



# California Fair Political Practices Commission

April 3, 1989

Rhonda Sjostrom  
Public Information Officer  
Administration Building  
County Civic Center  
Visalia, CA 93291

Re: Your Request for Advice  
Our File No. I-89-115

Dear Ms. Sjostrom:

This is in response to your request for advice regarding the application of Section 89001 of the Political Reform Act (the "Act")<sup>1</sup> to the County of Tulare. Because your request is more of a general inquiry rather than a request for advice about a specific pending decision, we treat your request as one for informal assistance pursuant to Regulation 18329(c) (copy enclosed).<sup>2</sup>

## QUESTIONS

1. Is distribution by Tulare County (the "county") of a county employee newsletter to its employees prohibited by Section 89001?

---

<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.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c) (3).)

2. Does Section 89001 prohibit the county from mailing the employee newsletter to the following entities?

- (a) Local, state, or federal elected officials.
- (b) City councils.
- (c) Boards of supervisors.
- (d) Retired employees.
- (e) Chambers of commerce.

3. Does Section 89001 prohibit the county from placing the employee newsletter on a counter or a table for public reading and distribution?

#### CONCLUSIONS

1. Regulation 18901(f)(3) permits intra-agency communications, such as newsletters, sent in the normal course of business to the agency's employees, despite the prohibitions of Section 89001.

2. Regulation 18901(f)(2) permits mailings sent in the normal course of business from one governmental entity or officer to another governmental entity or officer. Therefore, the employee newsletter may be mailed to:

- (a) Local, state, or federal elected officials.
- (b) City councils.
- (c) Board of supervisors.

However, Section 89001 prohibits mass mailings to the retired employees and the chambers of commerce.

3. Regulation 18901(h) does not prohibit the county from placing the employee newsletter on a counter or table at the county's offices to be picked up by members of the public.

#### ANALYSIS

Section 89001 states:

No newsletter or other mass mailing shall be sent at public expense.

Section 82041.5 defines a "mass mailing" as:

[O]ver 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.

This analysis assumes that more than 200 copies of the employee newsletter are distributed in any calendar month. (See Regulation 18901(d), copy enclosed.)

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

1. Employee newsletters distributed to the employees.

Subdivision (f) of Regulation 18901 excludes certain communications from the prohibitions of Section 89001. Subdivision (f)(3) of Regulation 18901 excludes:

Intra-agency communications sent in the normal course of business to employees, officers, deputies and other staff.

Thus an employee newsletter mailed to employees of the city in the normal course of business is specifically excluded from the prohibitions of Section 89001.

2. Newsletters mailed to other entities.

As noted above subdivision (f) of Regulation 18901 excludes certain communications from the prohibitions of Section 89001. Subdivision (f)(2) of Regulation 18901 excludes:

Mailings sent in the normal course of business from one governmental entity or officer to another governmental entity or officer.

Since local, state, or federal elected officials are governmental officers within the meaning of subdivision (f)(2) of Regulation 18901, employee newsletters sent by Tulare County in the normal course of business to such governmental officers are excluded from the prohibition of Section 89001. Similarly, city councils and board of supervisors are governmental entities within the meaning of subdivision (f)(2) of Regulation 18901. Therefore, employee newsletters sent by Tulare County to such governmental entities are excluded from the prohibition of Section 89001.

Employee newsletters sent to retired employees or to chambers of commerce are not excluded under subdivision (f) of Regulation 18901. Therefore, such mailings are prohibited by Section 89001.

3. Employee newsletters placed on a counter or a table for public reading or distribution.

As noted above, a mass mailing is defined as "two hundred or more 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, emphasis added.) Thus any newsletter or other item sent in

Rhonda Sjostrom  
April 3, 1989  
Page 4

response to an unsolicited request for such newsletter or item is not considered a mass mailing and therefore not prohibited by Section 89001.

Subdivision (h) of Regulation 18901 provides in relevant part:

Members of the public who came to an agency's offices or to a meeting and who pick up materials for themselves will be deemed to have made an unsolicited specific request for those materials.

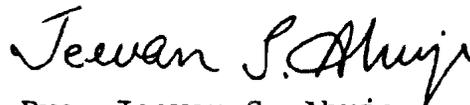
Regulation 18901(h), emphasis added.

Thus the employee newsletters may be placed on a counter or a table at the county offices to be picked up by members of the public. The distribution that results from the members of the public picking up the newsletters for themselves is not prohibited by Section 89001.

I trust this letter has provided you with the assistance you requested. If you have any further questions regarding this matter, please contact me at (916) 322-5901

Sincerely,

Diane M. Griffiths  
General Counsel



By: Jeevan S. Ahuja  
Counsel, Legal Division

Administration Building  
County Civic Center  
Visalia, California 93291  
(209) 733-6531

# County of Tulare

JOHN C. McCLURE, II  
County Executive



FEB 11 11 24 AM '89

February 9, 1989

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

Attention: John McLean

Dear Mr. McLean:

This is in follow-up to my December 20, 1988, telephone conversations with Jeevan Ahuja and Janet Turvell concerning interpretation of Commission Regulation 18901. This regulation addresses newsletters and mass mailings sent at public expense. Specifically, I am concerned about the impact of this regulation on a County employee newsletter. It is my understanding, from the telephone discussion with staff in your office, that employee newsletters are allowed under Option 4.3: "Intra-agency communications sent in the normal course of business to employee,...." Would you please confirm, or deny, this use in writing. Furthermore, can an employee newsletter be mailed to other entities? Can it be mailed to: city councils; local, state or federal elected officials; chambers of commerce; boards of supervisors; retired employees; or other groups? Also, can an employee newsletter be placed on counter/tables for public readings and distribution?

Your assistance in clarifying the interpretation of this regulation and specifying allowable communications would be greatly appreciated. If you have any questions regarding this request, please contact me at (209) 733-6531. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rhonda Sjostrom".

**Rhonda Sjostrom**  
Public Information Officer

RS:plm

