



FAIR POLITICAL PRACTICES COMMISSION

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February 9, 2001

Grace Vallejo, Planning Commissioner
City of Delano Planning Commission
1608 18th Avenue
Delano, CA 93215

Re: Your Request for Advice
Our File No. A-01-021

Dear Ms. Vallejo:

This letter is in response to your request for advice regarding the conflict-of-interest provisions of the Political Reform Act (the "Act").¹

QUESTION

May you participate in a Planning Commission recommendation on an application for annexation submitted by your employer, the Delano High School District?

CONCLUSION

Yes. You may participate in this decision since you do not have an economic interest in the Delano High School District, a government agency.

FACTS

You are a Planning Commissioner for the City of Delano. It has come to your attention that the local high school District is applying to the Planning Commission for review and recommendation on their application for annexation of property for their second high school. You are a full-time classified employee for the Delano High School District as an Account Clerk II in charge of accounts payable.

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18996, of the California Code of Regulations.

ANALYSIS

The primary purpose for the conflict-of-interest provisions of the Act is to ensure that public officials, whether elected or appointed, perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001(b).) In furtherance of this goal, Section 87100 of the Act prohibits a public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest.

Determining whether a conflict of interest exists under Section 87100 of the Act requires analysis of the following questions:²

Are you a public official?

As a member of the Delano Planning Commission, you are a “member, officer, employee, or consultant of a state or local government agency” and, therefore, are subject to the conflict-of-interest provisions of the Act. (Section 82048; Regulation 18701(a).)

Are you making, participating in making, or influencing a governmental decision?

The Act provides the following:

- A public official “makes a governmental decision” when the official, acting within the authority of his or her office or position, votes on a matter, obligates or commits his or her agency to any course of action, or enters into any contractual agreement on behalf of his or her agency. (Section 87100; Regulation 18702.1.)
- A public official “participates in making a governmental decision” when, acting within the authority of his or her position and without significant substantive or intervening review, the official negotiates, advises or makes recommendations to the decisionmaker regarding the governmental decision. (Section 87100; Regulation 18702.2.)
- A public official is attempting to use his or her official position to “influence a governmental decision” before his or her own agency if, for the purpose of influencing, the official contacts or appears before any member, officer, employee, or consultant of his or her agency. (Section 87100; Regulation 18702.3.)

Under these provisions, you will “make a governmental decision” if you vote to recommend the application for annexation submitted by the Delano High School District.

² These questions are based on the Act’s eight step conflict-of-interest analysis provided at Regulation 18700(b). The Commission document “Can I Vote? Conflicts of Interest Overview” explains these steps and is enclosed for your information.

Additionally, you will “participate in making” or “influence” a governmental decision if you perform any of the actions detailed above with respect to this decision.

What are your economic interests — the possible sources of a financial conflict of interest?


You have inquired and provided facts only regarding your employer. For purposes of this letter, we assume that you have no other economic interests relevant to the governmental decisions about which you inquire.

A public official has an economic interest in any person from whom he/she has received income aggregating \$500 within 12 months prior to the time when the relevant governmental decision is made. (Section 87103(c); Regulation 18703.3(a).) However, “income” does not include salary and reimbursement for expenses or per diem received from a state, local, or federal government agency. (Section 82030(b)(2).) Consequently, you do not have an economic interest in the Delano High School District, a local government agency, and will not have a conflict of interest in the decision about which you have inquired.

We conclude our analysis here since the facts you have provided do not suggest that the subsequent steps of the conflict of interest analysis are applicable to your situation. If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
Acting General Counsel


By: Natalie Bocanegra
Staff Counsel, Legal Division

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