



## FAIR POLITICAL PRACTICES COMMISSION

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January 28, 1999

William C. Vickrey  
Administrative Director of the Courts  
Judicial Council of California  
303 Second Street, South Tower  
San Francisco, California 94107-1366

**Re: Your Request for Advice  
Our File No. I-99-021**

Dear Mr. Vickrey:

This letter is in response to your request for advice regarding the possible application of Assembly Bill 2179 to California trial courts. Because it is not part of the Political Reform Act (the "Act"),<sup>1</sup> the Commission cannot offer advice on specific requirements of Assembly Bill 2179. However, the application of this new law is expressly limited by a provision of the Act, and the Commission can assist you on this point.

### QUESTION

Does Assembly Bill 2179 apply to California's trial courts?

### CONCLUSION

No. Assembly Bill 2179 applies only to "state agencies" as defined by Section 82049 of the Political Reform Act. Courts are not "state agencies" within the meaning of Section 82049, and are therefore not subject to the requirements of Assembly Bill 2179.<sup>2</sup>

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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. All statutory references are to the Government Code.

<sup>2</sup> By "courts" we refer to the institutions described in your letter; the California Supreme Court, the Courts of Appeal, and the state courts of general jurisdiction.

## FACTS

Assembly Bill 2179 was passed in the previous legislative session, adding Article 12 (commencing with Section 11146) to the Government Code. The law took effect on January 1, 1999, and it requires state agencies to provide ethics training to certain agency personnel. Government Code Section 11146(a) declares that "state agency" (for purposes of the new law) "has the same meaning as set forth in Section 82049, but does not include the legislature." Section 11146(b) defines the term "filer" as "each member, officer, or employee of a state agency..." who satisfies certain criteria. The remaining subdivisions of Section 11146 specify how each "state agency" shall provide required training to its "filers."

## ANALYSIS

As you note in your letter, Assembly Bill 2179 applies to "state agencies," and the first step in assessing its applicability to the judicial branch is deciding which, if any, judicial institutions are "state agencies" within the meaning of the statute. You determined that, from a functional point of view, the Supreme Court, the Courts of Appeal, the Judicial Council, and the Administrative Office of the Courts are "statewide judicial branch agencies." From this you concluded that Assembly Bill 2179 applied to those "agencies."

At the same time, certain facts led you to doubt that *trial* courts were expected to participate in training programs mandated by Assembly Bill 2179, even though some trial court personnel appeared to meet the definition of "filer" given in Section 11146(b). Your discussion also raised the considerable problem of justifying a sharp distinction between trial and appellate courts in a statute that mentions neither.

The difficulties of statutory construction that led you to seek the Commission's advice appear to grow out of the initial supposition that courts are "state agencies" subject to Assembly Bill 2179. At a practical level, you are surely correct in characterizing the courts as "statewide judicial branch agencies." However, Assembly Bill 2179 expressly refers to the definition of "state agency" established by Section 82049. The Legislature's incorporation of that definition into Assembly Bill 2179 requires us to conclude that the Legislature did not intend that the courts be subject to the mandate of the new law.

Nearly twenty years ago, in *In Re Baty* (1979) 5 FPPC Ops. 10 (copy enclosed) the Commission observed:

"However, the courts are not considered either local government or state agencies as those terms are defined in the Act. Sections 82041, 82049." (*Id.* at 11)

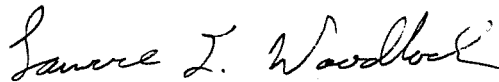
The Commission's longstanding determination on this point has never been disturbed. We must presume that it was known to the Legislature when Assembly Bill 2179 was passed. Since the mandate of Assembly Bill 2179 plainly extends *only* to "state agencies" as defined at Section 82049, courts are not required to comply with its provisions. And since "filer" is limited by definition to persons affiliated with a "state agency" (Sections 11146(b) and *passim*), there is no need decide whether any court personnel might *otherwise* meet the definition of "filer."

Your question was confined to the obligations of the trial courts under Assembly Bill 2179. In the course of answering this question, it has become apparent that the Supreme Court and the Courts of Appeal are also beyond the sweep of the new law. We offer no opinion on the possible application of Assembly Bill 2179 to the Judicial Council and the Administrative Office of the Courts.

If you would like to discuss this matter further, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell  
General Counsel



By: Lawrence T. Woodlock  
Staff Counsel, Legal Division

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