

DEPARTMENT OF EDUCATION

Investigations of Improper Activities by State Employees, Report I2001-2

ALLEGATION I990003, SEPTEMBER 2001

Along with the Fair Political Practices Commission (FPPC), we investigated and substantiated an allegation that two former supervisors in the Child Development Division (child development) of the Department of Education (education) violated or appeared to violate conflict-of-interest laws after they left education to work for organizations that had contracts with the State. We also substantiated other improper activities. Specifically, we found:

Audit Highlights . . .

Two former supervisors of the Department of Education engaged in the following improper governmental activities:

- They violated or appeared to violate revolving door prohibitions after leaving the State to work for state contractors.*
 - Education's legal office contributed to the conflicts of interest by providing flawed advice.*
 - One supervisor interviewed with a contractor while overseeing the state's review of its operations.*
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Finding #1: Two former supervisors violated or appeared to violate conflict-of-interest laws after leaving the State.

One supervisor improperly communicated with education employees on behalf of a contractor within 12 months of leaving education to work for the contractor regarding a \$3.8 million contract she helped oversee while employed by the State. She also violated conflict-of-interest laws when she advised and assisted the contractor with the same contract. The FPPC also concluded that another supervisor might have violated conflict-of-interest laws when he made inappropriate contact with education on behalf of a contractor within 12 months of leaving state employment.

The FPPC informed education that its legal office may have been giving employees incomplete advice and, more specifically, that the advice offered to the supervisors did not consider "revolving door" sections of the Political Reform Act. Relying on education's flawed advice, both supervisors began their new jobs with the understanding that no legal problems existed. The FPPC did not take any formal enforcement action against the supervisors because they relied on faulty legal advice, they cooperated fully with the FPPC's investigation, and the FPPC found their activities resulted in little or no harm to the State.

Finding #2: One supervisor engaged in incompatible activities.

We determined that one supervisor engaged in incompatible activities. For example, he personally benefited when he flew to Southern California to interview for a job with a contractor at the same time he was purportedly participating in a state review of the contractor's operations. In addition, the supervisor planned to use state resources to provide an unprecedented level of technical assistance to the contractor. Furthermore, both before and during the review, education conducted an investigation of allegations concerning the contractor. Although investigators expressed concern that the supervisor lacked impartiality and could compromise the ongoing investigation, he remained involved with the contractor. At the very least, the supervisor's continued involvement with the contractor created the appearance of a conflict of interest, and we found some evidence that his involvement interfered with education's investigation.

Department Action: Corrective action taken.

Education agrees that its legal office provided flawed advice to the two supervisors and that they appeared to have violated conflict-of-interest laws. The attorney who provided the flawed advice is no longer an education employee, and education has made its legal staff aware of the conflict-of-interest laws and revised its incompatible activities policy to ensure that all employees clearly understand what activities are not allowed. In addition, education offers training to its managers on conflict-of-interest and incompatibility prohibitions to ensure that the managers are conducting their activities in accordance with the law and to enable them to monitor and guide the activities of their staff. Furthermore, education gives all employees who leave state employment a memorandum reminding them of the restrictions on their post-employment activities.