



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

April 24, 2026

Corinne Gibson
Staff Attorney, Leadership Counsel for Justice and Accountability
2210 San Joaquin Street
Fresno, CA 93721

Re: Your Request for Advice
Our File No. A-26-016

Dear Ms. Gibson:

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

Please 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.

QUESTIONS

1. Are members of the Second Statewide Agricultural Expert Panel “qualifying officials” such that direct communications with them may require an individual to register as a lobbyist?
2. If not, does communication with the Expert Panel constitute reportable lobby activity?

CONCLUSIONS

1. Pursuant to Regulation 18239, members of the Second Statewide Agricultural Expert Panel are not “qualifying officials” for purposes of determining direct communications.
2. Communications with the Expert Panel to influence their recommendations to the State Water Board constitute lobbying activity, which will be reportable should your organization meet the reporting thresholds.

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.

FACTS AS PRESENTED BY REQUESTER

You are a staff attorney with the Leadership Counsel for Justice and Accountability (“LCJA”), a nonprofit organization that works alongside impacted communities to advocate for sound policy to eradicate environmental injustice and secure equal access to opportunity for all. As part of LCJA’s work, you have been closely following the State Water Resources Control Board’s (“State Water Board”) convening of a Second Statewide Agricultural Expert Panel on nitrate contamination in groundwater.

Convened in 2025, the Expert Panel comprises eight experts (“Panelists”) selected by the State Water Board for their expertise in hydrology, sustainable groundwater management, crop nutrient management, watershed ecology, and farm advising. As determined by the State Water Board, the role of the Expert Panel, by its charter, is “advisory only,” such that it has no authority to take any action beyond providing “expert advice” to the Board.² Tasked with answering nine charge questions,³ the Expert Panel’s role is to provide guidance in the form of a written report to the State Water Board on the development, if appropriate, of nitrate limits to inform the California Irrigated Lands Regulatory Program (“ILRP”). The Expert Panel will submit its final report to the State Water Board in 2026 and will not be ongoing in nature.

The Panelists are not State Water Board staff and were not required to file a Form 700 (“Statement of Economic Interests”). Panelists are tasked solely with making recommendations directly to the State Water Board, which will consider the Expert Panel’s recommendations in developing policy regulations regarding nitrate discharge from irrigated lands.

In addition to providing oral public comment and presentations at multiple Expert Panel meetings, you have also provided written comments, met with individual Panel members outside of the public forum, and provided written recommendations to the Panel for incorporation into its final report.

ANALYSIS

Qualifying Officials

An employee is an in-house lobbyist where they spend one-third or more of their compensated time in a calendar month engaging in direct communication with qualifying officials for the purpose of influencing legislative or administrative action. (Section 82039(a)(1); Regulation 18239(c).) “Direct communication” includes appearing as a witness before, or talking with, qualifying officials, while “influencing legislative or administrative action” includes

² Second Statewide Agricultural Expert Panel Charter, available at: https://www.waterboards.ca.gov/water_issues/programs/agriculture/docs/2026/english-revised-agricultural-expert-panel-charter-12122025.pdf

³ Questions for the Second Statewide Agricultural Expert Panel, available at: https://www.waterboards.ca.gov/water_issues/programs/agriculture/docs/panelquestions.pdf.

promoting, opposing, or in any way attempting to influence legislative or administrative action. (Section 82032; Regulation 18239(d)(3).)

Regulation 18239(d)(5) then defines “qualifying official” to include:

- (A) Any elected state official;
- (B) Any legislative official;
- (C) Any appointed, elected, or statutory member or director of any state agency;
- (D) Any staff member of any state agency who makes direct recommendations to the persons listed in subdivision (5)(C) of this subdivision, or who has decision-making authority concerning such recommendations.

Furthermore, in the conflict of interest context, while the term public official includes any “member” of a local or state government agency, the term “member” does not include individuals who perform duties as members of a committee, board, commission, group, or other body that does not have decisionmaking authority. (Regulation 18700(c)(1) and (2).) Defining decisionmaking authority, Regulation 18700(c)(2) provides:

- (A) A committee, commission, group, or other body possesses decisionmaking authority whenever:
 - (i) It may make a final governmental decision;
 - (ii) It may compel or prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto that may not be overridden; or
 - (iii) It makes substantive recommendations and, over an extended period of time, those recommendations have been regularly approved without significant amendment or modification by another public official or governmental agency.
- (B) A committee, board, commission, group, or other body does not possess decisionmaking authority if it is formed or engaged for the sole purpose of researching a topic and preparing a report or recommendation for submission to another public official or governmental agency that has final decisionmaking authority; and does not meet any of the criteria set forth in subsection (2)(A)(i-iii).

You have communicated directly with the Panelists through meeting with them individually, providing written comments, and appearing at public meetings in an effort to influence the report the Expert Panel will ultimately provide to the State Water Board, which is an administrative action. Thus, the remaining question is whether the Panelists constitute qualifying officials for determining whether you must potentially register as a lobbyist.

Looking to the definition of “qualifying official,” the Panelists are not elected state officials, legislative officials, nor state agency staff members. (Regulation 18239(d)(5).) They are also not appointed, elected, or statutory members or directors of the state agency. (*Id.*) The Panelists were selected by the State Water Board solely to address the specific set of questions posed. The Panel does not have decision-making authority; rather, it will submit a report to the State Water Board that may be used in developing future regulations. The Panel will meet for a finite period, prepare a report for the State Water Board, and then cease. As such, we conclude

that the Panelists are not “qualifying officials” for purposes of qualification as an in-house lobbyist.⁴

This conclusion is further supported by the similar definition found in the conflict of interest regulations that members of the panel do not possess decisionmaking authority pursuant to Regulation 18700(c)(2)(B) and are not considered members or public officials.

Reportable Lobby Activity

The work of the Expert Panel includes making recommendations to the State Water Board on a potential regulatory framework for nitrate discharge. This work comes within the definition of “influencing legislative or administrative action,” as set forth in Sections 82002 and 82032. Section 86115(b) requires periodic lobby reports from “Any person who directly or indirectly makes payments to influence legislative or administrative action of five thousand dollars (\$5,000) or more in value in any calendar quarter...” (An entity filing these reports is commonly referred to as a “\$5,000 Filer.”) Such payments include those “to employees who spend 10 percent or more of their compensated time in any one month in activities related to influencing legislative or administrative action.” (Section 86116; Regulation 18616.)

Thus, even if your communications with the Panelists do not rise to the level of you needing to register and report as an in-house lobbyist, compensation for your communications constitutes payments to influence legislative action, as you are urging the Panelists to communicate directly with the State Water Board. (Section 82045(e).) As such, LCJA, as your employer, will need to monitor the total amount spent on activities related to lobbying to verify whether it must file quarterly reports as a “\$5,000 Filer.”⁵

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

Sincerely,
Dave Bainbridge
General Counsel



By: Erika M. Boyd
Senior Counsel, Legal Division

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⁴ Please note, however, that *staff* of the agency may constitute “qualifying officials” for purposes of direct contacts. Should a staff member meet the parameters of Regulation 18539(d)(5)(D), communicating with the staff member could constitute a direct contact which should be tracked and reported accordingly.

⁵ This analysis pertains solely to the lobbying activity you have identified in relation to the State Water Board. LCJA must monitor all of its lobbying activities in order to determine if it must file under any other state requirements as well.