



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

October 10, 2002

Kelly Candaele, Trustee
Los Angeles Community College District
343 ½ No. Ogden Drive
Los Angeles, CA 90036

**Re: Your Request for Advice
Our File No. A-02-246**

Dear Mr. Candaele:

This letter is in response to your request for advice regarding the travel and gift limit provisions of the Political Reform Act (the "Act").¹

QUESTION

As a community college trustee, may you accept a gift of travel from a foreign government, and if so, is the gift reportable and subject to the gift limit?

CONCLUSION

You may accept a gift of travel to China, provided the travel is reasonably related to a legislative or governmental purpose or to an issue of state, national, or international public policy and is paid for by a foreign government. The gift of travel would not be subject to the gift limit but would be reportable on your annual statement of economic interests and may subject you to disqualification provisions of the Act.

FACTS

You are a full-time, elected community college trustee with the Los Angeles Community College District. As such, you are subject to the disclosure provisions of Categories 1, 2 and 3 of your agency's conflict of interest code. Category 3 requires you

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations. All statutory references are to the Government Code unless otherwise indicated.

to disclose all income and business positions. You have been asked to travel to China at the request of a local company that wants to do business there. The local company wants to help develop a nursing program in China and has teamed up with a company there (state owned) to set up this training program. The company in China would most likely be paying for your visit to talk about your role with the colleges and to establish relationships within your district.

ANALYSIS

Gifts - Generally

Government Code section 89503(c) provides as follows:

"No member of a state board or commission or designated employee of a state or local government agency shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty (\$250) if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests."

As a full-time, elected community college trustee, you are subject to the provisions of section 89503(c). Pursuant to Section 89503(f), the gift limit was adjusted on January 1, 2001 and is currently \$320. (Regulation 18940.2.)

Gift Limit - Exception for Travel Payments

Government Code section 89506 provides exceptions for travel payments, advances, or reimbursements for travel. These payments are not prohibited or limited if the travel is reasonably related to a legislative or governmental purpose or to an issue of state, national, or international public policy. (Sections 89501(c) and 89506(a); Regulation 18950.1.) Section 89506 provides, in pertinent parts, as follows:

"(a) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence that is reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy, are not prohibited or limited by this chapter if either of the following apply:

...

(2) The travel is provided by a government, a governmental agency, a foreign government, a governmental authority" (Section 89506(a).)

If a gift of travel and related costs meets the requirements set forth above, the gift is not subject to the annual gift limit of \$320 per source. (Regulation 18942(b)(1).) Therefore, the issue becomes whether the travel and related costs of the trip to China are

paid by a foreign government and are reasonably related to a legislative or governmental purpose or to an issue of state, national, or international public policy.

You have indicated that the payment for the travel would "most likely" come from a company owned by the Chinese government. You have also indicated that you would be helping to develop nursing training programs in China. It appears that your trip to China is reasonably related to an issue of state, national, or international public policy pursuant to the exception in section 89506. Accordingly, the costs of your travel would be exempt from the gift limit. Please note, however, that if the payment for travel is not made by the Chinese government, it may not meet the criteria for exemption from the gift limit under section 89506(a).

Furthermore, any payments made for items other than travel and related lodging and subsistence may be considered a reportable gift subject to the \$320 gift limit and the conflict-of-interest provisions of the Act, because those items would not be related to the issue of state, national, or international public policy.

Because your position as a trustee requires full disclosure of income, regardless of the source, you should be aware that even if the total payments for travel do not count towards the gift limit, they are still reportable on your annual statement of economic interests (Form 700), and they may subject you to disqualification from making decisions concerning the donor of the gift under the conflict-of-interest provisions of the Act. (Sections 87207 and 87100.)

For general guidance, I have enclosed information on the gift and the conflict-of-interest provisions of the Act. If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
General Counsel

Kelly L. Winsor

By: Kelly L. Winsor,
Legal Analyst, Legal Division

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Enclosures

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