



CITY OF  
**PALO  
ALTO**

OFFICE OF THE CITY ATTORNEY

250 Hamilton Avenue, 8th Floor  
Palo Alto, CA 94301  
650.329.2171

**KAUFMAN LEGAL GROUP**  
A PROFESSIONAL CORPORATION

**Via E-mail**

Ms. Galena West, Executive Director  
Fair Political Practices Commission  
1102 Q Street, Suite 3050  
Sacramento, CA 95811  
gwest@fppc.ca.gov  
ExecutiveDirector@fppc.ca.gov

**RE: Request for Commission Opinion on Conflicts of Interest Among Affiliated  
Nonprofit Entities**

Dear Ms. West,

On behalf of City Manager of Palo Alto, Ed Shikada, we request the Commission's opinion on a conflict of interest issue related to affiliated nonprofit entities under the Political Reform Act ("the Act"), in accordance with Government Code Section 83114 and FPPC Regulation 18320. Specifically, we request the Commission opine on whether Palo Alto City Manager Edward Shikada would have a source of income financial interest in Stanford University ("Stanford"), based on his spouse's employment at the Stanford Healthcare ("SHC"), and by virtue of the close affiliation of these two nonprofits. We believe he would not.

**Background**

Mr. Shikada is the City Manager of the City of Palo Alto. He has served in that capacity for six years and has diligently observed all required ethics laws and regulations. Recently, Mr. Shikada was married. His spouse serves as the Director of Clinical Operations at SHC. Since his spouse is a paid employee of SHC, Mr. Shikada has a financial interest in SHC. Mr. Shikada sought advice from the City Attorney's office to ensure compliance with all applicable ethics laws, including conflicts of interest restrictions. We seek this opinion to determine his specific obligations as they relate to Stanford, which is in the City of Palo Alto and plays a large role in the City's activities.

Stanford University is a nonprofit trust organized under State law and tax-exempt under 501(c)(3). It comprises eight "schools," including the School of Medicine. Stanford is a private, nonprofit university administered as a corporate trust governed by a privately appointed board of trustees with a maximum membership of 38. Trustees serve five-year terms (not more than two consecutive terms) and meet five times annually.

Stanford Healthcare (SHC) is a separate nonprofit corporation with its own 501(c)(3) status, Employer Identification Number (EIN), and governance structure. SHC manages Stanford Hospital and associated clinics throughout the Bay Area, with authority over its employees, budgets, and strategic plans, and the ability to issue independent debt.

SHC's bylaws, updated in 2020, outline its relationship with Stanford University. While Stanford University appoints and removes members of the SHC Board and approves bylaw changes, SHC maintains operational independence. SHC Board members are not required to be University Board members and currently only 1 of SHC's 26 Board Members also serves on the University Board. SHC manages its own facilities, finances and staff.

This independence was confirmed by the California courts in the case *Young et al. v. The Leland Stanford Junior University et al.*,<sup>1</sup> where the Alameda County Superior Court found that Stanford University and SHC are distinct entities with separate governance, staff, finances, and policies and rejected an alter ego liability argument.

In reviewing the scope of Mr. Shikada's financial interest in SHC, per his request, we surprisingly identified two 40 year-old FPPC advice letters<sup>2</sup> that concluded that a financial interest in SHC—then known as Stanford Hospital—also extended to Stanford University. On review we determined that in the decades since the prior opinions were issued, two significant changes occurred which distinguish the current relationship between the two nonprofits from the facts present 40 years ago when the original advice letters were issued by the FPPC.

First, SHC adopted changes to its bylaws that greatly reduced Stanford's role in SHC's governance, business and financial activities, and professional affairs. These changes significantly increased SHC's independence from the University. During these intervening four decades, SHC grew into a major provider of medical care throughout the Bay Area, in addition to serving as a teaching hospital. Since the 1983 FPPC guidance, the relationship between SHC and Stanford University has evolved significantly, with reduced University oversight over SHC operations.

