



California Fair Political Practices Commission

March 21, 1989

Joseph R. Symkowick
General Counsel
Department of Education
721 Capitol Mall
Sacramento, CA 94244-2720

Re: Your Request for Advice
Our File No. I-88-339

Dear Mr. Symkowick:

You have requested advice regarding application of the mass mailing provisions of the Political Reform Act (the "Act")^{1/}, as amended by Proposition 73 on the June 7, 1988 ballot. As I indicated in our telephone conversation in November, I have delayed responding to your request pending adoption of a permanent regulation by the Commission. The Commission has now adopted permanent Regulation 18901 (copy enclosed). As you can see, the permanent regulation contains some changes from the noticed version of the regulation. As required by law, these changes were made available to the public for 15 days. The regulation will now be submitted to the Office of Administrative Law. We anticipate that the regulation will become effective in early April. However, we are advising that the permanent regulation be followed now.

QUESTION

Is the inclusion of an elected officer's name on the cover of a publication prohibited under Regulation 18901?^{2/}

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/} Your letter also referred to an advice memorandum which you issued to Deputy Superintendents and Division Directors. As I indicated on the phone, that memorandum was not included in your letter. If you would like us to review that memorandum, please let us know.

CONCLUSION

The name of an elected officer may appear only in the standard letterhead or logotype of the stationery, forms or envelopes of a document which has been prepared in cooperation, consultation, coordination or concert with the elected officer. Therefore, only 200 copies a month of a publication which includes an elected officer's name on the cover may be sent at public expense.

FACTS

State agencies and elected officials issue many types of informational publications. You have provided us with examples of a variety of these publications which have been prepared in the past. Each of the publications names the responsible elected official and the agency on the cover.

ANALYSIS

Section 89001 provides that no mass mailing shall be sent at public expense. The term "mass mailing" means over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry. (Section 82041.5.)

Regulation 18901 clarifies that the purpose of Section 89001 is to prevent elected officers from using public funds to send out newsletters and other mass mailings.

Regulation 18901(e) provides:

(e) A newsletter or other mass mailing is not prohibited by Government Code Section 89001 if it meets all of the following criteria:

(1) The stationery, form and envelopes used for the mailing are the standard stationery, forms and envelopes of the agency or committee of the agency; and

(2) The name of an elected officer who is affiliated with the agency or committee appears in the standard letterhead or logotype of the stationery, forms or envelopes of the agency, a committee of the agency, or the elected official and the newsletter or mass mailing is not otherwise prohibited under subdivision (c).

As used in this subdivision, the term "letterhead or logotype" includes a listing of agency or committee officials or members, in which all who are listed appear in the same typeface and type size and location in the layout of the newsletter or other mass mailing.

As used in this subdivision, the term "standard letterhead or logotype" refers to any regularly used by the agency, subunit or the elected officer. Provided, however, that where a newsletter does not use the agency's standard stationery letterhead, a roster listing containing the names of all elected officers in the agency may be used in the newsletter in place of the agency's standard stationery letterhead.

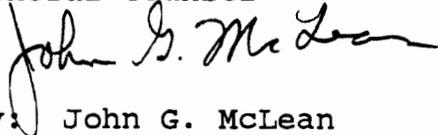
Regulation 18901(e) (emphasis added).

The reports you have provided are not on letterhead or forms of the agency. Nor does the inclusion of a single elected officer constitute a "roster listing."^{3/} Accordingly, such publications may not in the future be sent at public expense if the elected officer's name is included on the cover or if the document includes the name, signature, photograph or other references to the elected officer. We note, however, that a document on the elected officer's letterhead could be included to identify the sender of the publication as long as no other mention is made of the elected officer.

If you have any further questions, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel



By: John G. McLean
Counsel, Legal Division

DMG:JGM:ld

Enclosures

^{3/} The term "roster" is defined as "a list of names." (Webster's II New Riverside University Dictionary (1984) p. 1020.)



CALIFORNIA STATE DEPARTMENT OF EDUCATION

721 Capitol Mall; P.O. Box 944272

Sacramento, CA 94244-2720

Bill Honig

Superintendent

of Public Instruction

August 26, 1988

Diane M. Griffiths
General Counsel,
Fair Political Practices Commission
428 J Street
Suite 800
Sacramento, CA. 95814

Re: Request for Formal Advice Regarding the Mass Mailing Prohibition In Government Code section 89001, As Amended by Proposition 73, Adopted by the Voters on June 7, 1988.

Dear Diane:

As the General Counsel for the California Department of Education my office is charged with advising employees of the Department about their duties and actions under the Political Reform Act. Many questions have arisen regarding the duties of our employees under Government Code section 89001, as amended by Proposition 73 adopted by the voters on June 7, 1988. Although the recent FPPC emergency regulation, 2 CRC 18901, and the two opinions of Robert E. Leidigh of your staff dated June 19 and July 1, 1988 have been helpful, there are still a number of unanswered questions. Accordingly, I would like to request your formal written assistance pursuant to 2 CRC 18329 (b).

