



# California Fair Political Practices Commission

February 14, 1989

R. W. Goff  
San Jose/Evergreen Community  
College District  
4750 San Felipe Road  
San Jose, CA 95135-1599

Re: Your Request for Advice  
Our File No. A-89-032

Dear Mr. Goff:

We have received your request for advice regarding the mass mailing provisions of the Political Reform Act (the "Act").<sup>1/</sup> As the Chancellor of the San Jose/Evergreen Community College District, you want to ensure that the schedule of classes, which is mailed to every household in the district, is in compliance with the new mass mailing provisions contained in Proposition 73.

### QUESTION

May the names of the elected governing board of trustees be printed in the Community College District schedule of classes?

### CONCLUSION

The roster listing exception to the mass mailing provisions of the Act permits the schedule of classes to list the names of the chancellor, college presidents and board of trustees, provided that their names appear in the same typeface, size and location in the layout.

### FACTS

The San Jose/Evergreen Community College District is governed by an elected board of trustees, which represents approximately 800,000 people. Everything that is done in the community college district is subject to the control of the board of trustees. As

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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.

specifically regards the schedule of classes, the board authorizes the money for developing content, printing and mailing. The schedule of classes is mailed to every household in the district.

Your request states that you would like to include the following sentence on a page of the schedule of classes: "If you want to communicate with any of the officers of the San Jose/ Evergreen Community College District, the following is offered for your convenience." Beneath this will appear the name of the chancellor, college presidents, and the heading "Board of Trustees," followed by the names of the elected trustees. The trustees' names will be in the same type size as the other names.

#### ANALYSIS

Section 89001 provides that no newsletter or other mass mailing shall be sent at public expense. At its December 6, 1988 meeting, the Commission adopted Regulation 18901 (copy enclosed),<sup>2/</sup> which implements Section 89001. Regulation 18901(a) states as follows:

(a) Except as provided herein, a newsletter or other mass mailing is "sent at public expense" within the meaning of Government Code Section 89001 if any of the costs of design, production, printing or distribution is paid for with public moneys as defined in Government Code Section 85102(e).

Regulation 18901(e) establishes an exception to the mass mailing prohibitions if certain criteria are met. 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, forms 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

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<sup>2/</sup> This regulation is under review with the Office of Administrative Law. We advise that the regulation be followed while it is undergoing review and we anticipate that it will be in effect on approximately April 1, 1989.

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. (Emphasis added.)

This roster listing exception applies to your inquiry, provided that all of the names listed appear in the same typeface, size and location in the layout of the class schedule and that no other mention is made of the officials.

I hope this letter answers your question regarding the mass mailing requirements as they pertain to class schedules. If you have any questions, please call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

By:  Jill R. Stecher  
Counsel, Legal Division

DMG:JRS:ld

Enclosure

4750 San Felipe Road  
San Jose, California 95135-1599  
(408) 274-6700

San Jose/Evergreen Community College District

F P P C

JAN 17 3 43 PM '89

R. W. Goff, Chancellor

San Jose City College  
Evergreen Valley College

January 13, 1989

Fair Political Practices Commission  
Legal Division  
428 J Street, Suite 800  
Sacramento, CA 95814

Attention: John McLean

Dear Mr. McLean:

Much discussion has taken place with regard to what Proposition 73 does and does not prohibit. What I need is a rather simple yes or no as to whether I can print the names of the Governing Board (they are elected) in our schedule of classes which is mailed to every household in our district.

Our District Board of Trustees represents a population of approximately 800,000 people. The trustees are essentially low visibility because the newspaper and other media do little or no coverage of our institution. If a person receives a schedule of classes mailed to his home and he wants to write a letter of concern to our trustees, he does not know the names of our trustees in order to address the letter. It is also probable that he does not know that we are governed by a board of trustees, so he really doesn't know how to address the letter in order to get to the top decision makers.

The FPPC regulations state that the name of an officer can not be listed in a mass mailing if the elected officer exercises direction or control over the content, production, or distribution of the document. This remains vague in terms of our mailing of the schedule of classes. Everything that is done in our community college district is subject to the control of our Board of Trustees. With regard to our schedule of classes the Board authorizes us to expend the money for developing content, printing and mailing. So to that extent they control and direct. Does that preclude them from having their names in the schedule?

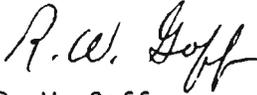
Fair Political Practices Commission

January 13, 1989

What I would like to do is state on a page in the schedule of classes, "If you want to communicate with any of the officers of the San Jose/ Evergreen Community College District, the following is offered for your convenience." Then name the chancellor and college presidents and under the heading "Board of Trustees" print in same type size the names of the elected trustees.

May I do that?

Sincerely,



R. W. Goff  
Chancellor

RWG:mp

cc: Trustee Richard Bowers

4750 San Felipe Road  
San Jose, California 95135-1599  
(408) 274-6700

FPPC

San Jose/Evergreen Community College District

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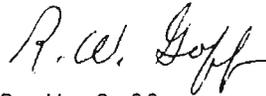
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Sincerely,



R. W. Goff  
Chancellor

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cc: Trustee Richard Bowers