



## FAIR POLITICAL PRACTICES COMMISSION

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January 14, 2000

Michael R. Woods  
City Attorney, City of Pittsburg  
Woods & Daube LLP  
465 First Street West, Suite 200  
Sonoma, California 95476-6600

**Re: Your Request for Advice  
Our File No. I-99-318**

Dear Mr. Woods:

This letter is in response to your request for advice on behalf of City of Pittsburg Mayor Lori Anzini regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup> Because your request does not relate to a specific governmental decision, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c).<sup>2</sup>

### QUESTION

May Mayor Anzini participate in city decisions concerning the Pittsburg Unified School District?

### CONCLUSION

You have provided us no facts regarding a specific governmental decision, and therefore we cannot determine whether Ms. Anzini can participate in the city council decisions regarding the Pittsburg Unified School District. However, as a general rule, salary and reimbursement for expenses or per diem received from a state, local, or federal government agency are expressly exempted from the definition of "income" for purposes of the Act. Consequently, unless the

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<sup>1</sup> Government Code sections 81000 - 91015. Commission regulations appear at title 2, sections 18109 - 18996, 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).)

mayor's personal finances are *otherwise* affected by a decision, her salary received as an employee of the Pittsburg Unified School District is not a disqualifying economic interest.

### III. FACTS

Lori Anzini is the Mayor of Pittsburg and an employee of the Pittsburg Unified School District ("PUSD"). From time to time, matters come before the council which could have a reasonably foreseeable material financial effect on the PUSD.

### IV. 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 the Mayor of Pittsburg, Ms. Anzini is a public official. Ms. Anzini is also an employee of the PUSD and is a public official in that capacity also. (Section 82048.)

Ms. Anzini will have 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 herself, or on a member of her immediate family, or on one or more of her "economic interests."

There are five kinds of economic interests from which conflicts may arise. They are defined in Section 87103 and Regulations 18703-18703.5 to include:

- An interest in a business entity in which a public official has a direct or indirect investment<sup>3</sup> of \$1,000 or more or in which a public official is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(a) and (d); Regulation 18703.1(a) and (b).)
- An interest in real property in which a public official has a direct or indirect interest of \$1,000 or more. (Section 87103(b); Regulation 18703.2.)
- Any source of income to the public official which aggregates to \$250 or more within 12 months prior to the decision. (Section 87103(c); Regulation 18703.3.)

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<sup>3</sup> Section 87103 defines an 'indirect investment' or interest as any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

- Any source of gifts to the public official if the gifts aggregate to \$300<sup>4</sup> or more within 12 months prior to the decision. (Section 87103(e); Regulation 18703.4.)
- A public official also has an economic interest in his or her personal expenses, income, assets, or liabilities, as well as those of his or her immediate family, a.k.a. the “personal financial effects” rule. (Section 87103; Regulation 18703.5.)

The school 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 salary that she receives from the school district is not disqualifying “income” for purposes of Section 87103(c). (*Sanchez* Advice Letter, No. I-99-266; *Bordsen* Advice Letter, No. A-95-347.)<sup>5</sup>

However, Section 87103 also states that an official has a financial interest in a decision if it is reasonably foreseeable that the decision has a material financial effect on the official or a member of his or her immediate family. Under this “personal financial effects” rule, a conflict of interest exists 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 in a 12-month period, irrespective of the source of the increase or the decrease. (Regulation 18703.5; Regulation 18704.5; Regulation 18705.5; *Beardsley* Advice Letter, No. I-99-003; *Daniels* Advice Letter, No. I-98-297.) Thus, under the personal effects rule, unless an exception applies, Ms. Anzini could not as a city councilmember participate in any governmental decision that would affect her income from the school district or that would have some other personal financial effect on her. (*Daniels* Advice Letter, *supra*.)

You have not provided any specific facts regarding a particular governmental decision. Such an exception does apply but it would be unlikely that a situation would arise for the exception to apply under this particular set of facts. However, for purposes of analyzing personal financial effects, we have stated that the personal effects test will not serve to require an official from disqualifying himself or herself, if the decision affects *only* the salary, per diem, or reimbursement for expenses the official receives from a local government agency. (Regulation 18705(c)(1); *Cosgrove* Advice Letter, No. A-98-145.)<sup>6</sup> Therefore, a city council decision

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<sup>4</sup> The gift limit amount is adjusted biennially by the Commission to reflect changes in the Consumer Price Index. As of January 1, 1999, the amount is \$300. (Section 87103(e), Regulation 18940.2.)

<sup>5</sup> Be advised that Ms. Anzini may have additional economic interests (see list above) that may result in conflicts of interest that were not discernable from the information contained in your request.

<sup>6</sup> In March 2000, the Commission may be examining whether the exception applies only to governmental salary from the agency making the decision. Under your facts, the issue would be whether only Ms. Anzini's salary as a city councilmember, for example, is exempt under this regulation.

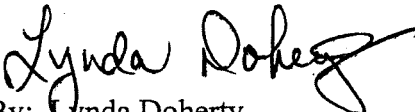
affecting Ms. Anzini's governmental salary will not generally be a problem under this rule, but whether it has some *other* personal financial effect, not subject to this exception, is a question we cannot address without specific facts.

Thus, absent some other disqualifying financial interest in a decision as set forth in Section 87103, or some direct financial effect on Ms. Anzini personally, resulting from a governmental decision not covered by the exception for government salary, she may participate in city decisions regarding the PUSD. 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 the law governing incompatible public offices and Government Code Section 1090.

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

Sincerely,

Luisa Menchaca  
Assistant General Counsel

  
By: Lynda Doherty  
Political Reform Consultant

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