For your information, I have recently issued an advice memorandum to our Deputy Superintendents and Division Directors. I have attached a copy of that memorandum and would appreciate your review as soon as possible. Please let us know if the memorandum is in accordance with your instructions.

In addition to your review of our advice memorandum, please give us your formal advice on the following specific question:

What does the FPPC consider a "logotype" as that word is used in 2 CRC 18901(b)(3)?

State agencies and elected officials issue many types of informational publications that are often "mass mailed" as that term is defined in 2 CRC 18901(a). For your reference, we have attached the following eight publications:

DIANE M. GRIFFITHS
Proposition 73 Questions
August 26, 1988
Page 3

- o Crime Prevention Center o Office of the Attorney General
John K. Van de Kamp o Attorney General
(Schools and Drugs)

- o GOVERNOR
George Deukmejian

June, 1988
(Report to the Governor,
California Commission on
Educational Quality)

- o GRAY DAVIS State of California
State Controller
(Accountability Over K-12
Educational Funding)

Please review each of the foregoing eight publications and let us know which ones, if any, contain valid "logotypes" pursuant to 2 CRC 18901 (b)(3).

During your review, please consider the attached Memorandum to me from Ted Smith, our Department's Editor-in-Chief of the Bureau of Publications. It is dated August 11, 1988 and discusses Mr. Smith's understanding of the word "logotype" based upon his 26-year tenure in the Bureau of Publications. Mr. Smith states that during the past 35 years, every publication issued by the Bureau has contained a logotype consisting of four elements:

(1) the State Department of Education as the publishing agent;
(2) the name of the Superintendent as the legally responsible publisher; (3) Sacramento, the city in which the publishing took place; and (4) the year in which the document was published. As examples, he has attached copies of logotypes on publications from the Superintendencies of Roy E. Simpson (1962), Max Rafferty (1970), Wilson Riles (1976), and Bill Honig (1985). Mr. Smith also has included definitions of "logotype" from four dictionaries which, in his opinion, support the Bureau's position on the meaning of "logotype."

In addition, Mr. Smith argues:

"As final point in this matter, the FPPC is accepting the name of the 'elected officer's name...on the standard letterhead or logotype of the stationery, forms or envelopes' as long as 'there are not other

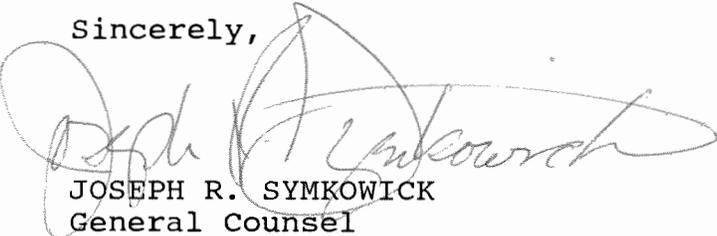
DIANE M. GRIFFITHS
Proposition 73 Questions
August 26, 1988
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references to the officer, including his or her photograph or signature, in the mailing.' Since the elements in the logotype on the covers of our publications are the same as those that appear on our stationery and since they are also acceptable, according to the FPPC, on the forms we produce, it seems most inconsistent that the FPPC would forbid our including our logotype on the covers of our publications as we have been doing for over 35 years."

Please respond specifically to the argument that the elements in the Department's letterhead and forms and those located on the covers of our Department's publications for the past 35 years are identical.

Thank you in advance for your assistance. We know that questions similar to ours have kept you extremely busy. Because of our own need to advise our employees, however, we would appreciate it if you could get back to us as soon as possible. If you have any questions or would like to review any of the matters set forth in this memorandum, please give me a call. I would be more than happy to discuss anything with you.

Sincerely,



JOSEPH R. SYMKOWICK
General Counsel
445-4694

Attachments

cc: Bill Honig
William D. Dawson
Susan Lange
Ted Smith
Deputies

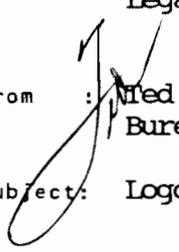
Memorandum

To : Joe Symkowick, General Counsel

Date : August 11, 1988

and Allan Keown, Staff Counsel
Legal Office

File No.: F87-541

From :  Ned Smith, Editor in Chief
Bureau of Publications

Subject: Logotype

In the 26 years that I have been in the Bureau of Publications, we have included on the cover of every publication the following elements, which constitute our logotype: the name of our Department, as the publishing agent; the name of the Superintendent of Public Instruction, as the legally responsible publisher; Sacramento, as the city in which the publishing took place; and the year in which the document was published. I have attached copies of the covers of publications from the prior administrations as illustrations.

