



# California Fair Political Practices Commission

February 28, 1989

Donald L. Clark  
Santa Clara County Counsel  
County Government Center, East Wing  
70 West Hedding Street  
San Jose, CA 95110

Re: Your Request for Advice  
Our File No. I-89-031

Dear Mr. Clark:

You have requested advice regarding application of the mass mailing provisions of the Political Reform Act (the "Act")<sup>1/</sup> as amended by Proposition 73 on the June 7, 1988 ballot.

## QUESTION

Notices of public meetings to be held by an elected public officer may in certain circumstances be sent in a mass mailing to the elected officer's constituents at public expense. May such notices be signed by an elected officer?

## CONCLUSION

If the notice is signed by an elected officer, a mass mailing of the notice may not be sent at public expense. The notice may however identify the name of the elected officer.

## 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).

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<sup>1/</sup> 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.

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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. Subdivision (f) of Regulation 18901 exempts certain types of mailings from the mass mailing prohibition of Section 89001. One of these exemptions includes:

(8) Mailings sent to the elected officer's constituents which directly relate to that elected official's incumbent governmental duties and which solely include the time, date, place, and a concise description of the subject matter of a public meeting to be held by the elected officer;

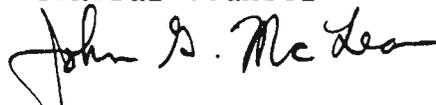
Section 89001 contains a broad ban on mass mailings sent at public expense. The exemptions to that ban are to be narrowly construed.

In the present situation, the exemption specifies that the notice may "solely include" the time, date, place, and a concise description of the subject matter of the meeting. While the exemption does not specify that the elected officer's name may be included in the description of the subject of the meeting, this is implicit in the exemption. If the notice did not contain any reference to an elected officer, the mass mailing prohibition would not apply to the notice and no exemption would be necessary. However, the exemption does not specify that the elected officer may sign the notice. Accordingly, we believe that the notice may identify the elected officer holding the meeting, but may not be signed by the officer.

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

Sincerely,

Diane M. Griffiths  
General Counsel



By: John G. McLean  
Counsel, Legal Division

DMG:JGM:ld

**County of Santa Clara**  
**California**

Office of the County Counsel  
County Government Center, East Wing  
70 West Hedding Street  
San Jose, California 95110  
299-2111 Area Code 408

F P P C

Donald L. Clark, County Counsel

JAN 17 3 45 PM '89

January 13, 1989

John G. McLean, Counsel  
Fair Political Practices Commission  
428 J Street  
Sacramento, CA 95814

Re: Mass Mailings  
Regulation 18901(f)(8)

Dear John:

You have advised me an elected official cannot sign a notice in a mailing which she sends to her constituents, advising them of a public meeting, authorized by subsection (8) of Regulation 18901(f). I ask that you reconsider this question and conclude that the exemption in subsection (8) does allow the elected official to sign the notice. The intent of the exemption supports the conclusion that the elected official can send out the notice and sign it, where the contents of the notice meet the requirements of subdivision (8).

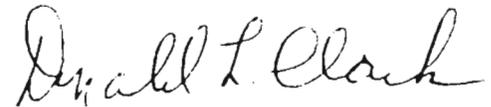
You will recall I appeared at the Commission's hearings on September 8, 1988 and December 8, 1988, when it noticed and adopted the new regulation on mass mailings, Section 18901. I, and others, urged the Commission to include subdivision (8) (referred to as "option 4.8") in the exemptions to the mass mailing prohibition. The purport of the discussions with the Commission on this exemption assumed the elected official would sign and send out the notice. The debate before the Commission focused on the "concise description" of the subject matter of the notice and the limitation that it "directly relate to the elected official's incumbent governmental duties". I thought you agreed with our point of view.



Ltr. to John McLean  
January 13, 1989  
Page Two

We appreciate your help in our efforts to comply with the statute and the Commission's regulations.

Very truly yours,

A handwritten signature in cursive script that reads "Donald L. Clark".

DONALD L. CLARK  
County Counsel

DLC:lw

c: Board of Supervisors  
District Attorney  
Louis Green, Sunnyvale City Attorney  
Sheryl Patterson, League of California Cities



# California Fair Political Practices Commission

January 23, 1989

Donald L. Clark  
Santa Clara County Counsel  
County Government Center, East Wing  
70 West Hedding Street  
San Jose, CA 95110

Re: Letter No. 89-031

Dear Mr. Clark:

Your letter requesting advice under the Political Reform Act was received on January 17, 1989 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.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. 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. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329.)

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,

Kathryn E. Donovan  
Acting General Counsel

KED:plh

89-031

Office of the County Counsel  
County Government Center, East Wing  
70 West Hedding Street  
San Jose, California 95110  
299-2111 Area Code 408

County of Santa Clara  
California

FPPC

Donald L. Clark, County Counsel

JAN 17 3 43 PM '89

January 13, 1989

John G. McLean, Counsel  
Fair Political Practices Commission  
428 J Street  
Sacramento, CA 95814

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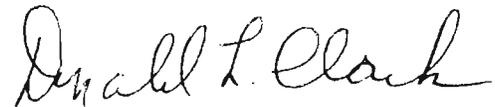
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DONALD L. CLARK  
County Counsel

DLC:lw

c: Board of Supervisors  
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