

RAVI MEHTA  
CHAIRMAN



## FAIR POLITICAL PRACTICES COMMISSION

July 15, 1997

Gus Hawthorn  
17255 Deodar  
Fontana, California 92335

**Re: Your Request for Advice  
Our File No. A-97-316**

Dear Mr. Hawthorn:

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

### QUESTIONS AND CONCLUSIONS

You are a candidate for Fontana Unified School Board running for election in November, and you would like to know what your duties are under the Act.

1. *Since school district boundaries do not necessarily coincide with city boundaries, for purposes of the Act, which district boundaries apply to a school board election?*

For voting purposes, only the voters in the school district may vote for their respective school boardmembers. Therefore the applicable boundary is the boundary of the school district for which a candidate is running. Moreover, the contribution limit applicable to a candidate depends on the size of the district in which the candidate is running. (Section 85301; *Rosenthal* Advice Letter, No. I-97-63b.)

A. *How is the number of residents established if the school district boundaries apply?*

At this time, the Commission has not adopted any regulations regarding how to determine the population of a school board district. For now, we advise using the most recent census numbers or other reliable information. (*Dowden* Advice Letter, No. A-97-295.)

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

2. *Is the contribution limit for small contributor committees based on the number of committee members?*

No. Membership is one criterion for determining if a committee *qualifies* as a small contributor committee. Once the committee has qualified, the number of members does not impact the contribution limits of the committee, unless the number of members falls below 100.<sup>2</sup> Section 85302 states that a small contributor committee may not make a contribution of more than two times the applicable limit prescribed in Section 85301, or Section 85402, whichever is applicable.

3. *When is a contribution considered received? When the check is received or when the check is actually deposited?*

“A monetary contribution is ‘received’ on the date that the candidate or committee, or the agent of the candidate or committee, obtains possession or control of the check or other negotiable instrument by which the contribution is made.” (Regulation 18421.1(c); *Lucas* Advice Letter, No. A-97-167. Please be aware that at the July 3, 1997 Commission meeting, the Commission adopted Regulation 18215.2, which defined the term “accept.” (Copy attached.) The Commission will hold an interested persons meeting in the future regarding other reporting requirements.

4. *With respect to Section 85401, how do you file?*

Form 500 is the applicable form on which you may indicate acceptance or rejection of voluntary expenditure ceilings, if they are applicable to you (copy enclosed). The form must be filed with the Commission. (Regulation 18541.) Any specific questions may be directed to our technical assistance division at (916) 322-5660.

5. *Is it necessary to file the Form 500 if there are no local ceilings?*

Since Section 85400 does not require local jurisdictions to enact candidates voluntary expenditure ceilings, Section 85401 necessarily does not apply to all local candidates. Simply, candidates who are not subject to any voluntary expenditure ceilings do not have to file a statement of acceptance or rejection of ceilings which do not exist. (*Montes* Advice Letter, No. A-97-051.)

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<sup>2</sup>A small contributor committee is any committee that meets all of the following criteria: (a) it has a membership of at least 100 individuals; (b) all the contributions it receives do not total more than fifty dollars (\$50) per person each calendar year; (c) it has been in existence for at least six months; and, (d) it is not a candidate-controlled committee. (Regulation 85203.)

6. *How can you find out if there are district spending limits?*

Section 85402 allows local jurisdictions to establish voluntary spending limits for candidates in local elections. Any such program would be administered by the applicable municipality (for example, county or city, or district) and their respective clerk or counsel should be able to provide you with any relevant information.

7. *Where and how is the information required by Section 85700 filed?*

Section 85700 is implemented by Regulation 18401 which sets forth the Commission's recordkeeping guidelines and provides that for each contribution of \$100 or more, the following information must be retained by a candidate or committee: the contributor's full name, street address, occupation, employer or name of business if self-employed, date and amount of each contribution received during the reporting period and, if a loan, the interest rate, and the cumulative amount of contributions. (Section 84104; Regulation 18401(a)(3)(A).) This information is required to be reported on the candidate or committee's periodic campaign disclosure statements. (Section 84211.) Additionally, this information must be retained by the filer for a period of four years following the date that the campaign statement to which they relate is filed. (Regulation 18401(b)(2).) To comply with the requirements of Section 85700 you should follow the recordkeeping requirements of Regulation 18401 (copy enclosed).

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

Sincerely,

Steven G. Churchwell  
General Counsel



By: Meena Patel  
Graduate Assistant, Legal Division

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