



# California Fair Political Practices Commission

**SUPERSEDED BY 1998  
AMENDMENTS TO  
REGULATION 18530**

October 27, 1992

Nancy McCarthy  
Marin Hospital District  
P.O. Box 8010  
San Rafael, CA 94912-8010

Re: Your Request for Advice  
Our File No. I-92-520

Dear Ms. McCarthy:

This is in response to your letter as a member of the Marin Hospital District requesting advice pursuant to Section 85300 of the Political Reform Act (the "Act").<sup>1</sup> We have also received a request by the counsel of the district on behalf of the Marin Hospital District regarding the mass mailing and other provisions of the Act. (Copy enclosed.) Consequently, we are treating your letter as a request for informal assistance.<sup>2</sup>

Please note that the Commission's jurisdiction is limited to the provisions of the Act. You may wish to consult with the Office of the Attorney General for the advice you seek regarding other laws which may be applicable to your facts.

### QUESTION

Does Section 85300 prohibit the distribution of an annual report of the Marin Hospital District prior to the November election?

---

<sup>1</sup> 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.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

### CONCLUSION

A mailing disseminated for the purpose of seeking office and paid for with public funds is prohibited under Section 85300 of the Act. Since it does not appear that the district's annual report will advocate the reelection of the board members nor refer to their candidacy, it does not appear that Section 85300 prohibits the distribution of the report. Furthermore, nothing in the Act requires the distribution of the report only after the November election.

### FACTS

The Marin Hospital District is considering the distribution to district residents of an "Annual Report to the Community." The report will either be mailed to all residents of the District or published as an advertisement or insert in one or more local newspapers within the district.

The final version of the report will not contain the names or photographs of the members of the district board, but will be issued prior to the November, 1992, election. None of the current board members are seeking reelection to the Marin Hospital District during this election period.

### ANALYSIS

A mailing disseminated for the purpose of seeking office and paid for with public funds is prohibited under Section 85300 of the Act. This statute has been interpreted to prohibit the use of public moneys to advocate or promote a candidate's election to public office. (Gatling Advice Letter, No. I-90-048.) Consequently, local government agencies are prohibited from using public funds for the purpose of advocating or supporting the election of a candidate to office. Please note that other provisions of law also restrict the use of public funds for other political activities. However, these provisions are outside the jurisdiction of the Commission.<sup>3</sup>

Based on the facts provided, it does not appear that the district's report will advocate the reelection of the board

---

<sup>3</sup> Nothing in this letter should be construed to be an authorization for any specific expenditures made by a state or local government agency. The Commission cannot determine whether an expenditure is a legitimate government expenditure, we can only advise as to whether such expenditures are a violation of the provisions of the Act. Other provisions of the law may apply to these facts which are outside the jurisdiction of the Commission. (See, e.g. Penal Code Section 424; Stanson v. Mott (1976) 17 Cal.3d 206; People v. Sperl (1976) 54 Cal.App.3d 640; and People v. Battin (1978) 77 Cal.App.3d 635.)

members nor refer to their candidacy. Thus, it does not appear that Section 85300 would prohibit the distribution of the report, nor would it require distribution only after the November election. Furthermore, it appears from the information provided by the Marin Hospital District's counsel that the annual report is not a prohibited mass mailing.

I trust this letter addresses your concerns. If you have any further questions regarding this matter, please feel free to contact me at (916) 322-5901.<sup>4</sup>

Sincerely,

Scott Hallabrin  
Acting General Counsel



By: Luisa Menchaca  
Counsel, Legal Division

SH:LM

Enclosure

---

<sup>4</sup> Copies of Commission regulations and Opinions are available in many law libraries. Alternatively, copies of these materials and Commission advice letters may be obtained from the Commission at a cost of 10¢ per page.