



## FAIR POLITICAL PRACTICES COMMISSION

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April 14, 2009

Curtis Cole  
460 Van Buren  
Los Altos, CA 94022

**Re: Your Request for Advice  
Our File No. A-09-069**

Dear Mr. Cole:

This letter is in response to your request on behalf of the Community Health Awareness Council ("CHAC") for advice regarding the conflict-of-interest code provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTIONS

1. Who would approve the conflict-of-interest code for CHAC?
2. Who should act as the filing officer for the Statements of Economic Interests (Form 700)?

### CONCLUSIONS

1. Because CHAC is an agency with jurisdiction in a single county, the Santa Clara County Board of Supervisors would be the agency's code reviewing body.
2. The statements of economic interests are to be filed, as explained in more detail below, with either the agency and/or the code reviewing body as provided in Section 87500, subdivisions (j) and (o) and as determined by the code reviewing body.

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

## FACTS

The CHAC is a Joint Powers Authority ("JPA") comprised of three school districts and three cities. The school districts are Mountain View-Whisman Elementary, Los Altos Elementary and Mountain View-Los Altos Union High School. The cities are Mountain View, Los Altos and Los Altos Hills. The service area for CHAC includes these entities and perhaps some other adjacent areas that might expand into Palo Alto and Sunnyvale. All are within Santa Clara County. The JPA continues to receive funds from these six entities.

## ANALYSIS

The Act, specifically Government Code Section 87300, requires every state and local government agency to adopt a conflict-of-interest code ("code"). The code must enumerate the positions within the agency that involve the making or participation in the making of decisions which may foreseeably have a material financial effect on any financial interest held by the person filling the position. Further, the code specifies which financial interests must be disclosed by persons holding those positions designated in the code -- all with a view to avoiding conflicts of interest. (Sections 87300-87302.) The question addressed in your request for advice is who would approve your agency's conflict-of-interest code.

Under Section 82011(b), the board of supervisors is the code reviewing body with respect to the conflict-of-interest code of any local government agency, other than a city agency, with jurisdiction wholly within the county. Therefore, it is the duty of the board of supervisors to review and approve the conflict-of-interest code for any agency for which it is the code reviewing body.

Government Code Section 87500 identifies where statements of economic interests are to be filed. Subdivision (j) provides that for members of boards or commissions not under a department of state government or not under the jurisdiction of a local legislative body the original statement shall be filed "with the agency, which shall make and retain a copy and forward the original to the code reviewing body which shall be the filing officer." In its discretion, the code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

As stated above, the Santa Clara County Board of Supervisors is the code reviewing body for county agencies and local government agencies with jurisdiction wholly within the county. Because CHAC is not under the direct jurisdiction of the Board of Supervisors, Section 87500(j) requires that the Board of Supervisors be the filing officer for the JPA board members, as well as for any head of the agency. (See *Grunwald* Advice Letter, No. I-00-183a and *Herman* Advice Letter, No. 05-009.) For designated employees who are not members of the board and are not deemed to be

agency heads, section 87500(o) governs where statements must be filed:

“Persons not mentioned above - one original with the agency or with the code reviewing body as provided by the code reviewing body in the agency's conflict of interest code.”

To summarize, with respect to the statements filed by the board members and any agency head, the Santa Clara Board of Supervisors will be the filing officer. For all other designated employees, the filing officer would be either the Board of Supervisors or CHAC.

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

Sincerely,

Scott Hallabrin  
General Counsel



By: Trish Mayer  
Political Reform Consultant  
Technical Assistance Division

TM:jgl