

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

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

February-28, 1978

78-142

Nancy S. Bradshaw
4949 Kendall Street
San Diego, California 92109

Dear Ms. Bradshaw:

Thank you for your letters of January 7, 1978 and January 18, 1978, in which you ask a number of questions relating to campaign disclosure.

Your first question asks when does a person become a candidate, the date the person files declaration of candidacy or the date the person is certified as a candidate by the Registrar of Voters?

The Political Reform Act defines a candidate as:

An individual who is listed on the ballot... or who receives a contribution or makes an expenditure or gives his consent for any other person to receive a contribution or make an expenditure with a view to bringing about his nomination or election to any elective office, whether or not the specific elective office for which he will seek nomination or election is known at the time the contribution is received or the expenditure is made and whether or not he has announced his candidacy or filed a declaration of candidacy at such time....
(Government Code Section 82007)

The Commission has interpreted this section to mean that a person is considered to be "listed on the ballot" when the person has qualified his name for the ballot. (See Opinion requested by Carl Kelly/H.L. Masini, 1 FPPC Opinion 162) Thus, when the Registrar certifies the person as a candidate, the person becomes a candidate under the provisions of the Act.

February 28, 1978

Although the Act states that if the person has received contributions or made expenditures, the person is considered to be a candidate prior to the certification by the clerk, the Act specifically excludes payments made by an individual for his own travel expenses from the definition of contribution. (Government Code Section 82015)

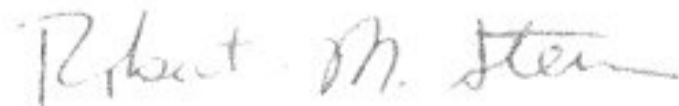
In response to question 2, there is nothing in the Political Reform Act to prevent a former candidate or defendant candidate from working as a paid campaign worker for a former opponent. Of course, such an arrangement would have to be disclosed on the opponent's campaign statement if the payments were \$50 or more. While we are not aware of any other provision of law which relates to your question, you should recognize that our answer to your question is based only on the provisions of the Political Reform Act.

Your questions 3 through 5 relate to Section 84303 which states that expenditures made by an independent contractor for a candidate must be reported either by the candidate or independent contractor. The section imposes a duty on the independent contractor to provide to the candidate the required information. We believe that both the candidate and the independent contractor have a responsibility under the Act to make sure that the required information is disclosed to the public. Should the candidate decide not to report these expenditures, he must make certain that the independent contractor properly reports the expenditures.

Questions 6 and 7, which ask about the bribery provisions of California law and your questions in your letter of January 18, 1978, do not come within the scope of the Political Reform Act and thus cannot be answered by us. Your district attorney or the Attorney General's office are the appropriate agencies for you to contact.

Question 8 asks whether you are precluded from receiving legal advice on the first 7 questions. We have attempted to answer all your questions except for numbers 6 and 7 and the two questions in your letter of January 18th.

Sincerely,



Robert M. Stern
General Counsel

78142

F. P. S.
JAN 23 11 45 AM '78

4949 Kendall Street
San Diego, California, 92109
January 18, 1978

Fair Political Practices Commission
1100 K Street
Sacramento, California, 95814

Dear Sirs:

Re: My letter of January 7, 1978 and new matters.

I sent you a letter on January 7, 1978 asking for some advisory opinions. On re-reading question No. 6, I realized that it was rather ambiguous, so I would like to clarify my question.

Question No. 6 stated:

"6. Do services offered or rendered by a private citizen to a candidate for election or re-election on the condition that the candidate appoint the person offering or rendering such services to an appointive position within his jurisdiction constitute a bribe within the meaning of any of the laws of the State of California. Assume that any expenditures of money that would be entailed in rendering such services would be made by the candidate or his committee and not the private citizen.

The clarification I would like to make is that the services described are services which would encourage voters to vote for the specific candidate; e.g. public relations services.

