



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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November 24, 2015

Roman J. Muñoz
Kronick Moskovitz Tiedemann & Girard
400 Capitol Mall, 27th Floor
Sacramento, CA 958 14

Re: Your Request for Advice
Our File No. A-15-219

Dear Mr. Muñoz:

This letter responds to your request for advice on behalf of Dr. Scott Siegel and the Ceres Unified School District regarding the conflict of interest provisions of the Political Reform Act (the "Act").¹ This advice applies only to the conflict of interest provisions of the Act and no other general conflict of interest prohibitions such as common law conflict of interest, Section 1090 or incompatible offices pursuant to Section 1099. Moreover, 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.)

QUESTION

May Dr. Siegel simultaneously serve as the Superintendent of the Ceres Unified School District (the "District") and president of the governing board of the Central Region School Insurance Group ("CRSIG"), a joint powers authority to which the district has appointed him as the District's representative?

CONCLUSION

Yes. In itself, holding two offices simultaneously does not create a potentially disqualifying conflict of interest under the Act.

FACTS

Dr. Siegel is the Superintendent of the District. His position is designated in the District's conflict-of-interest code. Dr. Siegel also serves as the District's appointed representative on CRSIG,

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.

a joint powers authority that provides programs for the insurance and risk management of school operations.

CRSIG is administered by a governing board made up of representatives from each of the school district members. In 2016, Dr. Siegel will likely be named President of the CRSIG governing board. Dr. Siegel does not currently receive nor would he receive any compensation from CRSIG as President of the board.

ANALYSIS

Conflict-of-Interest Provisions

Section 87100 prohibits any public official from making, participating in making, or in any way using his or her position to influence a governmental decision in which the official has a financial interest.² A conflict of interest may arise only when the reasonably foreseeable financial effect of a governmental decision on a public official's interests is material. Different standards apply to determine whether a reasonably foreseeable financial effect on an interest will be material depending on the nature of the interest.

Interests from which conflicts of interests may arise are defined in Section 87103 as follows:

- An interest in a business entity in which the official has a direct or indirect investment of \$2,000 or more (Section 87103(a)) or in which the official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d).)
- An interest in real property in which the official has a direct or indirect interest of \$2,000 or more. (Section 87103(b).)
- An interest in a source of income to the official, including promised income, which aggregates to \$500 or more within 12 months prior to the decision. (Section 87103(c).)
- An interest in a source of gifts to the official if the gifts aggregate to \$460 or more within 12 months prior to the decision. (Section 87103(e).)
- An economic interest in the official's personal finances, including those of the official's immediate family. This is known as the "personal financial effects" rule. (Section 87103.)

A local government agency is not an organization or enterprise operated for profit, and therefore is not a "business entity" as defined by the Act. (Section 82005.) Moreover, because salary received from a local agency is not considered income under the Act, Dr. Siegel's salary from the District is not income. (Section 82030(b)(2).) A public official always has an interest in his

² A joint powers authority is a local government agency under the Act. (See *Magill* Advice Letter, No. A-12-084). Therefore, when Dr. Siegel participates in making CRSIG decisions, he is participating in making governmental decisions.

or her personal finances. A governmental decision will have an effect on personal finances if the decision will result in the personal expenses, income, assets, or liabilities of the official or his or her immediate family increasing or decreasing. The facts here do not implicate the personal finances of Dr. Siegel. Accordingly, you have not identified a governmental decision or an economic interest recognized under the Act potentially affected by the decision implicating the Act's conflict-of-interest provisions. In itself, holding two offices simultaneously with the school district and CRSIG does not create a potentially disqualifying conflict of interest under the Act.

If Dr. Siegel needs additional assistance in determining whether he is prohibited from making, participating in making, or influencing a specific decision that may affect an economic interest recognized under the Act, he should seek additional advice.

Laws Outside of the Act

Laws outside the jurisdiction of the Commission may restrict a public official from holding two public offices simultaneously if those offices are determined to be "incompatible" offices. As stated above, the Commission's advice is limited solely to matters arising under the Act. In light of the facts you present, you are urged to examine the doctrine of incompatible offices in Section 1099.

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

Sincerely,

Hyla P. Wagner
General Counsel



By: Valentina Joyce
Counsel, Legal Division

VJ:jgl