



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

March 21, 2023

Cold Spring School District
2243 Sycamore Canyon Rd
Santa Barbara, CA 93108
Also sent via email: office@coldspringschool.net

Re: Advisory Letter FPPC No. 2021-00329; Cold Spring School District

Dear Cold Spring School District:

The Enforcement Division of the Fair Political Practices Commission (the “Commission”) enforces the provisions of the Political Reform Act (the “Act”).¹ This letter is in response to a commission-initiated case regarding whether the Cold Spring School District (the “District”), sent a prohibited campaign-related mailer at public expense by sending a mailer regarding Measure L2020. The Enforcement Division completed its review of this matter and has decided to close its file without prosecution.

The Act prohibits sending a newsletter or other mass mailing at public expense.² Specifically, mass mailing is prohibited if (1) the item 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.

An item unambiguously urges a particular result in an election in one of two ways: (1) when it clearly is campaign material or campaign activity because it is related to an election and it is an item 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

A payment of public moneys by a local governmental agency made in connection with a communication, whether it is a mass mailing or not, that expressly advocates passage of a ballot

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, and all regulatory references are to this source.

² Section 89001.

³ Regulation 18901.1, subd. (a).

⁴ Regulation 18901.1, subd. (c)(1).

⁵ Regulation 18901.1, subd. (c)(2).

measure, or that taken as a whole and in context, unambiguously urges a particular result in an election is an independent expenditure.⁶ Any person or combination of persons who, in a calendar year, makes independent expenditures totaling \$1,000 or more qualifies as an independent expenditure committee.⁷ An independent expenditure committee must file semi-annual campaign statements each year for the period ending June 30 and December 31 if it made independent expenditures during the 6-month period prior to those dates.⁸ Further, an independent expenditure committee must report its late independent expenditures within 24 hours of the time they are made to the appropriate filing officers.⁹

Our review found that the mailer sent by Cold Spring School District did not contain express advocacy. The mailer was generally informational, not argumentative, and moderate in tone. However, parts of the mailer came close to meeting the standard of unambiguously urging support for a measure. For example, the mailer included statements such as: ‘The Bond Measure would support our continued growth and provide the needed infrastructure for the modern learning environments,’ and ‘Measure L2020 would allow the Cold Spring School District to replace the remaining portable buildings with new permanent classrooms to house the specialist program and incorporate flexible, collaborative learning spaces for Cold Spring students.’ However, these statements are not sufficiently inflammatory and argumentative to conclude the mailer constituted campaign activity rather than informational material. Thus, the Enforcement Division cannot conclude the mailer in question violated the Act’s prohibition against campaign mailers at public expense. Additionally, Measure L2020 failed in the November 2020 election. 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. If you need additional guidance, you may contact the Commission’s Advice team by sending an email to advice@fppc.ca.gov. There is also information pertaining to campaign related communications available on the Commission’s website, www.fppc.ca.gov. Should you have any questions regarding this letter, please feel free to contact me at (916) 322-5771 or abreron@fppc.ca.gov.

Sincerely,

Angela J. Brereton

Angela J. Brereton
Assistant Chief, Enforcement Division

⁶ Section 82031; Regulation 18420.1, subd. (a).

⁷ Section 82013, subd. (b).

⁸ Section 84200, subd. (b).

⁹ Section 84204.