



California Fair Political Practices Commission

May 4, 1989

James C. Emerson
Deputy County Counsel
County Government Center, East Wing
70 West Hedding Street
San Jose, CA 95110

Re: Your Request for Advice
Our File No. A-89-197

Dear Mr. Emerson:

This is in response to your request for advice concerning the applicability of the mass mailing prohibition of the Political Reform Act (the "Act")¹ to the "masthead" on the newsletter Discovery published by the West Valley-Mission Community College District.

QUESTION

Does a "masthead" which includes a roster of the names of elected officials on the governing board of a community college district violate the mass mailing prohibition of the Act?

CONCLUSION

A masthead which includes a roster of names does not violate the mass mailing prohibition of the Act if all the names are displayed in the same type size, typeface and location on the page.

FACTS

The West Valley-Mission Community College District publishes the newsletter Discovery. The "masthead" on the district's newsletter contains a roster listing the names of all elected

¹ Government Code Section 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.

members of the governing board of the district. All the names appear in the same type size and typeface and are grouped together on the left side of the page.

The "masthead" also includes a roster of administrators, the seal of the community college district, and the district's address.

You are a Deputy County Counsel for the County of Santa Clara. In that capacity, you represent the West Valley-Mission Community College District. The district has requested your advice concerning the applicability of the mass mailing prohibition to the aforementioned "masthead."

ANALYSIS

Government Code Section 89001 prohibits mass mailings at public expense. A mass mailing consists of more than 200 substantially similar pieces of mail. (Section 82041.5.) A mass mailing is sent at public expense if any of the costs of design, production, printing or distribution is paid for with public moneys. (Regulation 18901(a), copy enclosed.)

Mass mailings are not prohibited if they contain only information or material sent in response to unsolicited specific requests contained in written correspondence or oral inquiries received by the elected officer or by an agency with which the officer is affiliated. (Regulation 18901(b).)

Under Section 89001, mass mailings generally are prohibited, however, if they contain the name or photograph of an elected official. (Regulation 18901(c).) An exception to this rule is contained in Regulation 18901(e), which provides that a mass mailing is not prohibited by 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 elected official and the newsletter or mass mailing is not otherwise prohibited under subdivision (c) because of additional references to the elected officer.

Regulation 18901(e).

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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. 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. (Regulation 18901(e).)

You have submitted a sample of the "masthead" used by the West Valley-Mission Community College District in the standard format for its newsletter Discovery. Because all the names of the elected officials appear in the "masthead" in the same typeface, type size and location in the layout, the "masthead" complies with Regulation 18901(e) discussed above, and does not otherwise violate the mass mailing prohibition.

I trust this letter adequately responds to your inquiry. Should you have any further questions, you may contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel

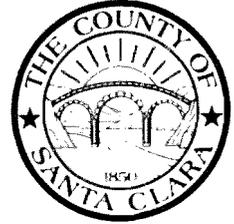

By: Blanca M. Breeze
Counsel, Legal Division

KED:BMB:plh

County of Santa Clara

Office of the County Counsel

County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-2111



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Donald L. Clark
County Counsel

April 3, 1989

Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, California 95814

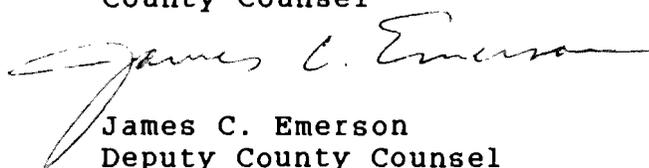
Attention: Legal

Dear Gentleperson:

Please be advised that I represent the West Valley-Mission Community College District who has requested my advice concerning the applicability of Proposition 73 to the enclosed "Masthead" which is found on the District newsletter Discovery. We are seeking your opinion concerning the legality of the "Masthead" format. We will await your response.

Very truly yours,

DONALD L. CLARK
County Counsel


James C. Emerson
Deputy County Counsel

JCE/nlw
Enclosure
cc: Steven Penn
idl7, p.3

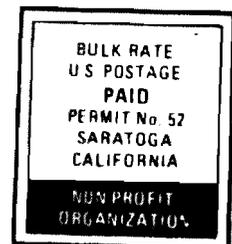
West Valley-Mission
Community College District

Governing Board
Patricia Mahan, President
Dr. Norman Abrahams, Vice-President
Dr. Shu-Park Chan
Mastene Duffin
Phil Stokes
Paul Tyksinski
Phyllis Williams

Administration
Dr. Gustavo Mellander, Chancellor
Dr. Dale Johnston, West Valley President
Dr. Betty Dean, Mission President
Dr. Stephen Penn, Vice-Chancellor, Business



WEST VALLEY MISSION COMMUNITY COLLEGE DISTRICT
14000 Fruitvale Avenue
Saratoga, CA 95070-5698



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County of Santa Clara

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APR 5 3 17 PM '89



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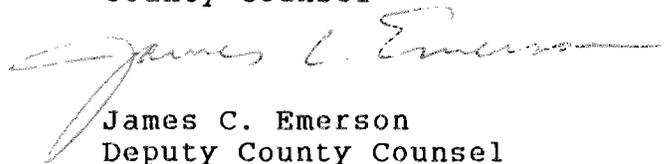
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Very truly yours,

DONALD L. CLARK
County Counsel


James C. Emerson
Deputy County Counsel

JCE/nlw
Enclosure
cc: Steven Penn
id17, p.3





California Fair Political Practices Commission

April 7, 1989

James C. Emerson
Deputy County Counsel
County of Santa Clara
County Government Center, East Wing
70 West Hedding Street
San Jose, CA 95110

Re: Letter No. 89-197

Dear Mr. Emerson:

Your letter requesting advice under the Political Reform Act was received on April 5, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Blanca Breeze 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,

Diane M. Griffiths
General Counsel

DMG:plh