



California Fair Political Practices Commission

April 14, 1989

The Honorable Jerry Eaves
Member of the Assembly
State Capitol
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. I-89-~~109~~ 189

Dear Mr. Eaves:

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.

QUESTION

May you send out at public expense several thousand postcards announcing two "seniorfairs" at which you will speak and which you are sponsoring for seniors?

CONCLUSION

A mass mailing of the postcards may not be sent at public expense so long as the text of the postcards makes reference to you. If the text does not make reference to you, the mailing may include your name in the return address if it is sent on your standard letterhead, forms or envelopes.

FACTS

You have asked whether you may send a postcard at public expense to several thousand constituents. The postcard announces two separate events which you are sponsoring for seniors. You will be present at both events to talk to seniors and to let them know about your legislative program.

^{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.

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. (Section 82041.5.)

Regulation 18901 (copy enclosed) clarifies that the purpose of Section 89001 is to prevent elected officers from using public funds to send out newsletters and other mass mailings. Specifically, a mass mailing may not be sent at public expense if it is sent by an elected officer and includes the name, office, photograph or other reference to the elected officer on the document. (Regulation 18901 (c)(2)(A)(ii).) Subdivision (f) of the regulation lists several exemptions from the prohibition, two of which are relevant here.

Subdivision (f)(8) exempts:

(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;

Subdivision (f)(10) exempts:

(10) Announcements of the time, date, place, and subject matter of official agency events which include a listing of elected officers and others who will participate in the events.

The postcard you have sent us (copy attached) includes your name in its text. Accordingly, unless it falls under one of the listed exemptions, it may not be sent in a mass mailing at public expense.

We do not believe the postcard falls under either of the exemptions. The exemptions are to be narrowly construed. (Lancaster Advice Letter, No. I-89-026; Clark Advice Letter, No. I-89-031; Kurle Advice Letter, No. A-89-099; copies enclosed.) The exemption in subdivision (f)(8) applies to notices of a public meeting to be held by the elected officer. The postcard notifies constituents about the "seniorfairs" at which "more than 70 experts" will be available to answer questions on various issues of interest to seniors. The seniorfairs will be held on two different days from 10:00 a.m. to 2:00 p.m. The postcard then mentions that you will also be there to talk about your legislative program, and issues of concern to the Legislature. This is not the type of notice to which the exemption applies. The "seniorfairs" are much more than public meetings at which you will enter into an exchange with your constituents relating to your incumbent governmental duties. They are informational events

The Honorable Jerry Eaves
April 14, 1989
Page 3

at which seniors will be able to obtain information about issues from a variety of individuals and sources. For example, the notice provides that "[M]ore than 70 experts will be available to answer your questions on issues such as catastrophic health laws, crime prevention, campaign programs, government benefits, fitness, free health screenings, and much more."

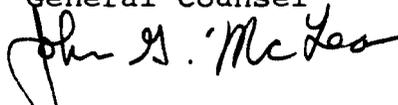
The postcard also fails to qualify as an announcement of an official agency event as described in subdivision (f)(10). This event is not sponsored by the Legislature. Furthermore, the postcard contains information beyond that allowed under the exemption.

The postcards may be sent at public expense if there is no reference made to you in the text. Your name may appear in the return address if the mailing is sent on your standard letterhead, forms or envelopes. (Mott-Smith Advice Letter, No. A-89-153; Gentry Advice Letter No. A-89-166; copies enclosed.)

I trust this answers your question. 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

Enclosure



California Fair Political Practices Commission

March 31, 1989

Honorable Jerry Eaves
Assemblymember, Sixty-Sixth District
State Capitol
Sacramento, CA 95814

Re: Letter No. 89-189

Dear Assemblyman Eaves:

Your letter requesting advice under the Political Reform Act was received on March 30, 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,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh

SACRAMENTO OFFICE

State Capitol
Sacramento
California 95814
(916) 445-4843

DISTRICT OFFICE

224 N. Riverside Avenue
Suite A
Rialto, California 92376
(714) 820-1902

Assembly California Legislature

JERRY EAVES

ASSISTANT MAJORITY FLOOR LEADER
ASSEMBLYMAN, SIXTY-SIXTH DISTRICT

REPRESENTING THE CITIES AND COMMUNITIES OF RIALTO,
SAN BERNARDINO, FONTANA, COLTON, ONTARIO, BLOOMINGTON, AND LAKE ARROWHEAD

COMMITTEES:

FINANCE AND INSURANCE

CHAIRMAN, UNEMPLOYMENT
AND DISABILITY
INSURANCE SUBCOMMITTEE

TRANSPORTATION

CHAIRMAN, CALIFORNIA
HIGHWAY PATROL
SUBCOMMITTEE

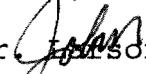
UTILITIES AND COMMERCE

WAYS & MEANS

CHAIRMAN, SELECT
COMMITTEE ON AVIATION

March 30, 1989

Mr. John H. Larson
Chairman
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Dear Mr.  Larson:

This is to request an FPPC opinion as to the legality of mailing a postcard at government expense to several thousand constituents. The postcard announces two separate events which I am sponsoring for seniors and will be attended by experts on issues affecting the elderly. I will be present at both events to talk to seniors about the issues which are important to them and to let them know about my legislative program.

The text of the postcard is enclosed.

In order to meet time-line requirements, I would like your reply within 10 working days.

Sincerely,


JERRY EAVES

JE:deb

Enclosure

Celebrate Older Americans Month
at the Second Annual Seniorfairs!

More than 70 experts will be available to answer your questions on issues such as catastrophic health laws, crime prevention, companion programs, government benefits, fitness, free health screenings, and much more.

Assemblyman Jerry Eaves will be there to talk with you about his legislative program, issues of concern to the Legislature and to answer any questions you may have about these issues.

Learn what services are available for you!

Friday, May 12th, 10 a.m. to 2 p.m.
Peter Luque Center, 292 "O" Street, Colton

Friday, May 19th, 10 a.m. to 2 p.m.
Steelworkers Oldtimers Centre, 16707 Marygold, Fontana

Please call 820-1902 no later than May 2 for reservations.