



FAIR POLITICAL PRACTICES COMMISSION

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August 6, 2012

William B. Tunick, Esq.
o/b/o Sanger Unified School District, Marcus Johnson, Rich Smith, and Peter R. Filippi
Dannis, Woliver, Kelley

REDACTED

RE: Advisory Letter
FPPC No. 11-225; Sanger Unified School District, Marcus Johnson, Rich Smith,
and Peter R. Filippi ✓

Dear Mr. Tunick:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act"),¹ found in Government Code Section 81000, and following. The Commission has concluded its investigation into allegations that your client Sanger Unified School District ("District") failed to report contributions to Peter R. Filippi's 2010 campaign for the District's Board of Trustees, in violation of Section 84211 of the Act, and that your client Peter R. Filippi failed to report those contributions from the District, in violation of Section 84211 of the Act.

Our investigation revealed that the District's Superintendent and Deputy Superintendent, Marcus Johnson and Rich Smith, respectively, used District resources, including District computers, the District's email, and compensated District time, to conduct non-District business activities, including working on Mr. Filippi's campaign. On September 2, 2010, Superintendent Johnson and Deputy Superintendent Smith sent and received emails regarding Mr. Filippi's campaign fundraising efforts during District hours, using the District's computer and email system. On September 8, 2010, September 9, 2010, September 10, 2010, and again on September 15, 2010, Deputy Superintendent Smith emailed campaign materials to Mr. Filippi's campaign during District hours, using the District's computer and email system.

As explained below, an employee must spend more than 10 percent of his or her compensated time in a single month rendering political services to a campaign for the

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.

compensated time to be considered a contribution from the employer to the campaign. There is insufficient evidence that Superintendent Johnson and Deputy Superintendent Smith's conduct met the threshold required to be considered a contribution from the District to Mr. Filippi's campaign. As a result, we are closing this case with this Advisory Letter.

However, we are referring our case file to the California Attorney General's Office and the Fresno County District Attorney's Office to determine if any other laws were violated.

Your clients should be aware that the Act requires that every person, including a state or local agency, that makes \$10,000 or more in political contributions in a calendar year file campaign statements. (Section 84211.) Payment of salary by an employer to an employee who spends more than 10% of his or her compensated time in a single month rendering services for political purposes is considered a contribution or expenditure by the employer if the employee renders services at the request or direction of the employer. (Regulation 18423.) Rendering services for political purposes includes, but is not limited to, developing, writing, or distributing campaign literature or making arrangements for campaign literature. (Regulation 18420, subd. (b).) Additionally, contributions received from a state or local agency must be reported. (Section 84211.)

The Commission publishes forms and manuals to facilitate compliance with the provisions of the Act and provides guidance regarding obligations over the telephone and through written advice. If you need forms or manuals, or have questions regarding any of your obligations, please call the Technical Assistance Division at 916-322-5660, Monday through Friday between 8:00 a.m. and 5:00 p.m.

Your cooperation in ensuring that the requirements of the Act are consistently satisfied is greatly appreciated. If you have any questions regarding this matter, please feel free to contact me at 916.322.5660.

Sincerely,

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Milad Dalju /
Commission Counsel
Enforcement Division

cc:

Janis McLean, Supervising Deputy Attorney General, Department of Justice
Elizabeth Egan, Fresno County District Attorney
James Karle, President, Sanger Unified School District
Tammy Wolfe, Vice President, Sanger Unified School District
Jim Gonzales, Trustee, Sanger Unified School District
Jesse Vasquez, Trustee, Sanger Unified School District
Walter Villarreal, Trustee, Sanger Unified School District
Kenneth Marcantonio, Trustee, Sanger Unified School District