



FAIR POLITICAL PRACTICES COMMISSION

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August 7, 2000

Suzanne Du Vall Knorr, REHS
Box 8056
Glendale, CA 91224-0056

**RE: Your Request for Advice
Our File No. I-00-156**

Dear Ms. Knorr:

This letter is in response to your request for advice regarding the conflicts provisions of the Political Reform Act (the "Act").¹ Because the Commission is only empowered to offer technical assistance in regards to your question, we are treating your request as one for informal assistance.²

QUESTION

What actions might you take to challenge the inclusion of Environmental Health Specialist II in the newly amended conflict of interest code for Los Angeles County?

CONCLUSION

Under Section 87307, you may appeal the County's conflict of interest code, established under Section 87300, directly to your agency. If your appeal is denied, you may petition the County Board of Supervisors, the code reviewing body, within 30 days after the denial. The Fair Political Practices Commission does not have authority to amend the County's conflict of interest code.

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

² Informal assistance does not provide the requestor with the immunity provided in an opinion or formal written advice. (Section 83114; Regulation 18329(c).)

FACTS

You are an Environmental Health Specialist II for Los Angeles County. Recently, the County amended its conflict of interest code to include your position as a designated employee who is required to file a Statement of Economic Interests (Form 700). You believe that certain information required to be reported could place you and your husband in physical danger.

ANALYSIS

The designation of employees under an agency's conflict of interest code is left to the discretion of each individual agency and its respective code reviewing body. (Sections 87300-87310.) Section 82011 indicates that the board of supervisors is the code reviewing body with respect to the conflict of interest code of any county agency, other than the board of supervisors, with jurisdiction wholly within the county. Therefore, as noted above, the Commission cannot remove certain employee positions from designation under a county's conflict of interest code. The Commission is empowered to provide technical assistance pursuant to section 87312. Although we may provide assistance under Section 87312 upon request, please note that any suggestions are not binding on the County or on the Board of Supervisors as the County's code reviewing body.

Government Code section 87300 requires every agency to adopt and promulgate a conflict of interest code. Conflict of interest codes are required to identify designated employees, and assign to those designated positions appropriate categories of financial disclosure. Each conflict of interest code must specifically enumerate the positions within the agency that are involved in making or participating in making governmental decisions which may foreseeably have a material financial effect on any economic interest, and further sets forth the types of investments, business positions, income, and real property that are reportable by those designated employees. (Section 87302.)

The conflict of interest provisions of the Act apply only to "public officials," including "designated employees." (Section 87100.) A "public official" is defined by the Act to include every member, officer, employee, or consultant of a state or local government agency. (Section 82048.) The term "designated employee" means any officer, employee, member, or consultant of any agency who makes or participates in the making of agency decisions which may foreseeably have a material effect on any financial interest. (Section 82019.)

A public official makes a governmental decision whenever the public official votes on a matter, appoints a person, obligates or commits the agency to a course of action, or enters into any contractual agreement on behalf of the agency. (Regulation 18700(b).) Additionally, a public official participates in a governmental decision when,

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acting within the authority of the official's position, the public official negotiates, advises, or makes recommendations to the decision-maker without significant substantive review with respect to the actions enumerated in Regulation 18700(b). This includes conducting research, making any investigation, or preparing or presenting any report, analysis, or opinion which requires the exercise of judgment on the part of the official or designated employee and the purpose of which is to influence the decision. (Regulation 18700(c).)

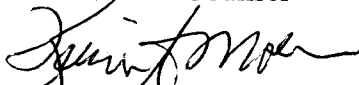
Under Section 87307, any employee may petition his or her agency to amend its conflict of interest code. If the appeal is denied, the employee may appeal to the code reviewing body within 30 days of the denial. In your case, the code reviewing body is the County Board of Supervisors.

Also, enclosed for your information is Regulation 18740.

If you have any additional questions, please feel free to call me at (916) 322-5660.

Sincerely,

Luisa Menchaca
Assistant General Counsel


By: Kevin S. Moen, PhD
Political Reform Consultant II

Enclosure