



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

June 3, 2010

Jim Sutton
The Sutton Law Firm
o/b/o Charles Weiland and Alamedans Protecting Learning at Unfunded Schools, Yes on
Measure E

REDACTED

REPLACEMENT

Advisory Letter Re: FPPC Case No. 10-274; Alamedans Protecting Learning at Unfunded Schools, Yes on Measure E, and Charles Weiland

Dear Mr. Sutton:

The Fair Political Practices Commission (FPPC) enforces the provisions of the Political Reform Act (the Act).¹ As you are aware, we recently closed a complaint against Charles Weiland and Alamedans Protecting Learning at Unfunded Schools, Yes on Measure E, ("APLUS") that alleged that Mr. Weiland and APLUS violated the campaign disclosure provisions of the Act by failing to properly file a Statement of Organization (Form 410) at the required locations.

The initial advisory letter sent to your client closed the case based on information provided by Mr. Jeff Normart of the Registrar of Voters Office in Alameda County. Mr. Normart stated that the election was a mail-out procedure under Proposition 218 whereby ballots are mailed to all property owners in an assessment district to determine if there is a majority protest to an assessment. The FPPC does not interpret the Act's jurisdiction to extend to mail-out procedures under Proposition 218.²

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Section 82043 of the Act defines a "measure" as "any constitutional amendment or other proposition which is submitted to a popular vote at an election by action of a legislative body, or which is submitted or is intended to be submitted to a popular vote at an election by initiative, referendum or recall

Based on your letter to us of June 2, 2010, however, which states that Measure E, the school parcel tax which will appear on the Alameda County June 22, 2010 ballot, is an "all-mail" election under applicable provisions of the California Elections Code and is not a Proposition 218 property owner/protest election under California Constitution Article XIII D, we reverse our prior advisory letter. An all-mail election not held under Proposition 218 is under the jurisdiction of the Act. (*Kilby* Advice Letter, No. I-10-047.) This means that the committees supporting and opposing Measure E must file all reports and statements required of measure committees under the Act. Campaign Disclosure Manual 3 - Information for Committees Primarily Formed to Support or Oppose a Ballot Measure, available on the FPPC's website, will assist in this regard.

If you have any questions regarding this letter, please contact me at (916) 322-5660.

Sincerely,

Adrienne Korchmaros
Political Reform Consultant
Enforcement Division

: ak

cc. Howard David
Dave Macdonald and Jeff Normart
Alameda County Registrar of Voters Office
1225 Fallon Street G-1
Oakland, CA 94612-4283



FAIR POLITICAL PRACTICES COMMISSION

128 J Street • Suite 620 • Sacramento, CA 95814-2329
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May 3, 2010

Charles Weiland
Alamedans Protecting Learning at Unfunded Schools, Yes on Measure E

REDACTED

Alamedans Protecting Learning at Unfunded Schools, Yes on Measure E
c/o Charles Weiland

REDACTED

Advisory Letter Re: FPPC Case No. 10-274; Alamedans Protecting Learning at Unfunded Schools, Yes on Measure E, and Charles Weiland

Dear Mr. Weiland:

The Fair Political Practices Commission (FPPC) enforces the provisions of the Political Reform Act (the Act).¹ As you are aware, we recently received a complaint against you and Alamedans Protecting Learning at Unfunded Schools, Yes on Measure E, ("APLUS") alleging that you and APLUS have violated the campaign disclosure provisions of the Act by failing to properly file a Statement of Organization (Form 410) at the required locations.

The Act requires county ballot measure committees to file the Form 410 with the Secretary of State and with the county. (GC § 84101(a).) Although APLUS initially appeared to be a ballot measure committee, Section 82043 of the Act defines a "measure" as "any constitutional amendment or other proposition which is submitted to a popular vote at an election by action of a legislative body, or which is submitted or is intended to

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18409 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

be submitted to a popular vote at an election by initiative, referendum or recall procedure whether or not it qualified for the ballot.” Further, the Act defines “election” as “any primary, general, special or recall election held in this state.” (Section 82022.)

Our investigation determined that you filed the Form 410 with the county as well as a campaign disclosure report (Form 460). It also determined that Measure E in Alameda County was a mail-out procedure under Proposition 218 whereby ballots are mailed to all property owners in an assessment district to determine if there is a majority protest to an assessment.²

In the FPPC’s *Hicks* Advice Letter, No. I-98-007, and *Rogers* Advice Letter, No. I-04-255, we advised the cities of Oakland and Palo Alto respectively that their mail-out ballot and protest procedures were neither “elections” nor “measures” as defined by the Act. Based upon the definitions and the FPPC’s interpretation of the Act, the mail-out ballot and protest procedure required under Article XIII D of the California Constitution is not considered by the FPPC to be either a measure or an election and neither supporters nor opponents of the assessment are required under the Act to file campaign reports.

If you have any questions regarding this letter, please contact me at (916) 322-5660.

Sincerely,

REDACTED

Adrienne Korchmaros
Political Reform Consultant
Enforcement Division

ak

cc. Howard David
Jeff Normart
Alameda County Registrar of Voters Office
1225 Fallon Street G-1
Oakland, CA 94612-4283

² This was also confirmed in a telephone conversation with Mr. Jeff Normart of the Registrar of Voters Office in Alameda County.