Second, the Commission adopted a formal regulation, 18007.2(b), setting a standard for determining when *for-profit* business entities are sufficiently related so that a conflict of interest as to one should be considered a conflict as to the other. With that regulation, the Commission set a high bar that would not be met here if the regulation applied to nonprofit corporations.

Despite this, out of an abundance of caution we sought confirmation that Mr. Shikada does not have a financial interest in Stanford.<sup>3</sup> However, the FPPC staff advised that Mr.

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<sup>1</sup> See Statement of Decision (Alter Ego), March 26, 2024, *Young et al. v. The Leland Stanford Junior University et al.*, Case No. RG17877051

<sup>2</sup> Lee Advice Letter, A-83-257, see also Jorgenson Advice Letter, A-82-214.

<sup>3</sup> Advice Request from the Palo Alto City Attorney to the FPPC dated September 3, 2024.

Shikada does have a financial interest in Stanford.<sup>4</sup> We disagree with this advice and separately seek a Commission Opinion on the issue of when it is required that the FPPC “pierce” through one nonprofit corporation to create a financial interest in another related nonprofit corporation. The FPPC advice letter is inconsistent with previous advice letters on the subject, misconstrues the separate nature of SHC and the University and imposes a stricter—though undefined—standard on nonprofit organizations than the Commission’s Regulation imposes on for-profit business entities.

The advice has far-reaching implications for the City of Palo Alto, the surrounding region, and the State. In Palo Alto, where Stanford University is a major stakeholder, the City’s chief executive has had to recuse himself from critical decisions involving Stanford, even though these matters are entirely divorced from SHC.<sup>5</sup>

Regionally, the *Vanni* letter could impact several Bay Area jurisdictions. Both SHC and the University have programs and operations throughout the region. SHC is a major provider of medical services in the region, independent of its role as a teaching hospital, employing more than 18,000 people and operating clinics and other facilities in dozens of cities.<sup>6</sup> Stanford University also has a physical presence and is an important stakeholder in multiple Bay Area communities, including Santa Clara County, San Mateo County, Menlo Park, Redwood City, Portola Valley, Woodside and Los Altos Hills. In jurisdictions where SHC and the University both have a presence, and where public officials are employed at SHC or the University, or receive income through a spouse’s employment, recusals will be required from all matters with a material impact on either entity.

Finally, the *Vanni* Advice Letter lacks a clear, measurable standard by which the regulated community can assess the scope of a conflict of interest involving legally distinct nonprofit organizations that are affiliated in some manner. These impacts could be felt by public officials statewide and serves as a trap for the unwary.

Given these concerns, we seek a Commission opinion determining that the facts presented here do not create a financial interest and do not require “piercing” through the SHC nonprofit to the Stanford nonprofit under these circumstances. We further request the Commission adopt a standard for the relationship between related nonprofits and when a financial interest pierces through one nonprofit to a related nonprofit.

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<sup>4</sup> *Vanni* Advice Letter, I-24-102.

<sup>5</sup> Examples include: collaboration on development of housing on University-owned land; development of a transit connector linking the University Avenue multi-modal transit center to El Camino Real; real property negotiations over electric substations on University property; and negotiation of continued fire protection services provided by the City to the University. All these examples are routine municipal affairs and unrelated to SHC.

<sup>6</sup> SHC has facilities in Redwood City, Menlo Park, Atherton, Portola Valley, Mountain View, Santa Clara, Campbell, Los Gatos, San Jose, Hayward, Castro Valley, Alameda, Pleasanton, Livermore, Emeryville, Danville, San Pablo, Pinole and more.



## **Analysis**

### **1. Stanford University and Stanford Healthcare Should Be Treated as Separate Entities When Determining a Financial Interest Under the Act.**

Mr. Shikada unquestionably has a source-of-income financial interest with SHC, since his spouse receives income from them. However, this financial interest should not extend to Stanford University, since they are separate nonprofit entities and SHC is not subject to the direction and control of Stanford.

As noted previously, Stanford University is a nonprofit trust organized under State law and tax-exempt under 501(c)(3). It comprises eight "schools," including the School of Medicine. Stanford Healthcare (SHC) is a separate nonprofit corporation with its own 501(c)(3) status, Employer Identification Number (EIN), and governance structure. SHC manages Stanford Hospital and associated clinics throughout the Bay Area, with authority over its employees, budgets, and strategic plans, and the ability to issue independent debt.

