



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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June 26, 2024

Paola Maldonado  
Board Member  
Board of Trustees  
Turlock Unified School District  
1574 E. Canal Drive  
Turlock, CA 95380

Re: Your Request for Informal Assistance  
**Our File No. I-24-065**

Dear Ms. Maldonado:

This letter responds to your request for advice regarding the provisions relating to “gifts” under the Political Reform Act (the “Act”).<sup>1</sup> Because your request for advice relates to various potential donors and donations, rather than a specific donor and donation, we are treating your request as one for informal assistance.<sup>2</sup>

Please note that our advice, as it regards the Act’s gift and conflict of interest provisions, is limited to the Act and does not address 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 member of the Turlock Unified District School Board, would any provisions of the Act, including reporting requirements and recusal from certain governmental decisions, potentially be implicated by you raising and receiving funds for your husband’s cancer treatments via a GoFundMe or other fundraiser?

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<sup>1</sup> 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.

<sup>2</sup> Informal assistance does not provide the requester with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

## CONCLUSION

Under the Act you are required to do the following regarding any payment that meets the definition of a gift to you: (1) report gifts valued at greater than \$50 in a calendar year; (2) refuse gifts greater than \$590 in a calendar year; and (3) recuse yourself from governmental decisions that would have a reasonably foreseeable, material financial effect on a source of gifts greater than \$590 within the 12 months preceding the decision. However, as discussed in detail below, the “Acts of Human Compassion” exception may apply under the circumstances you have described, so long as the payment is from a permitted source. To the extent a payment meets the requirements of Regulation 18942, it will not be deemed a gift under the Act.

## FACTS AS PRESENTED BY REQUESTER

You are a member of the Turlock Unified School District School Board. You will be running for re-election in November. Unfortunately, your husband was recently diagnosed with cancer and is scheduled to undergo a medical procedure during July and August. The costs associated with his treatment are beyond what your family can afford. To help cover these expenses, you are considering two fundraising options: creating a GoFundMe account or organizing a car raffle. You note that your adult children would be responsible for setting up and managing these fundraising efforts. You also note your name would not be directly involved in the fundraising efforts to avoid any potential complications.

## ANALYSIS

### *General “Gift” Requirements*

The Act defines a “gift” as:

any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.

(Section 82028(a).)

Under the Act, payments to public officials that are “gifts” must be reported, are subject to limits, and may create a conflict of interest in a governmental decision financially affecting the gift giver. A gift must be reported if it is valued at \$50 or more from a single source in a calendar year. (Section 87207.) The annual gift limit for 2024 is \$590. (Regulation 18940.2.) Further, the Act prohibits any public official from making, participating in making, or using the official’s position to influence the outcome of a governmental decision that would have a reasonably foreseeable material financial effect upon the donor of a gift, or gifts, with an aggregate value of \$590 or more provided to, received by, or promised to the official within the 12 months prior to the date the decision is made. (Sections 87100, 87103(e); Regulations 18700, 18702.4.)

Unless an exception to the “gift” definition applies, a payment received by the spouse of a public official will be treated as if it were a gift to the official under either of the following conditions:

- 1) There is no established working, social, or similar relationship between the donor and the family member that would suggest an association between the donor and the family member suitable or appropriate for making the type of payment provided to the family member; or
- 2) There is evidence to suggest the donor had a purpose to influence the official.<sup>3</sup>

(Regulation 18943(c).)

Applying the above standards, payments you receive as a public official that confer a personal benefit will generally qualify as “gifts” under the Act. Under the circumstances you have described, your husband would be the recipient of donations made through the proposed GoFundMe or other type of fundraiser. Unless an exception applies (see discussion below), donations your husband receives will trigger the Act’s gift provisions if the payments are received under any of the circumstances identified in Regulation 18943(c), described above. In those instances, you are required to: (1) report donations from a donor once the donations exceed an aggregate \$50 in a calendar year; (2) not accept donations greater than an aggregate \$590 in a calendar year; and (3) recuse yourself from governmental decisions that would have a reasonably foreseeable, material financial effect on any donor who has given more than \$590 during the 12 months preceding the governmental decision.

*Exceptions to the Gift Requirements: The “Acts of Human Compassion” Exception*

Regulation 18942 excludes from the definition of “gift” payments that meet the definition of “Acts of Human Compassion.” More specifically, the regulation excludes “[p]ayments provided to an official, or an official’s family member, by an individual to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity . . . .” (Regulation 18942(a)(18)(B).