I recognize that you will find differences in the definitions given for logotype, and some confuse ligature and logo with logotype. However, I believe the following definitions from highly reputable sources support my position:

- Webster's Third New International Dictionary: "(2b) a single piece of type or a single plate faced with a term (as the name of a newspaper, an advertiser's trademark, a company name and address)"
- Printing and Promotion Handbook: "A piece of type that carries, not just a letter, but one or more words, such as the name of a firm or a product."
- The Chicago Manual of Style: "Familiarly, "logo"; one or more words, or other combinations of letters, made available as one SORT. Often used for company names, trademarks, etc."
- Funk & Wagnalls Standard College Dictionary: "(1) Printing. A piece of type bearing a syllable, word, or words; (2) a distinctive commercial design or style of type used to represent a company name, trademark, etc."

August 11, 1988

Page 2

As final point in this matter, the FPPC is accepting the name of the "elected officer's name . . . on the standard letterhead or logotype of the stationery, forms or envelopes" as long as "there are not other references to the officer, including his or her photograph or signature, in the mailing." Since the elements in the logotype on the covers of our publications are the same as those that appear on our stationery and since they are also acceptable, according to the FPPC, on the forms we produce, it seems most inconsistent that the FPPC would forbid our including our logotype on the covers of our publications as we have been doing for over 35 years.

Report of the

**TWENTY-FOURTH
ANNUAL CONFERENCE
ON INDUSTRIAL EDUCATION**

San Diego, California

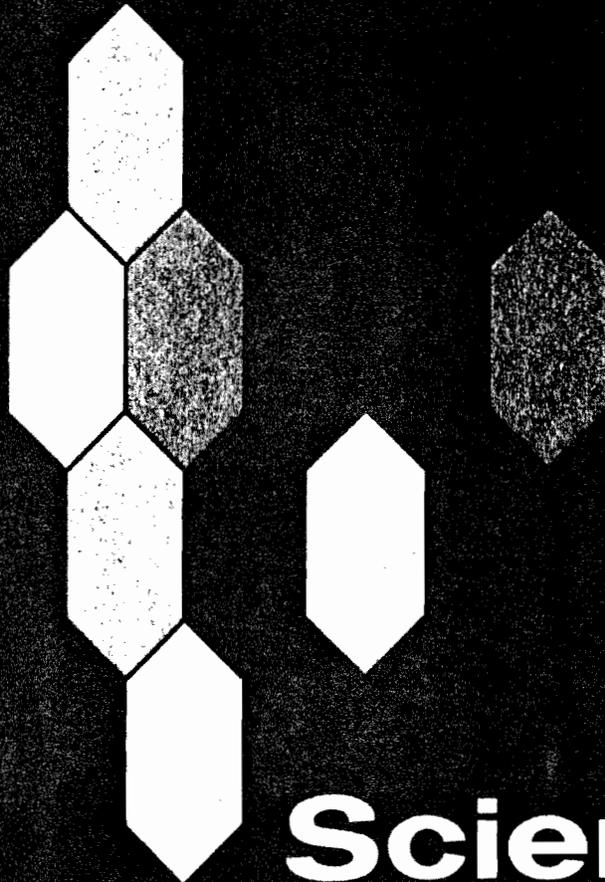
March 6-9, 1962

CALIFORNIA STATE DEPARTMENT OF EDUCATION

ROY E. SIMPSON

Superintendent of Public Instruction

SACRAMENTO, 1962



Science Framework

FOR CALIFORNIA PUBLIC SCHOOLS
KINDERGARTEN - GRADES ONE THROUGH TWELVE

CALIFORNIA STATE DEPARTMENT OF EDUCATION
Max Rafferty - Superintendent of Public Instruction
Sacramento, 1970

Bureau of Publications
State Department of Education
701 Capitol Mall
Sacramento, California 95814

**Bibliography of Proceedings and Publications
of Regional Deaf-Blind Centers
1970-1975**



**Southwestern Region Deaf-Blind Center
Spring, 1976**

**CALIFORNIA STATE DEPARTMENT OF EDUCATION
Wilson Riles—Superintendent of Public Instruction
Sacramento, 1976**

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1984-85

**Characteristics
of Professional Staff
in California Public Schools**

Data compiled by:

CBEDS

*The California Basic
Educational Data System*

**CALIFORNIA STATE DEPARTMENT OF EDUCATION
Bill Honig, Superintendent of Public Instruction
Sacramento, 1985**



California Fair Political Practices Commission

September 2, 1988

Joseph Symkowick
General Counsel
Department of Education
P.O. Box 944272
Sacramento, CA 94244-2720

Re: Your Request for Advice
Our File No. 88-339

Dear Mr. Symkowick:

Your letter requesting advice concerning the recently enacted campaign finance reform initiatives (Government Code Section 85100, et seq.) was received on August 30, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John McLean, an attorney in the Legal Division, directly at (916) 322-5901.

