

RAVI MEHTA
CHAIRMAN



**SUPERSEDED BY 1998
AMENDMENTS TO
REGULATION 18530**

FAIR POLITICAL PRACTICES COMMISSION

October 13, 1995

Honorable Brian Setencich
California State Assembly
P.O. Box 942849
Sacramento, CA 94249-0001

Re: Your Request for Assistance
Our File No. G-95-280

Dear Assemblymember Setencich:

This is in response to your August 23, 1995 letter requesting information to relay to Mr. Jonathan King, one of your constituents. Since the Fair Political Practices Commission can only give advice to public officials whose duties are in question under the Political Reform Act, or to their authorized representative, we can only provide you with general information.^{1/}

QUESTIONS

1. Can a public school district use its facilities, funds, personnel, and other resources to attempt to influence the outcome of a bond election?

2. Can a public school district give information about parents' names, addresses and phone numbers to school board campaign volunteers?

3. Can a public school district engage in the same activities described in questions 1 and 2 above to influence the outcome of a candidate election for the school district board of trustees?

^{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, Sections 18000-18954. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

4. How does a person file a complaint or request an investigation of a school district if a violation has occurred?

CONCLUSIONS

1. and 2. The use of public monies or resources to support or oppose a bond measure or ballot measure is not addressed in the Political Reform Act. That question should be directed to the appropriate district attorney or to the Attorney General.^{2/}

3. Public officers may not expend nor may a candidate accept any public moneys for the purpose of seeking elective office. This includes candidates for election to a school district board of trustees.

4. Any person who believes a violation of the Act has occurred can file a complaint with the Commission, initiate a civil action on his or her on behalf, or file a complaint with the appropriate district attorney.

DISCUSSION

Section 85300, added to the Act in June of 1988 by Proposition 73, provides:

No public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office.

"Public moneys" is defined to include all bonds and evidence of indebtedness, and all moneys belonging to the state, or any city, county, town, district, or public agency therein, and all moneys, bonds, and evidence of indebtedness received or held by state, county, district, city, town, or public agency officers in their official capacity. (Section 85102(e); Penal Code Section 426.) While this provision specifically refers only to the use of public money, it includes by implication all monetary costs associated with the use of the public equipment as well. (People v. Sperl (1976) 54 Cal. App. 3d 640, 658.)^{3/}

^{2/} Regulation 18420 provides that if a government agency has enough campaign activity to qualify as a committee, the agency itself is required to file campaign statements. However, Regulation 18420 does not condone or authorize campaign activities which may be illegal. (See, e.g. Penal Code Section 424; Stanson v. Mott (1976) 17 Cal. 3d 206.)

^{3/} Note that the provision on the use of public funds only applies to a candidate seeking elective office. The question regarding the use of public funds to support or oppose a ballot measure should be directed to the appropriate district attorney or to the Attorney General.

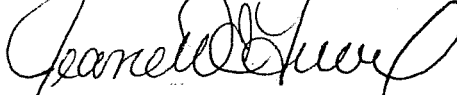
Mr. King asked if a school district could give information about parents to campaign volunteers. While we cannot give Mr. King specific advice, information and publications which are published for distribution to the public, and their publication is unconnected to any campaign for elective office, does not violate Section 85300. (Bowler Advice Letter, No. A-94-276.)

Should Mr. King believe that a violation of the Political Reform Act has occurred, he may file a complaint with the Fair Political Practices Commission. The Commission can impose a \$2,000 per count administrative fine for each violation of the Act. In addition, any person who knowingly or willfully violates any provision of the Act is guilty of a misdemeanor. The local district attorney and State Attorney General have primary responsibility for enforcing the criminal provisions of the Act. Finally, any person residing in the jurisdiction where the violation occurred, may initiate a civil action on his or her own behalf.

Enclosed is a copy of the Political Reform Act and a copy of a complaint form which you may want to make available to Mr. King. If Mr. King has additional questions regarding the filing of a complaint for a violation of the Political Reform Act, he may contact the Commission's Enforcement Division at (916) 322-5901 for assistance.

Sincerely,

Steven G. Churchwell
General Counsel



By: Jeanette E. Turvill
Political Reform Consultant
Legal Division

JET/jt
Enclosures