



FAIR POLITICAL PRACTICES COMMISSION

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May 6, 2010

Gregory V. Moser
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530 B Street, Suite 2100
San Diego, California 92101-4469

Re: Your Request for Advice
Our File No. A-10-059

Dear Mr. Moser:

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

QUESTION

Is the County of Los Angeles the code reviewing body for the Port of Los Angeles High School charter school (POLAH), and if so may POLAH maintain its own conflict-of-interest code or must it be included in the Los Angeles Unified School District's conflict-of-interest code?

CONCLUSION

The County of Los Angeles is the code reviewing body for the POLAH charter school, and POLAH must follow the County of Los Angeles' determination that POLAH be included in the Los Angeles Unified School District's conflict-of-interest code.

FACTS

You are an attorney requesting advice on behalf of James Cross, the Executive Director of POLAH, the Board of Trustees of POLAH and the POLAH charter school. POLAH is organized as a California non-profit public benefit corporation that has been determined to be exempt from income taxation under Internal Revenue Code section 501(c)(3). The primary purpose of the corporation is to operate a tuition-free public high school under the California

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.

Charter Schools Act. (Education Code Sections 47600, et seq.) POLAH's corporate offices and the school program's primary site currently are located in San Pedro in Los Angeles County.

Under Education Code Section 47605(d), charter school "admissions may not be determined according to the place of the pupil." In other words, enrollment for POLAH must be open to all students who are residents of California. Indeed, under Education Code Section 47605(d), if there are more applicants than places for students, admissions must be determined by random public lottery. POLAH serves communities and enrolls students from outside of the boundaries of Los Angeles Unified School District (LAUSD). Generally, when renewal of the charter for the school is sought, LAUSD is required to renew the charter unless certain factual findings specified by statute are made. If renewal is denied, POLAH may appeal to the County Board of Education or the State Board of Education, which could then serve as the authorizer of the charter school and become responsible for oversight of the school.

In June 2009, LAUSD amended its conflict-of-interest code to add a new disclosure category for persons "who perform under a charter agreement the duties of any position similar to that of any designated position on the LAUSD conflict-of-interest code." POLAH did not receive notice from LAUSD that it intended to add that provision. When POLAH learned of the provision, POLAH promptly contacted the Conflict-of-Interest Code Division of the Board of Supervisors of the County of Los Angeles to indicate that POLAH would be submitting a conflict-of-interest code for review. County officials indicated that the County would not accept a separate conflict-of-interest code from POLAH.

ANALYSIS

It is the policy of the Act that conflict-of-interest codes be formulated at the most decentralized level possible, but without precluding intradepartmental review. Any question of the level of a department which should be deemed an "agency" shall be resolved by the code reviewing body. (Section 87301.) Because POLAH has only one charter school and that school is located entirely within Los Angeles County and its charter has been granted by the LAUSD, the code reviewing body for POLAH is the same as the code reviewing body for LAUSD, the County of Los Angeles. Because the County of Los Angeles is the code reviewing body for POLAH its determination that POLAH's conflict-of-interest code should be included in the conflict-of-interest code for LAUSD must be followed.

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