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National Commission on Libraries and Information Science (1990-1991): Correspondence 09

Carl Levin

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United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

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February 22, 1990

Mr. James Dean
Committee Management Secretariat
General Services Administration
Room 6206
18th and F Streets, N.W.
Washington, D.C. 20405

Dear Mr. Dean:

In exercising its jurisdiction over the Federal Advisory Committee Act (FACA), the Senate Committee on Governmental Affairs has become concerned about certain activities regarding the advisory committee for the National Commission on Libraries and Information Science ("Commission"). This letter requests the opinion of the Committee Management Secretariat on the propriety of these activities.

On December 7, 1989, the Committee sent the enclosed letter to the Commission inquiring about the advisory committee. The Commission chairman responded on January 8, 1990, with the enclosed letter. The chairman resolved one key issue by agreeing that FACA does apply to the advisory committee, but raised serious concerns by confirming that he had delegated authority to the advisory committee chairman to "obligate and disperse" hundreds of thousands of dollars in federal funds and by contending that the advisory committee chairman is authorized to appoint persons to the federal payroll apparently without the Commission's retaining final control over the personnel decisions.

The Commission chairman affirmed that the advisory committee exercised this authority despite the enclosed memorandum of November 6, 1989, from the Commission's Executive Director that to exercise such authority is improper and contrary to legal advice. The memorandum states:

"At both meetings, the counsels and committee management officers suggested that the Advisory Committee chairman

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is acting outside of his authority and outside the Committee charter [in exercising fiscal and personnel authority], and, they stated repeatedly, needs to be 'reined in' by the Commission, with the NCLIS chairman assuming the responsibility and the lead role. We were told that NCLIS is operating illegally and may be subject to legal action, both in fiscal and personnel matters."

Please indicate whether, in the opinion of the Committee Management Secretariat, the Commission's advisory committee may properly exercise operational authority over the obligation and disbursement of federal funds and the appointment of federal personnel. Also, please indicate whether the actions of the Commission in attempting to delegate such authority to the advisory committee are contrary to the intent of the Federal Advisory Committee Act and the principle of federal agencies' retaining ultimate responsibility for federal decisionmaking. Finally, please indicate what steps the Secretariat is authorized to take in such situations and what steps the Secretariat has taken or plans to take with regard to this matter. I would appreciate your response as soon as possible.

Thank you for your attention to this matter. If you have any questions about these concerns, please contact Elise Bean at 224-3682.

Sincerely,



Carl Levin, Chairman
Subcommittee on Oversight of Government Management

CL:ejb

cc: Mr. Jerald Newman

Enclosures