



California Fair Political Practices Commission

June 1, 1990

Honorable Chris Chandler
Assemblyman, Third District
State Capitol
P. O. Box 942849
Sacramento, CA 94249-0001

Re: Your Request for Advice
Our File No. A-90-374

Dear Mr. Chandler:

This letter is in response to your request for advice regarding the mass mailing provisions of the Political Reform Act (the "Act").¹

QUESTION

Does a mass mailing to a select group of students in your district violate the provisions of the Act?

CONCLUSION

A mass mailing to a select group of students in your district does not violate the provisions of the Act if the mailing reaches the students in their classrooms and is not sent to their homes.

FACTS

The Department of Education recognized approximately 640 students attending schools in your district for their outstanding achievement in certain academic subjects. The Department of Education forwarded the names of these students to you. You wish to send individual letters to these students congratulating them

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

for their outstanding performance. The letters would be sent to the schools in your district where these students are enrolled. The teachers would distribute the letters to the students in the classroom. You have forwarded for our review a copy of the letter you intend to send out (copy enclosed). This sample letter is drafted on letterhead which includes your name and title. Your name and title also are printed at the end of the letter. An appropriate space is provided for your signature.

ANALYSIS

Section 89001 provides that no newsletter or other mass mailing shall be sent at public expense. The Act defines a "mass mailing" as more than 200 substantially similar pieces of mail sent in a calendar month. (Section 82041.5.)

A literal reading of Section 89001 would lead to the conclusion that all publicly-funded mass mailings are prohibited. However, the Commission adopted Regulation 18901 to clarify which mailings are indeed prohibited.² A mass mailing is prohibited only if all of the following apply:

(1) The item is delivered, by any means, to the recipient at his or her residence, place of employment or business, or post office box;

(2) The item sent was either prepared or sent in cooperation, consultation, coordination, or concert with the elected officer who is affiliated with the agency and includes the officer's name, office, photograph, or some other reference to the elected officer; or, the item features an elected officer who is affiliated with the agency which produced or sent the mailing;

(3) The cost of distributing the item is paid for with public funds; or more than \$50 in public funds was spent in the design or production of the item and the item was designed or produced with the intent of sending the item; or

(4) More than 200 copies of the same or substantially similar items are sent in a single calendar month. (Regulation 18901(a), copy enclosed.)

You intend to mail or otherwise distribute more than 200 letters in one calendar month. This constitutes a mass mailing. Moreover, the cost of distribution will be paid with public funds and the letters will feature you, an elected official, by displaying your signature. (Regulation 18901(c)(2).) This mass mailing would be prohibited if the letters were delivered to the students

² The Commission's authority to interpret Section 89001 to avoid the absurd results of its literal application was upheld in Watson v. Fair Political Practices Com., Case No. B042250, Second District Court of Appeal, 90 D.A.R. 1312 (February 6, 1990).

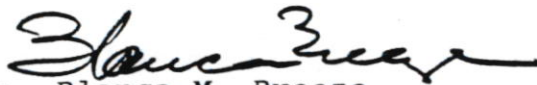
at their residence, place of employment or business, or post office, or if the letters were directed to the parents of the students and the students were a means of delivery to the parents' homes. However, you intend to send the letters to the schools where the students are enrolled. The letters are addressed to the students and not to their parents and will be distributed to the students by their teachers. Accordingly, the letters will not be delivered to the intended recipient at his or her residence, place of employment or business, or post office and are thus not prohibited mass mailings.

Since the materials would be prohibited mass mailings were they to be sent to the students' homes, we recommend that you include a cover letter with the bulk delivery to each school making it clear that the letters are to be delivered to the students in school premises and are not to be redistributed by mailing or otherwise sending the letters directly to the students' homes. (See Lavagetto Advice Letter, Our File No. A-90-199, copy enclosed.)

We trust this letter adequately responds to your inquiry. Should you have any further questions regarding this matter, do not hesitate to call me at (916) 322-5901.

Sincerely,

Scott Hallabrin
Acting General Counsel



By: Blanca M. Breeze
Counsel, Legal Division

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