



# California Fair Political Practices Commission

March 3, 1989

Marc Effron  
Project Manager  
R & L Consulting Group  
10670 Treena Street, Suite 210  
San Diego, CA 92131

Re: Our File No. I-89-139

Dear Mr. Effron:

You have requested advice concerning the duties of an unnamed city councilmember under the Political Reform Act (the "Act").<sup>1/</sup> The Commission does not provide advice to a third party about the conduct of a public official unless the third party is the authorized representative of the public official and discloses the name of the official. (Section 83114; Regulation 18329(c), copy enclosed.) Therefore, we decline to provide the advice you have requested.

Enclosed is a copy of a complaint form. If your questions relate to a public official's past conduct and you believe that conduct is in violation of the Act, you may file a complaint with the Commission's Enforcement Division. Please contact the Enforcement Division at (916) 322-6441 if you have any questions about the complaint procedure.

Sincerely,

Diane M. Griffiths  
General Counsel

*Kathryn E. Donovan*

By: Kathryn E. Donovan  
Counsel, Legal Division

DMG:KED:plh

Enclosures

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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.

# Memorandum

To : File No. M-89-140

Date : March 3, 1989

From : FAIR POLITICAL PRACTICES COMMISSION  
Kathy Donovan

Subject: Recall Elections and Contribution Limits

We recently received a request for telephone advice regarding application of the contribution limits to a recall campaign in Orange County. Diane and I discussed this, and we have decided to advise that the contribution limits do not apply to recall elections because those elections are ballot measure elections. (See Section 82043, which defines "measure.")

Therefore, the proponents of a recall effort are not subject to the contribution limits. The elected official who is the object of the recall campaign also can raise money in unlimited amounts for defense against the recall campaign; however, he or she must establish a separate committee specifically for this purpose and not use that money for anything else. If the elected official follows this procedure, the money collected from contributors by the recall defense committee does not count towards the contribution limits for the official's candidacy committee(s).

KED:plh:89140

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10670 TREENA STREET  
SUITE 210  
SAN DIEGO, CA 92131  
(619) 586-7993

February 22, 1989

Fair Political Practices Commission  
428 J Street, Suite 800  
P.O. Box 807  
Sacramento, CA 95804-0807

Dear Sir or Madam:

I am in need of a written opinion on the following situation:

Councilperson X was elected in April 1986, and had a surplus of campaign funds remaining. The Councilperson will be up for re-election in April 1990, and has not filed a Form 501.

**QUESTION:**

1. Can the Councilperson conduct a voter attitude and issue awareness survey, which would be for general public release, with the existing funds, without declaring candidacy and filing a 501?
2. If this is legal, can a survey question be phrased, "What individual would you vote for, if the Mayoral elections were held today?", if no potential responses were given?

Please feel free to contact me if you need additional clarification on this matter.

**R & L CONSULTING GROUP, INC.**

**Marc Effron**  
Project Manager  
Governmental & Political Affairs

ME/ca



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Sincerely,

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General Counsel

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Counsel, Legal Division

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