



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

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NATIONAL STATE BANK BLDG., SUITE 1114
28 W. STATE STREET, CN-188
TRENTON, NEW JERSEY 08608
(609) 892-8709

SCOTT A. WEINER
EXECUTIVE DIRECTOR

EDWARD J. FARRELL
COUNSEL

August 20, 1982

David W. Carroll
Assistant Executive Director
and General Counsel
New Jersey School Boards Association
315 West State Street
P. O. Box 909
Trenton, NJ 08605

ADVISORY OPINION No. 11-1982

Dear Mr. Carroll:

Your correspondence to the Election Law Enforcement Commission (hereinafter Commission) concerning the applicability of the Legislative Activities Disclosure Act (N.J.S.A. 52:13C-18 et seq.) to the New Jersey School Boards Association (hereinafter Association) has been considered by the Commission, and I have been directed to issue this response. You have suggested that the Association is exempt from financial disclosure requirements of the Act on the grounds that the Association is a political subdivision of the State, or alternatively is an agent of political subdivisions of the State. For the reasons stated herein, you are advised that the Commission concurs that the New Jersey School Boards Association is exempt from the filing requirements of N.J.S.A. 52:13C-22.1.

The School Boards Association has been established by statute as a corporate and politic body composed of all the boards of education of the various school districts in the State. N.J.S.A. 18A:6-45. Each district board of education is by law made a member of the Association, and is entitled to be represented by one delegate at each meeting. N.J.S.A. 18A:6-46. You have advised the Commission that the Association is governed by a Delegate Assembly comprised of a representative from each school board. The Delegate Assembly establishes the legislative program of the Association, and staff members are charged with the responsibility of advocating policy positions adopted by the Delegate Assembly. You have advised that four of the staff members have registered as legislative agents with the Office of the Attorney General, but that these registrations were specifically undertaken by the Association pursuant to the provisions of N.J.S.A. 52:13C-35 which provides for voluntary registration by persons who are not required by law to file registration statements.

The Legislative Activities Disclosure Act currently provides for the filing of registration statement and quarterly reports by legislative agents with the Attorney General. N.J.S.A. 52:13C-21; 52:13C-22. The Act was amended and supplemented by Chapter 150 of the Laws of 1981 to require that legislative agents or lobbyists file annual financial disclosure reports of lobbying contributions and expenditures with the Commission. N.J.S.A. 52:13C-22.1. The jurisdiction of the Commission is limited to the filing of annual financial disclosure reports, and nothing contained in this advisory opinion should be construed as affecting any filing obligation that may exist under the Act with the Attorney General.

On December 7, 1981, regulations entitled "Financial Disclosure by Lobbyists and Legislative Agents" became effective after adoption by the Commission as subchapter 8, chapter 25 of Title 19 of the New Jersey Administrative Code. (N.J.A.C. 19:25-8.1 et seq.). Those regulations exempt certain activities from the annual reporting requirement with the Commission. N.J.A.C. 19:25-8.3. Among the exempted activities are the following, at N.J.A.C. 19:25-8.3(e)(1):

"The acts of the government of the United States or the state of New Jersey or of any other state or of any of the political subdivisions or authorities or commissions of any of the foregoing, or any interstate authority or commission, or any official, employee, counsel or agent of any of the above when acting in his official capacity."

Individual school districts are local government units. Botkin v. Mayor and Borough Council of Westwood, 52 N.J. Super. 416 (App. Div. 1958), appeal dismissed 28 N.J. 218 (1958). Therefore, the acts of individual boards of education of school districts are exempt from lobbying reporting or acts of political subdivisions under the express terms of the above quoted regulation. The Legislature, in enacting N.J.S.A. 18A:6-45 et seq., has created a vehicle for all boards of education to "... encourage and aid all movements for the improvement of the education affairs of this State." N.J.S.A. 18A:6-47. No discernible public purpose would be served by extending to a single school district acting alone an exemption from lobbying reporting, but denying that exemption to the very vehicle established by the Legislature for the coordinated activity of all school districts. The right of the Association to conduct lobbying on behalf of all New Jersey boards of education has been expressly upheld by a State court. New Jersey State AFL-CIO v. State Federation of District Boards of Education of New Jersey, 93 N.J. Super. 31 (Ch. Div. 1966). Therefore, the Commission concludes that the Association is exempt pursuant to the provisions of N.J.A.C. 19:25-8.3 from filing financial reports regarding lobbying activity with the Commission.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: Gregory E. Nagy
GREGORY E. NAGY
Staff Counsel