



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811

September 28, 2020

Shane E. Strong
o/b/o Monterey Peninsula College
Via email: [REDACTED]

Re: Advisory Letter; FPPC No. 2020-00800; Monterey Peninsula College

Dear Mr. Strong:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the “Act”).¹ As you are aware, the Enforcement Division received a sworn complaint alleging that your client, Monterey Peninsula College, violated the mass mailing at public expense prohibition by sending a mailer in support of Measure V, a bond measure up for a vote on the November 3, 2020 ballot. The Enforcement Division completed its investigation and has decided to close its file on this matter.

The Act prohibits sending a newsletter or other mass mailing at public expense.² Specifically, a mass mailing is prohibited if (1) the item sent is a tangible item; (2) the item expressly advocates the qualification, passage, or defeat of a clearly identified measure, or unambiguously urges a particular result in an election; (3) public moneys are paid to distribute the item, or to prepare the item, for more than \$50, with the intent of sending the item; and (4) more than 200 substantially similar items are sent during the course of an election.³ This prohibition limits the public subsidy of political campaigns, which would grant an unfair advantage to governmental bodies that desire to use public resources in pursuit of favorable election results.

A mailing unambiguously urges a particular result in two ways: (1) when it clearly is campaign material or campaign activity, such as bumper stickers, billboards, door-to-door canvassing, posters, advertising “floats,” or mass media advertising;⁴ or (2) when the style, tenor, and timing of the communication can be reasonably characterized as campaign material and not a fair presentation of facts serving only an informational purpose.⁵ Some factors to consider when assessing style, tenor, and timing include, but are not limited to, whether the communication is (1) funded from a special appropriation

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations.

² Section 89001.

³ Regulation 18901.1, subd. (a).

⁴ Regulation 18901.1, subd. (c)(1).

⁵ Regulation 18901.1, subd. (c)(2).

related to the measure as opposed to a general appropriation; (2) consistent with the normal communication pattern for the agency; (3) consistent with the style of other communications issued by the agency; and (4) using inflammatory or argumentative language.⁶

Our investigation found that the mass mailing concerning Measure V did not contain express advocacy. Further, we have concluded it did not unambiguously urge a particular result in the election. First off, it was not clearly campaign material as that term is defined in the law. Secondly, while the mailing did include statements favoring Measure V such as: “upgrades and repairs are needed to continue providing affordable, quality education and career training to local students,” “updates to career training facilities, labs and technology are also needed to provide a modern education,” “repair leaky roofs, old rusty plumbing and dry rotted beams, replace faulty electrical systems to improve energy efficiency and upgrade facilities so the College can operate in a more environmentally sustainable way,” “upgrade classrooms and labs to help local students complete the first two years of college affordably and transfer to the Cal State or UC system,” and “make the computer and technology upgrades needed for students to be able to take classes, listen to lectures and complete assignments online,” these statements were not sufficiently inflammatory and argumentative to constitute campaign activity rather than informational material. Additionally, the mass mailing was mostly informational. Given the above, the Enforcement Division cannot conclude that the mailer in question violated the Act’s prohibition against campaign mailers at public expense. Therefore, we are closing this matter with this advisory letter.

Although we are closing our file, please be advised of the provisions in the Act and regulations regarding campaign related communications. Should you have any questions regarding this letter, please feel free to contact me at (916) 322-7771 or ryang@fppc.ca.gov.

Sincerely,

Ruth Yang

Ruth Yang
Senior Commission Counsel
Enforcement Division

RY:ts

cc: Rick Heuer

⁶ Regulation 18901.1, subd. (e).