



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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January 21, 2020

Celia Zavala
Executive Officer
County of Los Angeles
Executive Office
Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple St, Room 383
Los Angeles, CA 90012

Re: Your Request for Advice
Our File No. A-19-239

Dear Ms. Zavala:

This letter responds to your request for advice on behalf of the County of Los Angeles Board of Supervisors regarding the conflict of interest code provisions of the Political Reform Act (the "Act").¹ Please note that we only advise on provisions of the Act. We are also not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Does the County Board of Supervisors continue to have the authority to determine the most decentralized level for charter schools and entities that manage charter schools per Section 87301, or did SB 126 amend the Act?

CONCLUSION

While SB 126 did not amend the Act, it did include language stating what constitutes the most decentralized level for purposes of adopting a conflict-of-interest code, something that is not specified in the Act. As such, SB 126's definition of what constitutes the most decentralized level for purposes of adopting a conflict-of-interest code does not conflict with the provisions of the Act.

FACTS AS PRESENTED BY REQUESTER

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.

As the code reviewing body for Los Angeles County, the County Board of Supervisors determined the “most decentralized level” for Los Angeles County charter schools is the chartering local entity, either the chartering school district or the chartering county office of education. Local charter schools chartered by the State Board of Education but located entirely within Los Angeles County are required to adopt a code as an individual agency.

Senate Bill 126

Early in 2019, the Legislature passed SB 126 (Chapter 3 of the Statutes of 2019), which added Section 47604.1 to the existing Education Code. Education Code Section 47604.1 was intended to clarify existing law that charter schools, and entities that manage charter schools, are subject to various bodies of California law that foster transparency and open government, including the Act.

As a result of SB 126’s amendment to the Education Code, you have been contacted by representatives of charter schools and entities that manage charter schools who allege that the Los Angeles County Board of Supervisors must adopt separate conflict of interest codes for every charter school within its jurisdiction.

ANALYSIS

The Act requires every agency to adopt and promulgate a conflict of interest code. (Section 87300.) Section 87301 provides that it is the policy of the Act that conflict of interest codes “shall be formulated at the most decentralized level possible.” This section also gives code reviewing bodies the authority to resolve questions regarding the level of a department which should be deemed an “agency” for purposes of Section 87300, stating that “[a]ny 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.”

The Act itself does not specify what constitutes the most decentralized level for purposes of adopting a conflict-of-interest code. However, the County of Los Angeles is the code reviewing body for any local agency, other than a city agency, that has “jurisdiction wholly within the county.” (Section 82011.) Accordingly, Los Angeles County is the code reviewing body for any charter school that has been granted a charter solely within the county. (*Hamai* Advice Letter, No. A-14-194.)

Senate Bill 126

In December 2018, the Attorney General published an opinion finding that charter schools in California are subject to the same public-integrity statutes, including Section 1090 and the Act, that apply to traditional public schools (101 Ops. Cal. Atty. Gen. 92 (2018).) Subsequent to this opinion, the Legislature passed SB 126 to add Section 47604.1 to the Education Code, a provision intended to clarify existing law that charter schools, and entities that manage charter schools, are subject to various bodies of California law, including the Act. SB 126 notes that “the [AG] opinion is only advisory and not legally binding on courts, agencies, or individuals. Absent legislation codifying the AG opinion, we will continue to see disputes over how these laws apply to charter schools.” (Bill Analysis, Senate Committee on Education, SB 126, February 19, 2019.)

The Act itself does not define the “most decentralized level” for purposes of adopting a conflict-of-interest code, and SB 126 does not amend the express provisions of the Act. Newly adopted Education Code Section 47604.1(b)(4)(B) does define that term for charter schools. It states that “[f]or purposes of Section 87300 of the Government Code, a charter school and an entity managing a charter school shall be considered an agency and is the most decentralized level for purposes of adopting a conflict-of-interest code.” Accordingly, pursuant to Section 87103, any remaining question regarding the level of a department which should be deemed an “agency” for purposes of Section 87300, including whether each charter school must adopt a separate code or an entity that manages charter schools may adopt one code for all of its charter schools, shall be resolved by the County of Los Angeles as the code reviewing body.

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

Sincerely,

Dave Bainbridge
General Counsel



By: Zachary W. Norton
Senior Counsel, Legal Division

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