I also have some new questions:

1. If a person works as a paid campaign worker or petition circulator (as in Hardie v. Eu) or expresses willingness to work as a paid campaign worker or petition circulator or in any way endorses a candidate for election or re-election or encourages the voters to vote for the candidate, does the person (the paid campaign worker, etc) violate Elections Code 29621 (former elections Code 12000)?

2. If a candidate pays a person to work as a paid campaign worker or petition circulator or to perform services to encourage voters to vote for him (or her); e.g. public relations services which may entail using the private persons own name, does such payment constitute payment of a bribe within the meaning of Elections Code 29622 (former elections code section 12003)?

I shall look forward to your early reply on these questions.

Sincerely yours,

Nancy S. Bradshaw
Candidate for 76th
Dist. Assembly

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JAN 10 12 07 PM '78

4949 Kendall Street
San Diego, California
92109
January 7, 1978

Fair Political Practices Commission
1100 K Street
Sacramento, California, 95814

Dear Sirs:

I would appreciate it if you would render some advisory opinions governing my own personal actions. My questions are as follows:

1. Of the two following situations which is the first date a person becomes a candidate within the meaning of the law?

a. The date the person files his Declaration of Candidacy with the Registrar of Voters of his county or other authorized agent and takes out a blank sponsors certificate to be circulated and completed; or

b. The date when the Registrar of Voters certifies the person as a candidate (by having verified the signatures on the sponsors certificate).

It is assumed that it costs money for the candidate or prospective candidate to transport himself to the Registrar of Voters office and to solicit signatures for the Sponsors Certificate. However, does it make any difference in your answer if this assumption is not made?

2. Does the status of any person as a former candidate or a defeated candidate in the primary election preclude that person from being eligible to work as a paid campaign worker for one of his former opponents in the general election?

3. Does an agent or independent contractor (within the meaning of Government Code, Section 84303) have a duty to advise the candidate for whom he has made expenditures that he (the agent) is going to report to the appropriate reporting agency that such expenditures have been made on behalf of the candidate when he learns the candidate himself will not report such expenditures?

4. Does an agent or independent contractor (within the meaning of Government Code section 84303) have a legal right to advise the candidate for whom he had made expenditures that he is going to report to the appropriate reporting agency that such expenditures have been made on behalf of the candidate when he learns the candidate himself will not report such expenditures?

5. Does the act of the agent or independent contractor (within the meaning of Government Code Section 84303) of advising the candidate for whom such agent or independent contractor has made expenditures that he (the agent) is going to report such expenditures made on behalf of the candidate to the appropriate reporting agency when the agent learns that the candidate himself will not report the expenditure constitute a threat to the candidate?

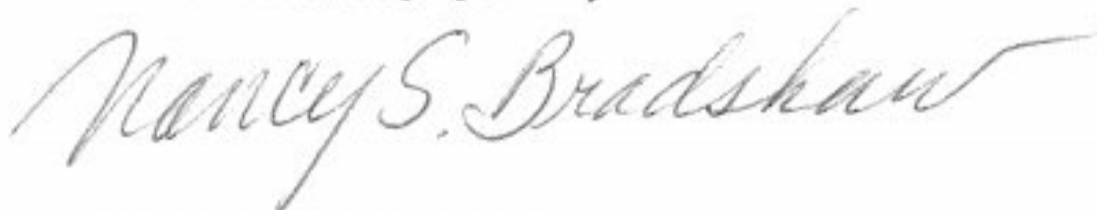
6. Do services offered or rendered by a private citizen to a candidate for election or re-election on the condition that the candidate appoint the person offering or rendering such services to an appointive position within his jurisdiction constitute a bribe within the meaning of any laws of the state of California? Assume that any expenditures of money that would be entailed in rendering such services would be made by the candidate or his committee and not the private citizen.

7. Does it make any difference if the private citizen mentioned in Question No. 6 above is eminently qualified, qualified, or unqualified to serve in such appointive position?

8. Am I personally precluded from receiving a legal opinion on any of the questions stated above? If so, for what reason.

Please acknowledge the receipt of this letter. I shall look forward to hearing from you soon.

Sincerely yours,



Nancy S. Bradshaw
Candidate for 76th
District Assembly Seat