

# State of California



## Fair Political Practices Commission

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Technical Assistance •• Administration •• Executive/Legal •• Enforcement  
(916) 322-5662 322-5660 322-5901 322-6441

August 3, 1984

Jose R. Guerrero  
Project Participar  
1990 Lombard Street  
San Francisco, CA 94123

Re: Advice Letter No. A-84-168

Dear Mr. Guerrero:

Thank you for your request for advice on the campaign reporting provisions of the Political Reform Act.

### FACTS

Project Participar, Inc., is a nonprofit voter research, education and registration corporation. One of the Project's main activities is to increase the voter turnout of Latino voter registrants. The Project, in an attempt to raise funds for the Project and to improve voter turnout, plans to prepare a mailing which will include negative statements made by elected officials about the voting records of Latinos. The mailing will encourage Latinos to disprove the statements by voting and by contributing to Project Participar. The Project will not use statements made by any officials currently running for office.

### QUESTION PRESENTED

Will the proposed mailing require Project Participar to comply with the campaign reporting provisions of the Political Reform Act?

### DISCUSSION

The campaign disclosure provisions of the Act require that all candidates and committees file campaign statements at specified times and places. Government Code Sections 84200, et seq.<sup>1/</sup> A committee is "any person or combination of persons who directly:

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<sup>1/</sup> Government Code Sections 81000-91014. All statutory references are to the Government Code, unless otherwise indicated.

(a) Receives contributions totaling five hundred dollars (\$500) or more in a calendar year;

(b) Makes independent expenditures totaling five hundred dollars (\$500) or more in a calendar year; or

(c) Makes contributions totaling five thousand dollars (\$5,000) or more in a calendar year to or at the behest of candidates or committees.

(Section 82013.)

The Act defines contributions to include all payments unless it is clear from the surrounding circumstances that they are not made for political purposes. (Section 82015.) The Commission has elaborated on the meaning of "political purpose" in its regulations. See 2 Cal. Adm. Code Sections 18215 and 18225 (copies enclosed). These sections provide that political purposes means "made for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates or the qualification or passage of any measure."

From your description of Project Participar, it appears that it is not formed for the purpose of influencing or attempting to influence the action of the voters for or against a candidate or candidates or the qualification or passage of any measure. Its purposes are to conduct voter research and to increase voter education and voter turnout. Therefore, monies received by the Project are not contributions under 2 Cal. Adm. Code Section 18215 and the Project does not qualify as a committee under Section 82013(a) or (c), above.

In addition, the money expended by the Project for the mailing will not constitute an "independent expenditure" and the Project will not qualify as a committee under Section 82013(b), above. An "independent expenditure" means an expenditure made by a person in connection with a communication which expressly advocates the election or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee. (Section 82031.) The mailing will merely include statements by public officials, it will not contain the type of advocacy described in Section 82031.

Unless the Project undertakes some other activities or expenditures which make it a committee, it is not required to

Jose R. Guerrero  
August 3, 1984  
Page 3

file campaign reports or a Statement of Organization as a recipient committee with the Secretary of State pursuant to Section 84101.2/ If this occurs, please feel free to contact this office for additional advice.

I hope the foregoing discussion answers all of your questions. If I can be of further assistance, please feel free to contact me.

Sincerely,

*Janis Shank McLean*

Janis Shank McLean  
Counsel  
Legal Division

JSM:plh  
Enclosures

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2/ Only recipient committees, or committees as defined in Section 82013(a), are required to file Statements of Organization.

# Project Participar

1990 Lombard Street  
San Francisco, CA 94123  
(415) 563-2100

Ms. Diane Maura Fishburn  
Counsel  
Legal Division  
State of California  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, Ca. 95804

June 19, 1984

JUN 25 1984

Re: Request for Advice

Dear Ms. Fishburn:

This letter is sent to confirm our telephone conversation of April 18, 1984, in which you stated that you would formalize your opinion in the form of an advice letter.

Project Participar, Inc. is a nonprofit voter research, education, and registration corporation. It has been granted both federal tax exemption, as a 501 (c) (3) charitable entity, and state exemption pursuant to section 23701 (d) of the California Revenue and Taxation Code. One of the Project's main activities is to increase the voter turnout of Latino voter registrants. In the course of attempting to increase voter turnout the Project contemplates engaging in the activities described below. Nevertheless, we are concerned whether the contemplated activities would be characterized as "partisan" thereby triggering the reporting obligations of the Political Reform Act. Therefore, we request your advice before pursuing these activities.

First, the Project wishes to test the effectiveness of direct mailers that contain negative statements made by publicly elected officials (i.e. statements that may be interpreted as being offensive to the Latino community). The statements used would not be of an elected official currently running for office. Furthermore, the statements used may not necessarily be of elected officials who represent the political subdivision where the mailers would be sent.

Second, the Project contemplates testing the same type of direct mailer described above as a fund raising tool for the purpose of furthering the exempt purposes of the Project.

If you have any questions please feel free to contact me at (415) 532-5420.

Very truly yours,

  
Jose R. Guerrero