



FAIR POLITICAL PRACTICES COMMISSION

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June 22, 2009

Carrie Hemphill Rieth
University Counsel
The California State University
401 Golden Shore, 4th Floor
Long Beach, California 90802-4210

Re: Your Request for Advice
Our File No. I-09-082

Dear Ms. Rieth:

This letter responds to your request for advice regarding the gift provisions of the Political Reform Act (the "Act").¹ This letter is based on the facts presented; the Fair Political Practices Commission does not act as a finder of fact when it renders advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.) Because your question is general in nature, we treat your inquiry as one for informal assistance.²

QUESTION

Are members of the Board of Trustees of the California State University "part-time" as that term is used in Section 89503(d) of the Act?

CONCLUSION

Yes, members of the Board of Trustees of the California State University are "part-time" as that term is used in Section 89503(d) of the Act.

¹ 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.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3), copy enclosed.)

FACTS

The Legislature established the Board of Trustees of the California State University ("Trustees") "to succeed to the powers, duties and functions with respect to the management, administration and control of the state colleges." The Trustees meet seven times per year, generally for two days, to adopt rules, regulations, and policies governing the California State University. The Trustees provide direction over curricular development, use of property, development of facilities, and fiscal and human resources management. In between formal meetings, the Trustees also visit campuses, attend functions, participate in commencement ceremonies, and generally make themselves available to serve the institution. These activities do not consume a 40-hour work week and most Trustees are otherwise employed. According to Education Code Section 66604.5, each appointed Trustee receives actual and necessary travel expenses and one hundred dollars for each day he or she is attending to official business. Since the Trustees are the University's exclusive governing body, you have tended to regard them as "full-time." You would like a determination as to whether these Trustees are considered "part-time" members for purposes of gift reporting under the Act.

ANALYSIS

The Act currently imposes a gift limit of \$420 per calendar year on specified public officials.³ However, the gift limit does not apply to a person in his or her capacity as a "part-time" member of the governing board of any public institution of higher education unless that position is an elective office. (Section 89503(d).)

The Act does not contain a definition of "part-time" work. However, a basic rule of statutory construction provides that when the meaning of a statute's language is clear and unambiguous, there is no need for interpretation and the plain meaning should be applied. (*Matson v. Dvorak*, (1995) 40 Cal.App.4th 539, 547.) Webster's New World Dictionary (Third College Edition, 1988) defines "part-time" as "designating, of, or engaged in work . . . for specified periods regarded as taking less time than a regular or full schedule." You indicate in the facts provided that the Trustees meet seven times each year in formal meetings. In between formal meetings the Trustees attend and participate in various functions and ceremonies in their official capacities and generally make themselves available to serve the institution. However, you also indicate that these activities do not consume a 40-hour work week and that most of the trustees are otherwise employed. On their face, these facts indicate that the duties of the Trustees take less time than a regular or full schedule.

Furthermore, under the rules of statutory construction, we may refer to other statutes for the purposes of obtaining a "reasonable and practical" construction of a statute. (*In re Brittany K. v. Sonoma County Human Services Department* (2005) 127

³ This limit is re-adjusted every odd-numbered year to reflect changes in the consumer price index. (Section 89503 and Regulation 18940.2.)

Cal.App.4th 1497, 1510.) In this regard, Government Code Section 18550 defines "full-time" as a position or appointment in which the employee is to work the amount of time required for the employee to be compensated at a full time rate. Government Code Section 18551 defines "part-time" as a position or appointment in which an employee is to work a specific fraction of the full-time work schedule. According to Government Code Section 19851, it is the policy of the State of California that the workweek of state employees be 40 hours.⁴ Case law has also accepted that a 40-hour week is the normal and customary standard by which to measure full-time employment. (*Kaufman v. Board of Trustees*, (N.D. Ill. 1981) 522 F. Supp. 90, 96.)

Based on the foregoing and that the Trustees' duties consume only a fraction of what is commonly understood as a full-time work schedule, we conclude that the Trustees are part-time and the exemption to the gift limit found in Section 89503(d) applies to them.

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

Sincerely,

Scott Hallabrin
General Counsel



By: Sukhi K. Brar
Counsel, Legal Division

SKB:jgl

Enclosure

⁴ Government Code Section 11000 states that a "state agency" does not include the California State University unless the Government Code section explicitly provides that it applies to the University in any section of Title 2 that is added or amended effective on or after January 1, 1997. Section 19851 was last amended before that date in 1983.