SHC's bylaws specifically outline its relationship with Stanford University. While Stanford University appoints and removes members of the SHC Board and approves bylaw changes, SHC maintains operational independence. SHC Board members are not required to be University Board members. Currently, only one of SHC's 26 Board Members also serves on the University Board. In short, Stanford does not direct and control SHC and is not an "alter ego" of Stanford.

This interpretation is consistent with prior FPPC Advice Letters, including those cited by the FPPC in the *Vanni* Advice Letter. Both the *Lee* Advice Letter, A-83-257, and the *Jorgenson* Advice Letter, A-82-214, which addressed the relationship between SHC and Stanford in the early 1980s, should not be found relevant to the current situation in 2025 because the relationship between the two entities has drastically changed.

The *Vanni* Advice Letter states "the Commission has advised that in some instances the law 'pierces' through entities, such as for profit and nonprofit corporations, based on the nature of the relationship between the entity and those who control the entity. Under these circumstances, multiple persons/entities may be treated as sources of income," and "in certain circumstances when the relationship between the public official and his or her employer is controlled by persons (including nonprofit entities), who also effectively control decisions of the employer, we have advised that these persons are considered to be sources of income and economic interests to the official."

However, it cites no statute or regulation to support this conclusion, instead relying on advice letters written over 20 years ago.<sup>7</sup> None of the cited advice letters leads to the

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<sup>7</sup> *Hogin* Advice Letter, No. A-05-070; *Deadrick* Advice Letter, I-03-143; *Atigh* Advice Letter, No. I-93-3831; *Hentschke* Advice Letter, No. A-80-069.

conclusion in the *Vanni* letter. The *Hentschke* Advice Letter, A-80-069, does not address related nonprofit entities. The *Deadrick* Advice Letter, I-03-143, presents dissimilar facts.

Further, the main advice letters referenced in the *Vanni* Advice letter also do not support the conclusion that this circumstance warrants “piercing” through SHC to encompass Stanford as a financial interest. In the *Hogin* Advice Letter, A-05-070, the FPPC advised that where one nonprofit was a supporting organization of a university and the University managed its assets, earned income for it and the nonprofit paid expenses solely for the benefit of its parent university 501(c)(3) corporation, they were not separate organizations for purposes of the Act’s conflict of interest provisions. It further found that where the nonprofit “exists solely to benefit and serve the interests of its parent” and “in essence, functions as an alter ego for its parent non-profit,” the piercing is required. Similarly, in the *Atigh* Advice Letter, I-93-383, the nonprofit was wholly owned and controlled by its for-profit parent.

The SHC and Stanford relationship is distinguishable from those in these prior Advice Letters. SHC is not a wholly owned subsidiary or an “alter-ego” of Stanford. The SHC bylaws provide for independence in all key areas of operation. Further, the SHC Board has separate members and is independent from the Stanford Board in all key respects. The ability of Stanford to appoint and remove SHC Board Members is not sufficient to make SHC a wholly owned subsidiary or alter-ego of Stanford. Based on this, there is no justification for “piercing” through SHC to reach Stanford and considering them to be the same entity.

This independence was further confirmed in *Young et al. v. The Leland Stanford Junior University et al.*,<sup>8</sup> where the Alameda County Superior Court found that Stanford University and SHC also found that they are distinct entities with separate governance, staff, finances, and policies and specifically rejected an alter ego liability argument. The *Young* Court characterized as “a mountain of evidence reflecting separate corporate structures, finances, and decision-making” and focused solely on the University’s ability to appoint and remove SHC Board members and its role in the nomination and potential removal of the SHC President.

SHC and Stanford should be considered separate entities for purposes of determining a financial interest under the Act.