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<sup>3</sup> “Evidence to suggest the donor had a purpose to influence the official” includes circumstances where:

- The payment is made to a family member of a state or local government agency official by a donor, or the donor’s agent, if the donor is involved in an action or decision before the official’s agency, in which the official will reasonably foreseeably participate or in an action or decision in which the official has participated within the last 12 months.
- The payment is made to a family member by a person who has a contract with the official’s agency or by a person who engages in a business that regularly seeks contracts with or comes before the agency for the purpose of receiving a license, permit, or other entitlement and the official may reasonably foreseeably make or participate in a governmental decision, as defined in the Act’s conflict of interest regulations (Regulation 18702 et seq.), related to the person, or has participated in any decision related to the person within 12 months of the time the gift is made.

(Regulation 18943(c).)

For the “Acts of Human Compassion” exception to apply, the source of the donation must be an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance (such as a relative, long-term friend, neighbor, co-worker or former co-worker, member of the same local religious or other similar organization, etc.), or the payment must be made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942(a)(18)(B).) Importantly, Regulation 18942(a)(18)(D) lists the following as impermissible sources of these payments:

- (i) A lobbyist, lobbying firm, lobbyist employer, or other person required to file reports under Chapter 6 (commencing with Section 86100) of the Act and who is registered to lobby the official’s agency.
- (ii) A person who has, or may reasonably foreseeably have, a contract, license, permit, or other entitlement for use pending before the official’s agency, and for 12 months following the date a contract is signed or a final decision is rendered in the proceeding, if the official makes or participates in making a governmental decision, as defined in the Act’s conflict of interest regulations (Regulation 18702 et seq.) regarding the contract, license, permit, or other entitlement for use.
- (iii) A person, or an agent of a person, involved in a licensing or enforcement proceeding before a regulatory agency that employs the official and in which the official may reasonably foreseeably participate, or has participated, within 12 months of the time the gift is made.

Applying the “Acts of Human Compassion” exception to your circumstances, you and your spouse are faced with medical expenses you cannot afford due to the nature and extent of your spouse’s illness. A GoFundMe campaign is recognized as a means for a community to assist a community member with medical bills.<sup>4</sup> So long as the payments from a fundraiser are for your husband’s medical costs, are not from an impermissible source and either: (A) come from an individual who has a prior social relationship with you or your husband of the type where it would be common to provide such assistance; or (B) are made without regard to your official status, the “Acts of Human Compassion” exception will apply.

Any payments made that do not meet the Acts of Human Compassion requirements, including payments made by the individuals identified in Regulation 18942(a)(18)(D) will fall outside of the “Acts of Human Compassion” exception and will be subject to the Act’s gift limits, reporting requirements and disqualification rules. Additionally, while the “Acts of Human Compassion” exception does not require you exclude your name from any fundraising materials, we advise you to exclude reference to your governmental title to better ensure donations are “made without regard to official status,” as required by the exception.

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<sup>4</sup> See, e.g., Elisabeth Rosenthal, “GoFundMe is a Health-Care Utility Now,” *The Atlantic*, Feb. 5, 2024, available at <https://www.theatlantic.com/health/archive/2024/02/gofundme-health-care-hospitals/677353/> [“Resorting to crowdfunding to pay medical bills has become so routine, in some cases medical professionals recommend it.”].

We note that other exceptions to the general “gift” definition may also be applicable depending on the context of the donation. Specifically, Regulation 18942(a)(3) [payment from a legal relatives unless acting as an intermediary], (a)(18)(C) [payment from an official’s close personal friend, unrelated to the official’s position with the agency subject to the limitation on sources in Regulation 18942(a)(18)(D), listed above] and (19) [payment is made by an individual who is not a lobbyist registered to lobby the official’s agency, where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official’s position and there is no evidence that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable material financial effect on the source of the gift]. Please seek additional advice as needed for a payment of this type.

Finally, notwithstanding the general assistance provided, each donation and the source of the donation must be considered independently to determine if an exception applies. This determination can be made only if the source of the donation can be identified. Moreover, the name of any source of a gift \$50 or more must be reported. Thus, it is impermissible to accept anonymous donations of more than \$50.

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

Sincerely,

Dave Bainbridge  
General Counsel

By:



Kevin Cornwall  
Senior Counsel, Legal Division

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