



# California Fair Political Practices Commission

June 20, 1986

Mr. Vance W. Raye  
Legal Affairs Secretary  
Office of the Governor  
State Capitol  
Sacramento, CA 95814

RE: Your request for our advice; our No. A-86-102

Dear Mr. Raye:

You have asked us to review possible legal issues raised under the Political Reform Act by the establishment of an "electronic mail" hookup between word processors in the Governor's Office and in the Deukmejian for Governor campaign office. You have supplied the attached memorandum describing the proposed hookup. As indicated, the Attorney General has advised you that the hookup would be lawful and that the "Governor's Office staff and equipment can be used to assist the Governor in carrying out his responsibilities of office even though the Governor's campaign is incidentally benefitted thereby." In addition, the Attorney General has advised you that Governor's office staff may not engage in campaign activity during the staff member's state office hours.

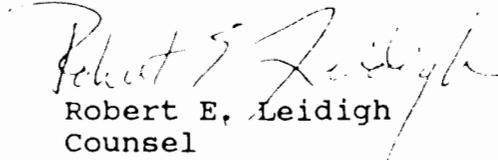
This agency primarily deals with the proper reporting of campaign contributions and expenditures. Cf., Fair Political Practices Commission v. Tom Suitt (1979) 90 Cal. App. 3d 125; 153 Cal. Repr. 311. As an outgrowth of that litigation, the Commission adopted regulations defining when various activities become reportable campaign contributions. Those regulations are 2 Cal. Adm. Code Sections 18420 and 18423; copies are attached for your convenience.

Based upon the Attorney General's analysis that the proposed "electronic mail" hookup is lawful because it is in furtherance of the Governor's official duties, with only incidental benefit to the campaign, it does not appear to qualify as a campaign contribution which must be reported. Cf., Fair Political Practices Commission v. Suitt, supra at 132.

Mr. Raye  
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I trust this letter adequately responds to your question. Should you have questions regarding it, I may be reached at (916) 322-5901.

Sincerely,

  
Robert E. Leidigh  
Counsel  
Legal Division

Attachments

REL:sf

bcc: John Larson  
Greg Baugher

# Memorandum

To : John Larson, Chairman  
Fair Political Practices  
Commission

Date : March 24, 1986

Subject:

From : **Governor's Office**

Enclosed is a copy of a memorandum to Chief Assistant Attorney General Richard Martland which confirms advice rendered by him on a proposal to install an "electronic mail" hookup between the Governor's office and the Campaign office. He has advised that such an installation would be legally permissible, and its use for certain described purposes would be legally appropriate.

Because the proposed installation may also raise legal issues under the Political Reform Act, we would appreciate your staff's review of the attached memorandum. If you concur in the advice provided by the Attorney General, we would also appreciate a statement to that effect.

Thank you for your anticipated cooperation and assistance.



Vance W. Raye  
Legal Affairs Secretary

Attachment

VWR:er

**TO:** Dick Martland  
Chief Assistant Attorney General  
Civil Division  
Office of the Attorney General

**SUBJECT:** Political Activities

**DATE:** March 24, 1986

This memorandum is intended to supplement the advice previously given by you in your memoranda of October 18 and December 13, 1985 and to confirm the advice rendered by you during our meeting of February 14 with Steve Merksamer, and Steve White. The principal issue discussed during the meeting concerned a proposal to install a hookup between the Deukmejian for Governor campaign office and the Governor's Office. The hookup would consist of one or more word processing terminals and printers located in the campaign office which would be linked electronically to an existing terminal located in the Governor's Office.

The hookup is sought solely for the purpose of allowing the transmission and receipt of communications between the two offices, and will be used exclusively to send and receive typewritten text. While the terminals will be electronically linked to the Governor's Office word processing equipment, the campaign office terminals will be unable to access information stored in the memory of the Governor's Office computer, and the Governor's Office terminals will be unable to access information in the memory of the campaign office computer. This function is usually described as "electronic mail."

