



California Fair Political Practices Commission

June 15, 1989

Arthur J. Krannawitter
Legal Counsel
Fremont Unified School District
4210 Technology Drive
P.O. Box 5008
Fremont, CA 94537-5008

Re: Your Request for Advice
Our File No. A-89-300

Dear Mr. Krannawitter:

This is in response to your request for advice regarding application of the mass mailing provisions of the Political Reform Act (the "Act")¹ to the "school accountability report card" of the Fremont Unified School District (the district).

QUESTION

May the names of elected members of the governing board of the Fremont Unified School District be printed on the school accountability report card of the district?

CONCLUSION

A roster listing the names of all the elected members of the governing board of the Fremont Unified School District may appear on the district's school accountability report card.

FACTS

Proposition 98, approved by the voters at the general election held on November 8, 1988, amends the California Constitution by inclusion of certain provisions pertaining to the management of public schools. In particular, Article XVI, Section 8.5(e) requires that school districts maintaining elementary or secondary

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.

schools develop and prepare an annual audit accounting for the use of school funds and adopt a school accountability report card for each school.

The district is now in the process of developing a format for the school accountability report card. Each school in the district will prepare its own school accountability report card following a format developed by the district. It is expected that this report card will consist of several pages containing information about each individual school. The report card will be distributed by each school to parents, teachers, and the community, to inform the public and solicit comments about the performance of each school.

The report card will be printed on school stationery. Each school has its own stationery which is different from the stationery used by other schools in the district.

At present, most schools do not include the names of the elected members of the board of education in their stationery. Board members are elected at large. The district would prefer to include the names of the elected board members in the stationery used by each school for distribution of the report card to the public so that interested persons may contact the board member of their choice.

As counsel for the district, you have asked us to determine whether the names of the elected board members may be included in the report.

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 sent in any calendar month, 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, Regulation 18901(d), copy enclosed.)

Regulation 18901 clarifies that the purpose of Section 89001 is to prevent elected officers from using public funds to send out newsletters and other mass mailings. (Symkowitz Advice Letter, No. I-88-339, copy enclosed.)

Regulation 18901(e) provides in pertinent part that 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, form 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)....

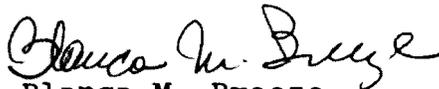
The term "letterhead or logotype" includes a listing of agency or committee officials or members, in which all who are listed appear in the same typeface and type size and location in the layout of the newsletter or other mass mailing. The term "standard letterhead or logotype" refers to any regularly used by the agency. If the document 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 place of the agency's standard stationery letterhead. (Regulation 18901(e).)

A roster containing the names of all elected board members in the same typeface, size and location in the layout would be in compliance with the mass mailing prohibitions of the Act. (Biondo Advice Letter, No. A-89-022, copy enclosed.) However, the names of the elected officials may not appear elsewhere in the report card nor may photographs or signatures of the officials be included. (Regulation 18901(c).)

I trust this letter clarifies the application of the mass mailing provisions of the Act to the district's report card. Should you have any further questions regarding this matter, do not hesitate to call me at (916) 322-5901.

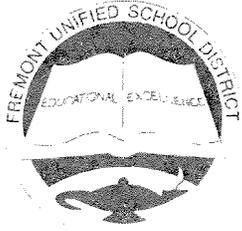
Sincerely,

Kathryn E. Donovan
General Counsel

By: 
Blanca M. Breeze
Counsel, Legal Division

KED:BMB:plh

Enclosures



MAY 17 1989

**FREMONT
UNIFIED SCHOOL
DISTRICT**

May 17, 1989

Board of Education

Robert Stipicevich
President

Christine Hill
Vice President

Betty Hollenbeck
Clerk

James Klient
Member

Thelma Jordan
Member

Raphael R. Belluomini
Superintendent
659-2542

Stephen P. Collins, Ed.D.
Assistant Superintendent
Instruction
659-2576

Peter J. Ysitis
Assistant Superintendent
Business
659-2572

Arthur J. Krannawitter
Legal Counsel
659-2534

Wess Peterson
Assistant Superintendent
Personnel
659-2556

FPPC

Legal Division
428 J Street, Suite 800
Sacramento, CA. 95814

ATTENTION: Diane M. Griffiths

Dear Ms. Griffiths:

Enclosed, please find copy of Proposition 98, passed by the voters last November. Section 3.5(e) provides for adoption of "School Accountability Report Card" for each school.

"Report Cards" will receive wide distribution in the Fremont school community and members of the Board of Education should be identified thereon to facilitate direct community input.

Question: Can the names of elected members of the Governing Board be printed on FUSD "Report Cards"? If so, are there restrictions which apply?

