



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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January 6, 2021

Michael Wagner
Governing Board Member Elect
El Segundo Unified School District
641 West Pine Avenue
El Segundo, CA 90245

Re: Your Request for Advice
Our File No. I-20-153

Dear Mr. Wagner:

This letter responds to your request for advice regarding the conflict of interest 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. Finally, we are treating your request as one for informal assistance because it does not identify a specific governmental decision at issue.²

QUESTION

Would the Act’s conflict of interest provisions prohibit you, a Governing Board Member Elect for the El Segundo Unified School District (“ESUSD”) and a volunteer assistant high school football coach for El Segundo High School (“ESHS”), from taking part in ESUSD governmental decisions relating to ESUSD or ESHS athletic programs including ESHS football?

CONCLUSION

The Act’s conflict of interest provisions generally would not prohibit you from taking part in ESUSD decisions relating to ESUSD or ESHS athletic programs, including ESHS football, merely because you volunteer as an assistant high school football coach for ESHS.

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.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329.)

FACTS AS PRESENTED BY REQUESTER

You are a Governing Board Member Elect for the El Segundo Unified School District (“ESUSD”) and a volunteer assistant football coach for El Segundo High School (“ESHS”), the only high school under the ESUSD’s authority. Your role as an assistant football coach is not supervisory and is completely voluntary without any form of payment or benefits.

ANALYSIS

The Act’s conflict of interest provisions prohibit a public official from taking part in a governmental decision if it is reasonably foreseeable that the decision would have a material financial effect on one or more of the official’s financial interests. (Sections 87100 and 87103.) An official’s interests that may give rise to a disqualifying conflict of interest are identified in Section 87103 and include an interest in:

- Any business in which the official has an investment worth \$2,000 or more (Section 87103(a)), or in which the official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d)).
- Any real property in which the official has an interest worth \$2,000 or more. (Section 87103(b).)
- Any source of income aggregating \$500 or more in the 12 months prior to the decision. (Section 87103(c).)
- Any source of a gift or gifts aggregating \$520³ or more in the 12 months prior to the decision. (Section 87103(e).)
- The official’s personal finances and those of immediate family members. (Section 87103.)

The facts presented provide no indication that you have a business interest or a real property interest in an ESUSD decision relating to ESUSD or ESHS athletic programs. Because you are a volunteer assistant football coach for ESHS and do not receive any form of payment or benefits for serving in that role, you would not have a source of income or gift interest in ESUSD or ESHS with respect to those decisions. Therefore, based on the facts presented, your only potential interest that could result in your disqualification from decisions relating to ESUSD or ESHS athletic programs is your interest in your personal finances.

Regulation 18702.5(a) provides that a decision’s reasonably foreseeable financial effect on an official’s interest in his or her personal finances “is material if the decision may result in the official or the official’s immediate family member receiving a financial benefit or loss of \$500 or more in any 12-month period due to the decision.”

³ Section 87103(e) requires the amount of the value of a gift or gifts set forth therein to equal the same amount as the gift limit specified in Regulation 18940.2. This gift limit was recently adjusted from \$500 to \$520, effective January 1, 2021, pursuant to Section 89503(f).

The facts presented provide no indication that decisions relating to ESUSD or ESHS athletic programs would have any financial effect on your personal finances or those of an immediate family member.⁴ Thus, with respect to those decisions, your volunteer service as an assistant football coach for ESHS generally does not give rise to a financial interest under the Act's conflict of interest provisions.⁵ Accordingly, the Act generally would not prohibit you from taking part in ESUSD decisions relating to ESUSD or ESHS athletic programs including ESHS football. However, we caution that each decision must be reviewed on a case by case basis, and that the Act would disqualify you from a decision if it reasonably foreseeable the decision will have a material financial effect on one or more of your financial interests specified in Section 87103.

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

Sincerely,

Dave Bainbridge
General Counsel

Matthew F. Christy

By: Matthew F. Christy
Counsel, Legal Division

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⁴ You should seek additional advice if the ESUSD decision at issue may result in your appointment, hiring, firing, promotion, demotion, or other disciplinary action, or the setting of your salary, with respect to any position under the ESUSD's authority. (See Regulation 18702.5(b)(1).)

⁵ See *Walter* Advice Letter, No. A-20-051; *Barneich* Advice Letter, No. A-19-074; *Sodergren* Advice Letter, No. A-19-025.