



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

March 27, 2026

Craig Scholer
2240 Irvin Way
Sacramento, CA 95822

**Re: Your Request for Advice
Our File No. A-26-013**

Dear Mr. Scholer:

This letter responds to your request for advice regarding the post-governmental employment provisions of the Political Reform Act (the “Act”).¹

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

Also note that we are 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

As a former state agency employee with the Department of Toxic Substances Control (“DTSC”) does the Act’s “one-year ban” preclude you from communicating on behalf of private clients with officials of the California Environmental Protection Agency (“CalEPA”) and its various boards, departments, and offices, other than the DTSC?

CONCLUSION

Based on the facts presented, the Act’s one-year ban would not prohibit you from appearing, or making a communication before the CalEPA and its various boards, departments, and offices, other than the DTSC, for compensation and for the purpose of influencing an administrative or legislative action or any action or proceeding involving the issuance,

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 18104 through 18998 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.

amendment, awarding, or revocation of a permit, license, grant, or contract, of the sale or purchase of goods or property.

FACTS AS PRESENTED BY REQUESTER

In January 2024, the Governor appointed you Chief Deputy Director of the DTSC. In that position, you oversaw the operations of the DTSC as a whole and also provided policy and strategic advice to the DTSC Director. The Deputy Director of the DTSC is a designated position.

Prior to joining DTSC, you had served as the Deputy Secretary of Legislative Affairs at the CalEPA. DTSC is a department within the CalEPA, which is overseen by Secretary's office. However, you have informed the FPPC that the DTSC manages its own budget separate from the wider CalEPA and makes budget-related decisions independently. You also stated that the DTSC has independent control over its personnel issues and maintains its own HR office. You also stated that the DTSC has independent operational controls from the Secretary of CalEPA.

On January 9, 2026, you left the DTSC and began private employment with a lobbying firm in Sacramento. Your firm's clients have lobbying-related business before the CalEPA and its various boards, departments, and offices, including the DTSC. In your new role, you have firewalled yourself from any lobbying of DTSC personnel for a period of one year, and also from any lobbying regarding DTSC enforcement actions or projects you may have worked on during your time there.

ANALYSIS

Public officials who leave state service are subject to two types of post-governmental employment provisions under the Act, the one-year ban and the permanent ban. These provisions are commonly referred to as the "revolving door" prohibitions. You are not seeking advice regarding the permanent ban, which you acknowledge would prohibit you from participating in certain proceedings involving the State of California or assisting others in the proceedings, if you previously participated in the proceedings while employed by the state. Accordingly, we will not address the permanent ban any further in this letter.

One-Year Ban

The "one-year ban" prohibits a former state employee from making, for compensation, any formal or informal appearance, or making any oral or written communication, before his or her former agency for the purpose of influencing any administrative or legislative actions or any discretionary act involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. (Section 87406; Regulation 18746.1.)

The one-year ban applies to any employee of a state administrative agency who holds a position that is designated or should be designated in the agency's conflict-of-interest code. (Section 87406(d)(1); Regulation 18746.1(a)(2).) The ban applies for twelve months from the

date the employee permanently leaves state office or employment. While in effect, the one-year ban applies only when a former employee or official is being compensated for his or her appearances or communications before his or her former agency on behalf of any person as an agent, attorney, or representative of that person. (Regulation 18746.1(b)(3) and (4).)

In contrast to the permanent ban, which only applies to certain matters involving specific parties such as “judicial or quasi-judicial” proceedings, the one-year ban applies to “any appearance or communication made to influencing administrative or legislative action or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.” (Regulation 18746.1(b)(5).) An appearance or communication is for the “purpose of influencing” if it is made for the “principal purpose of supporting, promoting, influencing, modifying, opposing, delaying, or advancing the action or proceeding.” (Regulation 18746.2.) An appearance or communication includes, but is not limited to, conversing by telephone or in person, corresponding in writing or by electronic transmission, attending a meeting, and delivering or sending any communication. (*Id.*)

Finally, appearances and communications are prohibited only if they are (1) before a state agency that the public official worked for or represented, (2) before a state agency “whose budget, personnel, and other operations” are subject to the control of a state agency the public official worked for or represented, or (3) before any state agency subject to the direction and control of the Governor, if the official was a designated employee of the Governor’s office during the twelve months before leaving state office or employment. (Regulation 18746.1(b)(6)(C).)

As a former decision-making state administrative official, you were a designated employee as defined in Section 82019. Therefore, for one year after leaving state service, you may not communicate with your former agency in an attempt to influence any transaction involving legislative or administrative action or other discretionary act.

For purposes of identifying which state agency a former employee has worked for or represented, we have previously made the following determination:

“In identifying an official’s ‘state administrative agency,’ within the meaning of [S]ection 87406, we look to the administrative body that controls the budget, personnel and other operations of the entity where a former employee worked. It is this body, together with any agencies, boards, commissions, or organizational units subject to its control, that are jointly considered to be the ex-employee’s former state administrative agency employer.” (*Corum* Advice Letter, No. A-02-258.)

Additionally, as provided in Regulation 18746.1(b)(6)(C)(ii), “whether an agency is provided technical assistance or legal advice, or is subject to oversight, by another agency pursuant to state law, are not factors to be considered in determining whether an agency is subject to the direction and control of another.” Thus, the fact that one agency is housed within the organizational structure of another parent agency, does not establish that the subsidiary agency is subject to the direction and control of the parent agency, so long as the subsidiary

agency controls its own budget, its personnel management is independent of the parent agency, and it has independent operational controls. (*Fortenberry* Advice Letter, No. I-18-132.)

You have stated that the DTSC controls its own budget, its personnel management is independent of the wider CalEPA, and that it has own independent operational controls. Based upon these facts, it appears that DTSC is a separate state agency from CalEPA for purposes of the Act's revolving door provisions. Thus, barring additional facts, the one-year ban would not restrict your appearances or communications with officials from CalEPA or any of its subsidiary agencies, other than the DTSC and subsidiary agencies for which the DTSC controls the budget, personnel, and other operations.

If you have other questions on this matter, please contact me at sirussell@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

A handwritten signature in black ink, appearing to read 'SR', is positioned above the typed name of Simon Russell.

By: Simon Russell
Counsel, Legal Division

SR:aja