. (Section 82030(b)(2).) Thus, the compensation that you receive from the district is salary from a governmental agency and thus is not "income" as used above. (*Bordson* Advice Letter, No. A-95-347.) In addition, because a local government agency is not an organization or enterprise operated for profit, it is not a business entity as defined by the Act.

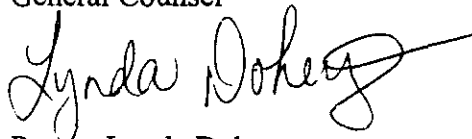
However, Section 87103 states that an official has a financial interest in a decision if the decision has a material financial effect on the official or a member of his or her immediate family. Thus, the Act provides that a conflict of interest may exist where a decision will result in a public official's personal expenses, income, assets, or liabilities or those of his or her immediate family increasing or decreasing by \$250, irrespective of the source of the increase or the decrease. (Regulation 18703.5; *Torrance* Advice Letter, No. I-89-142; *Schreiber* Advice Letter, No. A-88-459.)

Thus, absent some other disqualifying financial interest in a decision as set forth in Section 87103, or some direct financial effect on you personally resulting from a governmental decision, as set forth in Regulation 18703.5, you may participate in district decisions. In addition, you are not precluded from continuing to work as a volunteer fireman for the department. Please note, however, that our advice is limited to the Act. You may wish to contact the Attorney General's office with respect to other provisions of law, such as Government Code Section 1090 and the law governing incompatible public offices.

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

Sincerely,

Steven G. Churchwell  
General Counsel



By: Lynda Doherty  
Political Reform Consultant, Legal Division

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