Because of the delayed operative date of most of the provisions of these initiatives, and the numerous inquiries we are receiving relative to implementation, we are attempting to respond to questions regarding interpretation in an organized and efficient fashion. Due to the volume of requests and complexity of the issues involved, we will answer your question in a timely manner, but not within the usual twenty-one working days. (Government Code Section 83114(b).)

If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,


Gregory W. Baugher
Executive Director

GWB:plh:3



CALIFORNIA STATE DEPARTMENT OF EDUCATION

Bill Honig

721 Capitol Mall; P.O. Box 944272

Superintendent

Sacramento, CA 94244-2720

of Public Instruction

August 26, 1988

Diane M. Griffiths
General Counsel,
Fair Political Practices Commission
428 J Street
Suite 800
Sacramento, CA. 95814

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Prohibition In Government Code section 89001, As Amended by
Proposition 73, Adopted by the Voters on June 7, 1988.**

Dear Diane:

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August 26, 1988
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- o From Vision to Reality, California State Department of Education Annual Report for 1988.
- o Here They Come: Ready or Not, Report of the School Readiness Task Force, California State Department of Education, 1988.
- o Mathematics Framework, California State Department of Education, 1985.
- o New California Schools, Superintendent Honig's Report to the State on Current Issues in California Education, Winter, 1987-88.
- o Schools and Drugs, Crime Prevention Center, Office of the Attorney General, 1987.
- o School/Law Enforcement Partnership Conference, John K. Van de Kamp, Attorney General, Bill Honig, Superintendent of Public Instruction, 1988.
- o Report to the Governor, California Commission on Educational Quality, 1988.
- o Accountability Over K-12 Educational Funding, Office of the State Controller, 1988.

Each of these publications names the responsible elected official and the agency on the cover. For example:

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DEPARTMENT OF EDUCATION

Bill Honig -- Superintendent
of Public Instruction
Sacramento, 1988
(From Vision to Reality)
- o John Van de Kamp Bill Honig
Attorney General Superintendent of
Public Instruction
(School/Law Enforcement
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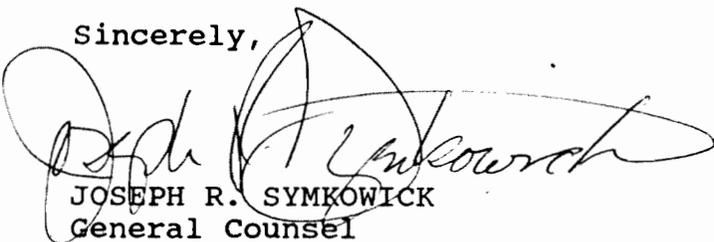
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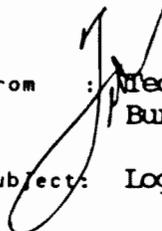
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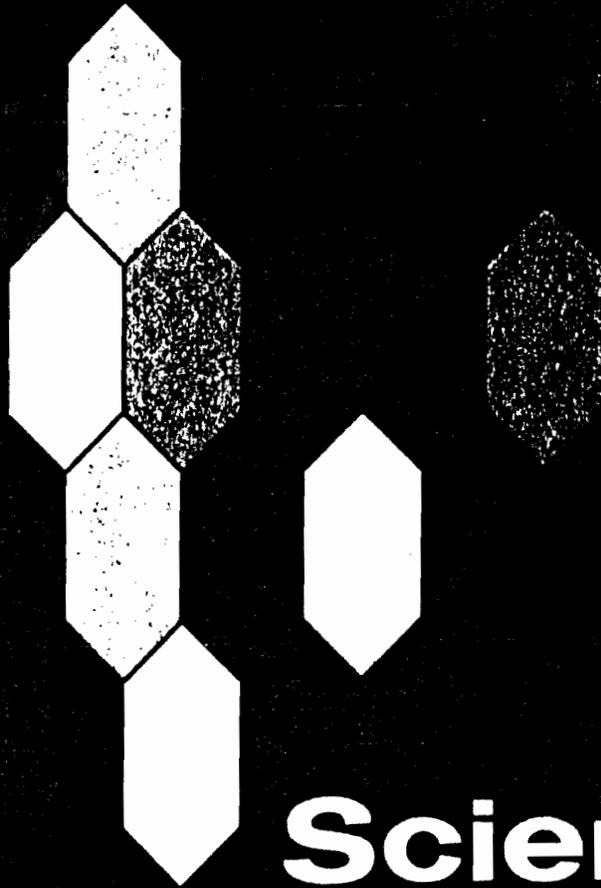
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