

# Memorandum

To: Honorable Brad Sherman  
Chairman

Date: July 15, 1993

From: E. L. Sorensen, Jr.  
Chief Counsel

Subject: **Contribution Disclosure Opinion 93-10**

If a Board Member sends a memorandum to the staff asking for information regarding items on a consent calendar, the Board Member has contacted staff for purposes of section 15626.

## Question Presented:

Would the following memorandum: "Please send us more information regarding the following items on the non-appearance consent calendar: \_\_\_\_\_", with no additional comments, cause the items in question to become adjudicatory?

## Answer:

If a Board Member sends a memorandum to the staff asking for information regarding items on a consent calendar, the Board Member has contacted staff and caused the items in question to become adjudicatory.

## Analysis:

A consent calendar item is not an "adjudicatory proceeding pending before the board" unless, among other things, the item is one about which a Board Member has previously contacted the staff or a party. (Section 15626(h)(5).) Since the statute does not distinguish between a contact for purposes of persuasion and one made to obtain additional information, we are of the opinion that sending a memorandum to the staff constitutes a contact, even if the only purpose of the memorandum is to obtain additional information. Such contact causes the items in question to become for adjudicatory purposes of section 15626. (Proposed regulation 7003(b)(3).)

Proposed regulation 7003(b)(2) states that procedural inquiries made by a Board Member, such as questions regarding when a case is scheduled for Board consideration, the status of a case, or whether the requirements of Government Code section 15626 have been met, do not constitute Board Member contact with the staff. Such procedural questions may be asked at any time. As provided in proposed regulation 7003(b)(3), any

substantive inquiries, such as requests for information, constitute a contact by the Board Member of the staff and cause the matter to become adjudicatory. (See also, Contribution Disclosure Opinion 92-12.)

A handwritten signature in cursive script, appearing to read "E. L. Sawyer".

cc: Honorable Matthew K. Fong  
Member, First District  
Honorable Ernest J. Dronenburg, Jr.  
Honorable Gray Davis  
Mr. Burton W. Oliver  
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