

RAVI MEHTA
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

August 12, 1997

Rick Sanchez
Deputy County Counsel
County of Santa Barbara
105 East Anapamu Street, Suite 201
Santa Barbara, California 93101

**Re: Your Request for Advice
Our File No. A-97-364**

Dear Mr. Sanchez:

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

QUESTION

Is the county board of supervisors or the county board of education the "local jurisdiction, municipality, or county" under Proposition 208 that may establish a voluntary expenditure ceiling for the elective office of the county superintendent of schools?

CONCLUSION

It is not within the Commission's jurisdiction to determine which of the two bodies is the "local jurisdiction, municipality, or county" for setting voluntary expenditure limits. Accordingly, *either* the county board of supervisors *or* the county board of education may establish a voluntary expenditure ceiling for the elective office of the county superintendent of schools. You must determine which body has the authority to set a voluntary expenditure limit for the elective office of the county superintendent of schools.

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

FACTS

You are interested in determining if the county board of supervisors or the county board of education is the appropriate body under Proposition 208 to set voluntary ceilings on campaign expenditures for the elective office of the county superintendent of schools.

STATEMENT OF LAW

Elections Code Section 313 defines a county office as meaning the office filled by any county officer. Section 314 of the Elections Code, "county officer" is defined as any elected officer enumerated in Division 2 (starting at Section 24000) of Title 3 of the Government Code. Government Code Section 24000 defines the county superintendent of schools as a county officer. Article IX, Section 3 of the California Constitution provides for a county superintendent of schools. In addition, Article IX, Section 3.1 of the California Constitution provides that the Legislature shall prescribe the qualifications for the superintendent of schools and that the county board of education shall fix the salary of the superintendent of schools.

The provisions for the county board of education are set forth at Part 2, Chapter 1, Section 1000 *et seq.*, of the Education Code. The provisions for the county superintendent of schools are set forth at Chapter 2, Section 1200 *et seq.*, of the Education Code, and Education Code Section 1400 *et seq.*, relates to the county board of supervisors.

ANALYSIS

Proposition 208, which went into effect on January 1, 1997, establishes voluntary spending limits for candidates running for legislative and statewide office. (Section 85400.) With respect to local candidates, Proposition 208 permits local jurisdictions to establish local voluntary spending limits. Specifically, Section 85400(c) provides that:

"Any local jurisdiction, municipality, or county may establish voluntary expenditure ceilings for candidates and controlled committees of such candidates for elective office not to exceed one dollar (\$1) per resident for each election in the district in which the candidate is seeking elective office. Voluntary expenditure ceilings may be set at lower levels by the local governing body."


"Local jurisdiction" refers to the jurisdiction of a local government agency. (Section 82035.) A local government agency is defined as "a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing." (Section 82041.) Therefore, any governmental entity that qualifies under the definition of Section 82041 may set the spending limits.

You want to know whether the county board of supervisors or the county board of education is the appropriate body under Proposition 208 for setting voluntary ceilings on campaign expenditures for the elective office of the county superintendent of school. It is not within the Commission's jurisdiction to determine which of the two bodies is the "local jurisdiction, municipality, or county" for setting voluntary expenditure limits. This office comments and advises only as to the Political Reform Act, promulgated regulations, FPPC opinions and advice letters. Accordingly, *either* the county board of supervisors *or* the county board of education may establish a voluntary expenditure ceiling for the elective office of the county superintendent of schools. You must determine which body has the authority to set voluntary expenditure limits for the elective office of the county superintendent of schools. Any voluntary ceilings on campaign expenditures for the elective office of the county superintendent of schools must be at least as stringent as Proposition 208. (Section 85706(a).) However, contribution and spending limits that are higher than those specified in Proposition 208 may be enacted if such limits are approved by a vote of the people. (Section 85706(b).) (*Cias* Advice Letter, No. I-97-165, 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: Lynda Doherty
Consultant, Legal Division

SGC:LD:tls

Enclosure