



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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June 3, 2021

Linda Schiltgen
Deputy County Counsel
County of Sonoma
575 Administration Drive, Room 105A
Santa Rosa, California 95403

Re: Your Request for Advice
Our File No. A-21-042

Dear Ms. Schiltgen:

This letter responds to your request for advice regarding the campaign and gift provisions of the Political Reform Act (the “Act”).¹ Please note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTIONS

1. May a member of the Sonoma County Board of Supervisors send an email newsletter to update constituents about items of interest in the County using email addresses from the following two sources: (1) the Supervisor’s previous campaign email contact list; and (2) the Supervisor’s personal email contact list?
2. If it is permissible for the Supervisor to use these two sources for the email newsletter distribution list, should the list be reported as a gift from the campaign on the Supervisor’s Statement of Economic Interests (Form 700)?

CONCLUSIONS

1. Yes. Nothing in the Act prohibits the use of campaign or personal email contacts for the distribution of an email newsletter in this manner.
2. No. The use of campaign or personal email contacts for the purpose of distributing an email newsletter does not fall within the definition of a gift if they have been collected over time and were not purchased.

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 18110 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.

FACTS AS PRESENTED BY REQUESTER

You are a Deputy County Counsel for Sonoma County and are seeking advice on behalf of Sonoma County Board of Supervisor Chris Coursey (“Supervisor Coursey”). Supervisor Coursey seeks to create a newsletter that will be paid for by the County and sent to constituents via email only in his role as a public official. The purpose of the email newsletter would be to update constituents about important government issues affecting the community and government resources. The newsletter would contain factual, unbiased information to improve public transparency, encourage public participation in government processes and seek public input about the public’s priorities. The email newsletter would not contain election or campaign material. Members of the general public would be invited to sign up for the email newsletter. Supervisor Coursey seeks to create the original newsletter email list with his personal email contacts as well as the email addresses from his previous campaign email list. Both lists were acquired over time and were not purchased in any way. You inquire as to whether it is permissible for Supervisor Coursey to use his existing email lists to distribute the newsletter and whether the use of the lists would need to be reported as a gift from the campaign to Supervisor Coursey.

ANALYSIS

Under Section 82028, a “gift” means any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. (Section 82028.)

The list that Supervisor Coursey has compiled on his own as his personal contact list is not something that belonged to the committee and was already his. Therefore, there would be no gift to Supervisor Coursey when using his personal email contact list to distribute the newsletter. However, we have advised that campaign committee mailing lists do have a value and are considered to be a campaign contribution when transferred from one committee to another unless the mailing list is purchased by the receiving committee for fair market value. (*Smith Advice Letter*, No. I-00-147.) To be considered a gift to Supervisor Coursey from his campaign committee, the committee email contact list must confer a personal benefit on Supervisor Coursey as required by Section 82028. The newsletter in this case would be sent to constituents of Supervisor Coursey and the purpose of the email newsletter would be to update constituents about important government issues affecting the community and government resources. The email newsletter would contain factual, unbiased information to improve public transparency, encourage public participation in government processes, and seek public input about the public’s priorities and would not contain campaign material. The use of the campaign email contact list in this manner does not confer a personal benefit on Supervisor Coursey and thus does not create a gift to him under the Act. Additionally, there is nothing in the Act that would prohibit Supervisor Coursey from using either his personal email list or the campaign email list to distribute the email newsletter.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

Katelyn L. Greene

By: Katelyn L. Greene
Counsel, Legal Division

KG:dkv