It was explained that the purpose of this electronic mail hookup is to facilitate communication between the Governor and his campaign office. Instead of utilizing human messengers to transport papers between the two offices, information will be transmitted electronically, utilizing existing word processing equipment. We anticipate that during the gubernatorial campaign, most of the Governor's time will continue to be devoted to carrying out his constitutional responsibilities as Governor, although a portion of his schedule will necessarily be devoted to campaign related activities. The proposed word processing linkup will permit better coordination between the Governor's state business schedule and his campaign schedule. The Governor's campaign committee will pay for the cost of installing and operating the hookup.

You identified two legal issues raised by the proposed installation. The first and threshold issue is whether the proposed hookup is legally permissible; are there legal objections to permitting the campaign office to have access to the Governor's Office computer for the limited purpose of transmitting and receiving information between the two offices? Assuming there are no legal objections to the proposed hookup, a second issue is raised as to the type of information that can be transmitted over the hookup, and the extent to which staff of the Governor's Office can be utilized to send and retrieve such information.

With respect to the first issue, you advised that the proposed hookup was legally permissible and would not offend any existing constitutional or statutory provision, or court decision.

Regarding the second issue, you indicated that as a general rule, Governor's Office staff cannot engage in campaign activities on state compensated time, nor routinely utilize state property, including word processing terminals, for campaign purposes. However, Governor's Office staff and equipment can be used to assist the Governor in carrying out his responsibilities of office even though the Governor's campaign is incidentally benefited thereby. We discussed three specific examples of the use of the proposed electronic mail hookup:

**Scheduling.** During the campaign, two scheduling staffs will be responsible for scheduling the Governor. The Governor's Office staff will have primary responsibility over the Governor's schedule and will schedule the time used by the Governor to perform the responsibilities of office. A separate campaign scheduling staff will be responsible for scheduling campaign activities. The Governor's state business schedule will take priority over the campaign schedule, although there will be an obvious need to coordinate the two schedules. The proposed hookup would be used to send scheduling information between the Governor's Office and the campaign office, thereby facilitating the needed coordination. You advised that use of the hookup for such a purpose would be lawful and appropriate. State compensated staff of the Governor's Office may receive and transmit scheduling information to the campaign office.

**Press Releases.** The proposed installation will also be used to transmit the text of press releases between the two offices. Governor's Office press releases are distributed throughout the state and are made available to the general public. You advised that use of electronic mail to transmit such releases to the campaign office does not raise any legal issues. As with scheduling information, Governor's staff may be used to transmit press releases to the campaign office and retrieve press releases transmitted by the campaign office.

**Campaign Speeches.** It is anticipated that the Governor will continue to accept speaking invitations and appear before public audiences in his capacity as Governor. Campaign appearances will also be added to his schedule. The Governor will continue to rely on his office staff to prepare non-campaign speeches. Campaign speeches will be prepared by the campaign staff, which may include members of the Governor's Office staff who perform services for the campaign during off-duty hours. The proposed hookup will be used to transmit drafts of speeches to the Governor for review and revision. You advised that the installation may appropriately be used for such a purpose and that the services of Governor's staff may be used to transmit speech revisions to the campaign office. In addition, you expressed the opinion that staff of the Governor's Office may appropriately review the text of proposed campaign speeches for "program" content, to ensure the accuracy of the speech.

With respect to the participation in campaign activities by members of the Governor's Office Staff, generally, you advised that such participation was proper within the following parameters: campaign activity cannot be engaged in during the staff member's state office hours. You advised that a full time staff member must work a minimum of 40 hours per week on state business, and the staff member's participation in campaign activities must take place outside the 40 hours per week of scheduled state office hours. Secondly, except for sporadic, unscheduled conversations regarding campaign matters which may occur in state office space, state office space cannot be used for campaign purposes

I trust that this memorandum accurately summarizes your advice. Please feel free to respond with whatever changes you consider appropriate.

*Vance*

Vance W. Raye  
Legal Affairs Secretary  
Governor's Office