

Memorandum 89-82

Subject: Policy Statement on Activities of Consultants

At the last meeting, the Commission directed the staff to prepare policy statements for inclusion in the Commission's Handbook of Practices and Procedures concerning activities of Commission consultants, particularly with regard to involvement in litigation and the use of formal advisory committees to consultants. (See the discussion in the Minutes of the September 1989 meeting under administrative matters.)

The following material implements these policies. The new policies are set out in underscored text. We will include these policy statements in the next revision of the Commission's Handbook, subject to any revisions made by the Commission at the October meeting. (The footnote numbers reflect the position of this material in the Handbook.)

PRESENTATIONS BY CONSULTANT TO OTHER PERSONS OR GROUPS⁴²

If the consultant makes any presentation of his or her background study and recommendations to any person or group, the consultant shall make clear at the time the presentation is made that:

(1) The consultant's recommendations are not recommendations of the Commission and do not represent the views or recommendations of the Commission.

(2) The Commission may or may not make recommendations on the particular matter and, if the Commission does make recommendations, those recommendations will be made in the Commission's printed report to the Legislature.

42. Minutes, January 1982.

INVOLVEMENT OF CONSULTANT IN LITIGATION⁴³

A consultant is free to continue his or her professional activities in an area related to the subject for which the consultant was hired to advise the Commission, including involvement in litigation. However, if the consultant becomes involved in litigation on the side of a party or as amicus curiae, the consultant shall do the following:

(1) Advise the Commission of his or her involvement in the litigation.

(2) When his or her status as a Commission consultant becomes known to the parties litigant or the court, make clear that the consultant's views do not represent the views or recommendations of the Commission and that the Commission's recommendations, if any, will be made in the Commission's printed report to the Legislature.

ADVISERS TO COMMISSION CONSULTANT⁴⁴

Although the Commission encourages consultants to seek the views of other experts and interested persons in the course of preparing a background study, the Commission does not approve the consultant setting up an advisory committee or similar named group.

Respectfully submitted,

Stan G. Ulrich
Staff Counsel

43. Minutes, October 1989.

44. Minutes, October 1989.