

RAVI MEHTA  
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

August 31, 1995

Bill Simmons  
P.O. Box 333  
Marysville, CA 95901

Re: Your Request for Informal Assistance  
Our File No. I-95-245

Dear Mr. Simmons:

You have requested advice under the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1</sup> Since you do not have a specific governmental decision before you at this time, we are considering your request as one for informal assistance.<sup>2</sup>

This advice is limited to the provisions of the Act. Other legal provisions, such as the general doctrine of incompatible offices, may have some bearing on this situation. It is suggested that you contact the county counsel for advice.

QUESTION

Does the Act prevent you from seeking election on the Yuba County Board of Supervisors if you are employed by the Yuba County Office of Education as the director of the Regional Career Center?

CONCLUSION

Your salary from the Office of Education is not a source of income under the Act. Should you be elected to the board of

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<sup>1</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations, Sections 18000-18995. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

supervisors, your salary does not create a conflict of interest under the Act.

#### FACTS

You will be a candidate for a seat on the Yuba County Board of Supervisors in the March 1996 primary election. You are also the director of the Regional Career Center, which is responsible for implementing the federal Jobs Training Partnership Act in Yuba County. The Regional Career Center is a part of the Yuba County Office of Education. You are concerned that your challengers may make your position with the county an issue during your election campaign.

#### ANALYSIS

Section 87100 prohibits public officials from making, participating in, or using their official position to influence a governmental decision in which they know or have reason to know they have a financial interest.

An official has a financial interest in a governmental decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, or on a member of the official's immediate family, or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating

two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (d) of Section 89504.<sup>3</sup>

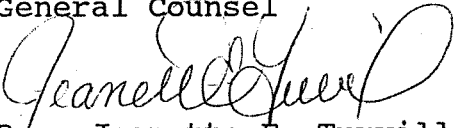
Salary from a state, local or federal government agency is expressly exempted from the definition of "income" for purposes of the Act. (Section 82030(b)(2).) Thus, your salary from the County Office of Education does not create a conflict of interest. In addition, because a local government agency is not an organization or enterprise operated for profit, it is not a business entity as defined by the Act. (Section 82005.)

Thus, absent some other disqualifying financial interest as set forth in Section 87103 above, or some direct financial effect on you personally resulting from a governmental decision, your position as the director of the Regional Career Center would not create a conflict of interest should you be elected to the board of supervisors. (Sampson Advice Letter, No. I-89-196.)

I trust this letter has provided you with the guidance you requested. If you have further questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell  
General Counsel

  
By: Jeanette E. Turvill  
Political Reform Consultant  
Legal Division

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<sup>3</sup> The value of gifts subject to the conflict-of-interests provisions was adjusted on January 1, 1995 to \$280.