

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

May 12, 1997

Charles G. Abdelnour
City Clerk
City of San Diego
City Administration Building
202 C Street
San Diego, California 92101

**Re: Your Request for Advice
Our File No. A-97-183**

Dear Mr. Abdelnour:

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

QUESTION

If there is no winner by a majority of votes for a particular council office in a municipal primary election, a general municipal election will be necessary. The two candidates receiving the highest number of votes in the primary for a particular council office will appear on the ballot in the general municipal election. At what point may a candidate participating in the primary election begin raising funds for participation in the general election, in anticipation that there will be no outright winner in the primary and that he/she will be one of the two candidates in the general election?

CONCLUSION

The candidate may begin raising funds for the general election six months before the primary election.

¹ Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

FACTS

San Diego City Charter Section 10 states, in part,

“All elective officers of the City shall be nominated at the municipal primary election. In the event one candidate receives the majority of votes cast for all candidates for nomination to a particular elective office, the candidate so receiving such majority of votes shall be deemed to be and declared by the Council to be elected to such office. In the event no candidate receives a majority of votes cast, as aforesaid, the two candidates receiving the highest number of votes for a particular elective office at said primary shall be the candidates, and only candidates, for such office and the name of only those two candidates shall be printed upon the ballots to be used at the general election.”

The City of San Diego will hold elections for four district-only city council seats in 1998. The primary election is scheduled for June 2. If necessary, the general municipal election will be held on November 3. Each council district has fewer than 1,000,000 residents.

ANALYSIS

Section 85305 (a) provides that:

“In districts of fewer than 1,000,000 residents, no candidate or the candidate’s controlled committee shall accept contributions more than six months before any primary or special primary election or, ~~in the event there is no primary or special primary election~~, any regular election or special election in which the candidate is attempting to be on the ballot or is a write-in candidate.”
(Emphasis added.)

In other words, where there is a primary, such as in the City of San Diego, the fundraising window opens six months before the primary. Therefore, a candidate may begin raising funds six months before the primary election for *both* the primary and general elections. At this time, the Commission is allowing a contributor to contribute to *both* elections in one check as long as the memo line of the check or other written document clearly earmarks a percentage of the funds for each election. (See *Ackerman* Advice Letter, No. A-97-065.)

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel

A handwritten signature in black ink that reads "Deborah Maddux-Allison". The signature is written in a cursive style with a large, sweeping initial "D" that loops around the first part of the name.

By: Deborah Maddux-Allison
Staff Counsel, Legal Division

SGC:DMA:ak