

State of California



Fair Political Practices Commission

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Technical Assistance-Administration	•••	Executive/Legal	•••	Enforcement	•••	Conflict of Interest
(916) 322 5660		322 5901		322 6441		322 6444

September 21, 1977

77-09-204

Deborah E. McFarland
1507 Sacramento St.
Berkeley, CA 94702

Dear Ms. McFarland:

Thank you for your letter of September 14, 1977 requesting informal advice about the mass mailing requirements of the Political Reform Act. In particular, you have asked whether an invitation to a fund raiser sent on behalf of a "clearly identified" state candidate must be forwarded to the Fair Political Practices Commission pursuant to Government Code Section 84305.^{1/}

Section 84305 requires that a copy of every mass mailing "in support of or in opposition to a state candidate" be forwarded to the Commission on the same day that it is mailed to the public generally.^{2/} The Commission has concluded that the phrase "in support of ... a state candidate" is synonymous with the concept of expressly advocating the nomination or election of a clearly identified candidate, as defined in 2 Cal. Adm. Code Section 18225(c). See Opinion requested by Ralph Juvinal, et al., 2 FPPC Opinions 110, 114 (No. 75-018-A, et al., August 3, 1976). Accordingly, a mass mailing will be "in support of" a clearly identified candidate, within the meaning of Section 84305, if it contains express words of advocacy such as "vote for," "elect," "support," or if, taken as a whole, it unambiguously urges a particular result in an election. See 2 Cal. Adm. Code Section 18225(c)(2).

^{1/} All references are to the Government Code unless otherwise noted.

^{2/} A mass mailing is any mailing of 200 or more identical or nearly identical pieces of mail sent within a calendar month. See Government Code 82041.5; 2 Cal. Adm. Code Section 18241.

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After reviewing the "typical" invitations to fund raisers that you forwarded to us, the staff has concluded that, taken as a whole, such invitations do unambiguously urge a particular result in an election. An invitation to a candidate's fund raiser evidences the sponsors' support of the candidate who will benefit from the fund raiser and necessarily involves a request by the sponsors that others also support the candidate. Accordingly, we think that "typical" invitations to fund raisers contain the type of "support" contemplated by Section 84305 and, therefore, must be forwarded to the Commission if the other requirements of that provision are satisfied.

If you have any further questions, please do not hesitate to contact me.

Sincerely,



Kenneth H. Finney
Staff Counsel

KHF:plh

1507 Sacramento Street
Berkeley, Calif. 94702

September 14, 1977

77204

Fair Political Practices Commission
1100 K Street
Sacramento, Calif. 95814

I am engaged in compiling state requirements with regard to mass mailings. In this regard, I have been specifically asked about requirements concerning invitations to fundraising events.

I believe that the requirements are clear as to when identification of the sender is required. However, the requirement that state candidates must send a copy to the Commission is more questionably applicable. The "typical" invitations* certainly address themselves to "clearly identified candidates." However, whether or not such invitations "clearly advocate the nomination, election or defeat" or "a particular result in an election" when taken as a whole, is, at best, a borderline decision. Moreover, the requirement's purpose (detering or exposing to public scrutiny dishonest or malicious allegations) would not seem to be served when such an invitation is restricted to the "typical" language of fundraising invitations. Therefore, I would suggest that the second requirement of § 83405 should be inapplicable to the "typical" invitation such as those attached.

I would very much appreciate receiving an informal opinion addressing this question.

Thank you.

Sincerely,

Deborah E. McFarland

Deborah E. McFarland

*While a "typical" invitation is perhaps an illusory concept most invitations are restricted to information about who the event is for, when and where it will be held, contribution amount, notable participants, supporters or individuals who will attend, etc. I have enclosed several examples of invitations which I believe are "typical."