



California Fair Political Practices Commission

July 2, 1986

Anthony S. DaVigo
Deputy Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550

Re: Your Request for Comments on
Opinion No. 86-501
Our File No. I-86-180

Dear Mr. DaVigo:

Thank you for your letter soliciting the views or comments of the Fair Political Practices Commission concerning the following question:

May a teachers' association, in accordance with the terms of a collective bargaining agreement with the school district, utilize the district mail services for distribution of campaign materials in support of association endorsed candidates for election to the governing board?

Although the Commission is not in a position to rule on the legality of the use of a public agency's resources for political campaigns, we have previously considered the campaign disclosure consequences under the Political Reform Act in the situation you have presented. In our advice letter to John Stremple, No. A-85-237 (copy enclosed), we concluded that a school district had not made a contribution, as defined in Government Code Section 82015, by allowing the teachers' association to use the district's internal mail system to distribute material endorsing three school board candidates. Although not stated in the Stremple letter, it is our opinion that the teachers' association may have made a contribution to, or an independent expenditure on behalf of, the candidates by distributing campaign materials advocating their election. The association and candidates may have related reporting responsibilities under the Political Reform Act.

Our conclusion that the school district did not make a contribution was based on Government Code Section 82015, which defines "contribution" as a monetary or nonmonetary payment except to the extent that full and adequate consideration is

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received, unless it is clear from the surrounding circumstances that it is not made for political purposes. The teachers' association's right to use the school district mail system was the result of a negotiated agreement for which we must presume the association and the school district provided equal consideration. In that context, the district's reason for providing access to its mail system was related to its teachers' compensation and benefits and not to any political purpose.

The above facts are analogous to a situation where a rental car company provides a car, at the going rate, to an individual who elects to use the car to distribute campaign leaflets for a candidate. In that instance, it is clear that the rental car company has not made a contribution to the candidate because (1) the rental car company received full and adequate consideration for the use of the rental car, and (2) the rental car company was motivated by business purposes, rather than political purposes.

We emphasize that our conclusion in the Stremple letter does not address the fundamental policy question about the propriety of a public agency permitting another organization to use public resources to disseminate political communications. In Stanson v. Mott (1976) 17 Cal. 3d 206, 217, the California Supreme Court stated, "A fundamental precept of this nation's democratic electoral process is that the government may not 'take sides' in election contests or bestow an unfair advantage on one of several competing factions." We are concerned about use of public resources to disseminate campaign literature in favor of or against any candidate or issue, even if the public agency itself is not advocating a position for or against a particular candidate or measure.

Thank you for the opportunity to comment on this opinion request. Please contact me at (916) 322-5901 if you have any questions regarding this letter.

Very truly yours,



Kathryn E. Donovan
Counsel
Legal Division

KED:plh
Enclosure

JOHN K. VAN DE KAMP
Attorney General

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May 23, 1986

Mr. Robert E. Leidigh, Counsel
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Dear Mr. Leidigh:

Re: Opinion No. 86-501

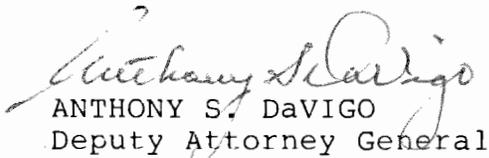
The opinion of this office has been requested on the following question:

May a teachers' association, in accordance with the terms of a collective bargaining agreement with the school district, utilize the district mail services for distribution of campaign materials in support of association endorsed candidates for election to the governing board?

Any views or comments which you may wish to provide to the undersigned would be greatly appreciated.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General


ANTHONY S. DaVIGO
Deputy Attorney General

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