



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

December 3, 2024

City of Hemet
Steven Graham, City Attorney
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Advisory Letter Re: FPPC No. 2022-00760; City of Hemet

Dear City of Hemet:

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 complaint regarding whether the City of Hemet sent prohibited campaign-related mass mailings at public expense by sending mass mailings regarding Measure H, a local ballot measure on the November 2022 ballot that would continue the sales tax increase from the 2016 Measure U. The Enforcement Division completed its review of the case and will close its file on this matter without prosecution.

The Act prohibits sending a newsletter or other mass mailing at public expense.² Specifically, a 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

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 18104 through 18998 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).

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 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 mass mailing sent by the City of Hemet did not contain express words of advocacy. The mass mailing was generally informational, not argumentative, and moderate in tone. However, parts of that mass mailing came close to meeting the standard of unambiguously urging a particular result in an election. The mass mailing included statements and graphs that illustrated, stated, and expanded upon the positive impacts of Measure U, generally only presenting the potential positive impacts and reasons for why Measure U must be extended by the passage of Measure H. For example, by stating that, “Without the funds from Measure U, the city could be forced to cutback police and fire services to pre-2016 levels,” and “...**the City Council has determined that continuation of the tax is necessary to retain current staff and maintain improvements in public safety services. To that end, the City Council has placed Measure H on the November 8 ballot,**” and combined with graphs demonstrating a decrease in crime, the City of Hemet instills fear in the voter that unless Measure H is passed crime will increase. Linking the passage of Measure H with a reduction in crime while failing to mention the negative effects associated with a sales tax increase strayed from a strictly informational tone.

However, the statements in the mass mailing are not sufficiently inflammatory and argumentative to conclude that the mass mailing constituted campaign activity rather than informational material. Thus, the Enforcement Division cannot conclude that the mass mailings in question violated the Act’s prohibition against campaign mass mailings 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. 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 and advertisement disclosure requirements available on the Commission’s website, www.fppc.ca.gov and www.fppc.ca.gov/learn/campaign-rules/campaign-related-communications-at-public-expense.html.

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

⁷ Section 82013, subd. (b).

⁸ Section 84200, subd. (b).

⁹ Section 84204.

Should you have any questions regarding this letter, please feel free to contact me at arose@fppc.ca.gov or (279) 237-3752.

Sincerely,

Alex J Rose

Alex J. Rose
Senior Commission Counsel, Enforcement Division