Your guidance would be most appreciated.

Sincerely,

Arthur J. Krannawitter
Legal Counsel-Fremont Unified School District

AJK:jf

Enclosure

4210 Technology Drive
P.O. Box 5008
Fremont, California
94537-5008
415/657-2360

FAX No. 415/770-9851

to revenue

shall not include ad created by the tions limit of any being deposited in the Tobacco Tax

held Nov. 8,

are, or part thereof, is unconstitutional, the d but will remain in

e applied by the ation.

for the support r of:

which may be l Fund revenues al year 1986-87;

and community uant to Article unt from these nges in the cost

ne year by the at no urgency ny bill enacted

held Nov.

st growing in the for an additional

ve become so ser- v has the largest

o once again have the nation.

"(e) It is the intent of the People of California to ensure that our schools spend money where it is most needed. Therefore, this Act will require every local school board to prepare a School Accountability Report Card to guarantee accountability for the dollars spent.

"(f) This Act will require that excess state funds be used directly for classroom instructional improvement by providing for additional instructional materials and reducing class sizes.

"(g) This Act will establish a prudent state reserve to enable California to set aside funds when the economy is

strong and prevent cutbacks or tax increases in times of severe need or emergency."

"Section 13. No provision of this Act may be changed except to further its purposes by a bill passed by a vote of two-thirds of the membership of both houses of the Legislature and signed by the Governor.

"Section 14. Severability

"If any provision of this Act, or the application of any provision of this Act to any person or circumstance, shall be held invalid, the remainder of this Act, to the extent that it can be given effect, shall not be affected thereby, and to this end the provisions of this Act are severable."

§ 8.5. Allocations to state school fund

Sec. 8.5. (a) In addition to the amount required to be applied for the support of school districts and community colleges pursuant to Section 8(b), the Controller shall during each fiscal year transfer and allocate all revenues available pursuant to subdivision (a) of Section 2 of Article XIII B, up to a maximum of four percent (4%) of the total amount required pursuant to Section 8(b) of this Article, to that portion of the State School Fund restricted for elementary and high school purposes, and to that portion of the State School Fund restricted for community college purposes, respectively, in proportion to the enrollment in school districts and community college districts respectively.

(1) With respect to funds allocated to that portion of the State School Fund restricted for elementary and high school purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Superintendent of Public Instruction mutually determine that current annual expenditures per student equal or exceed the average annual expenditure per student of the ten states with the highest annual expenditures per student for elementary and high schools, and that average class size equals or is less than the average class size of the ten states with the lowest class size for elementary and high schools.

(2) With respect to funds allocated to that portion of the State School Fund restricted for community college purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Chancellor of Community Colleges mutually determine that current annual expenditures per student for community colleges in this state equal or exceed the average annual expenditure per student of the ten states with the highest annual expenditures per student for community colleges.

(b) Notwithstanding the provisions of Article XIII B, funds allocated pursuant to this section shall not constitute appropriations subject to limitation, but appropriation limits established in Article XIII B shall be annually increased for any such allocations made in the prior year.

(c) From any funds transferred to the State School Fund pursuant to paragraph (a) of this Section, the Controller shall each year allocate to each school district and community college district an equal amount per enrollment in school districts from the amount in that portion of the State School Fund restricted for elementary and high school purposes and an equal amount per enrollment in community college districts from that portion of the State School Fund restricted for community college purposes.

(d) All revenues allocated pursuant to subdivision (a) of this section, together with an amount equal to the total amount of revenues allocated pursuant to subdivision (a) of this section in all prior years, as adjusted if required by Section 8(b)(2) of Article XVI, shall be expended solely for the purposes of instructional improvement and accountability as required by law.

(e) Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school.

(Added by Initiative Measure Nov. 8, 1988.)

Addition of this section by Prop. 98 was approved at the general election held Nov. 8, 1988.

Historical Note

1988 Legislation

Sections 1, 2, 13 and 14 of Initiative Measure (Prop. 98) 1988, provide:

"Section 1. This Act shall be known as 'The Classroom Instructional Improvement and Accountability Act'

"Section 2. Purpose and Intent. The People of the State of California find and declare that:

"(a) California schools are the fastest growing in the nation. Our schools must make room for an additional 130,000 students every year.

Additions in text are indicated by underline; deletions by asterisks * * *



California Fair Political Practices Commission

May 23, 1989

Arthur J. Krannawitter
Legal Counsel
Fremont Unified School District
P.O. Box 5008
Fremont, CA 94537-5008

Re: Letter No. 89-300

Dear Mr. Krannawitter:

Your letter requesting advice under the Political Reform Act was received on May 18, 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,


Kathryn E. Donovan
General Counsel

KED:plh