



## FAIR POLITICAL PRACTICES COMMISSION

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March 12, 2003

Chisorom U. Okwuosa  
Senior Staff Counsel  
Department of Aging  
1600 K Street  
Sacramento, CA 95814-4020

**Re: Your Request for Advice  
Our File No. A-03-034**

Dear Ms. Okwuosa:

This letter is in response to your request for advice on behalf of the California Department of Aging regarding the conflict of interest code provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTION

Should the California Commission on Aging (CCOA), which is currently incorporated in the conflict of interest code for the California Department of Aging (CDA) be removed from CDA's code and adopt its own code as an independent agency?

### CONCLUSION

From the information provided, it appears that the CCOA should be removed from CDA's conflict of interest code and adopt its own code.

### FACTS

The Welfare and Institutions Code, section 9200 et seq., established the CCOA as its own agency. The CCOA is a separate appointing and reporting authority in the annual Governor's budget and also an independent decision-making authority. The CDA director does not have jurisdiction in anything the CCOA does and the executive officer of CCOA has no jurisdiction over CDA. However, some of the duties and functions of the CCOA specified in section 9202 of the Welfare and Institutions Code are of an advisory nature to the CDA. The CCOA does contract with the CDA through their inter-agency agreement to perform administrative services.

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<sup>1</sup> Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

## ANALYSIS

Section 87300 of the Act requires every state and local government agency to adopt a conflict of interest code applicable to its "designated employee[s]." (See also section 82019.) The term "agency" is defined in section 82003 to mean "any state agency or local government agency." The term "'state agency' means every state office, department, division, bureau, board and commission, and the Legislature." (Section 82049.) Therefore, the CCOA is a state agency that must comply with section 87300.

The Commission has advised that where there is a continuing substantial functional relationship between two entities, and one entity is a subdivision of another, the entities should be covered under a single conflict of interest code. (See *Lillie* Advice Letter, No. A-98-052, copy enclosed.) Based on the facts you provided, the CCOA is a separate decision-making, appointing and reporting authority. In addition, the CDA director does not have jurisdictional authority over anything the CCOA does and the executive officer of CCOA has no jurisdiction over CDA.

Section 87301 provides that a conflict of interest code should be formulated at the most decentralized level possible.<sup>2</sup> Applying this statutory requirement to the present situation based on the facts provided, it appears the CCOA would be a separate agency for purposes of adopting its own conflict of interest code. Please contact me regarding the process of removing the CCOA from the CDA's code. This should be done simultaneously with the CCOA's adoption of its code to ensure on-going disclosure.

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

Sincerely,

Luisa Menchaca  
General Counsel



By: Trish Mayer  
Political Reform Consultant

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<sup>2</sup> Any question of the level of a department which should be deemed an "agency" for purposes of section 87300 shall be resolved by the code reviewing body. (Section 87301.) The Commission is the code reviewing body for state agencies. (Section 82011(a).)