## **2. Finding SHC and Stanford to be the Same Entity is Not Consistent with the Commission’s Regulation on For-profit Entities.**

Determining that SHC and Stanford should be considered the same entity under the Act, as the *Vanni* Advice letter did, is not consistent with the Commission’s rule on affiliated for-profit businesses. Specifically, FPPC Regulation 18007.2(b)<sup>9</sup> defines a “parent, subsidiary, or otherwise related business entity” as follows:

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<sup>8</sup> See Statement of Decision (Alter Ego), March 26, 2024, *Young et al. v. The Leland Stanford Junior University et al.*, Case No. RG17877051

<sup>9</sup> Regulation 18072(b) does not apply to non-profit entities, which are not considered “business entities” for the purposes of the Act. Government Code Section 82005.

- 1) Parent: A business entity is a “parent” if it is a corporation that controls more than 50 percent of the voting stock of another corporation. The parent corporation is also a parent to any subsidiaries of the corporation that it controls.
- 2) Subsidiary: A business entity is a “subsidiary” if it is a corporation whose voting stock is more than 50 percent controlled by another corporation. The subsidiary corporation is also a subsidiary to any corporation that controls its parent corporation.
- 3) Otherwise related business entity: Business entities, other than a parent corporation as defined in subdivision (b)(1), are otherwise related if:
  - a. The same person or persons together direct or control each business entity; or
  - b. The same person or persons together have a 50 percent or greater ownership interest in each business entity.

When determining whether entities are related for conflict-of-interest purposes, Regulation 18007.2 does not solely consider the powers that individual shareholders or owners may exercise over a corporation’s board of directors. Instead, the Regulation applies an objective standard of (1) majority stock ownership, or (2) actual control of both entities by the same individuals.

By prioritizing Stanford University’s appointment authority over the SHC Board—where currently only 1 of 26 board members also serves on the University Board—the *Vanni* advice letter creates an inconsistent and stricter standard for non-profit entities than the Commission has set for-profit entities. Instead, the Commission should provide an opinion that the factors in Regulation 18007.2 should be used as guidance for situations involving related nonprofits generally, and that SHC and Stanford are specifically not the same entity.

### **3. The Policies Underlying the Political Reform Act Support an Opinion that SHC and Stanford are Separate Entities.**

The purposes of the Act are well served by treating business entities that are controlled by common owners as one and the same for conflict of interest purposes. Related business entities can exert significant control over each other’s decisions, share executive officers and board members, and have intertwined financial interests, including shared revenues and losses. However, these important purposes do not apply to Stanford University and SHC.

Stanford University does not control SHC’s assets, debts, or liabilities. Unlike related for-profit entities, the University and SHC maintain separate finances and operate independently, ensuring that any financial gain or loss experienced by SHC does not benefit or harm Stanford University, and vice versa. Furthermore, as 501(c)(3) organizations, both entities are prohibited

from serving private interests, and their earnings must be used solely to further their charitable purposes.

### Conclusion

A conclusion that Stanford University and SHC are one and the same for conflict purposes is not rooted in an objective, measurable standard that can be applied by public officials endeavoring to comply with their obligation to avoid conflicts of interest. Such a conclusion is not supported by prior FPPC Advice Letters, court rulings, FPPC Regulations, or public policy concerns.

In Regulation 18702(b), the Commission has provided public officials with an objective and understandable standard for evaluating related business entities. To date, the Commission has not afforded public officials with a comparable tool to assess related nonprofit entities. No statute or regulation addresses this question, and the *Vanni* letter offers only a single data point that cannot readily be applied to other situations. As a result, the regulated community lacks sufficient notice of when non-profits will be deemed related and has no objective tool to guide compliance. Without a clear statutory or regulatory standard for determining when nonprofit entities are related for conflict-of-interest purposes, the FPPC's current approach lacks consistency and creates uncertainty for public officials seeking to comply with the law.

For these reasons, we respectfully request that the Commission issue an opinion adopting the general application of the principles of Regulation 18007.2 to the analysis of related nonprofit corporations and specifically conclude that Mr. Shikada does not have a financial interest in Stanford University.

Thank you for your time and consideration of this important issue.

Sincerely,



Molly Stump  
City Attorney

KAUFMAN LEGAL GROUP



Gary S. Winuk  
Attorney