



**SUPERSEDED BY 1998
AMENDMENTS TO
REGULATION 18530**

FAIR POLITICAL PRACTICES COMMISSION

February 20, 1998

Christine D. Lovely
Atkinson, Andelson, Loya, Ruud & Romo
The Atrium, Suite 200
5776 Stoneridge Mall Road
Pleasanton, California 94588

**Re: Your Request for Advice
Our File No. A-98-017**

Dear Ms. Lovely:

This letter is in response to your request for advice on behalf of the West Contra Costa Unified School District regarding the mass mailing provisions of the Political Reform Act (the "Act").¹ You have been authorized by the board to submit this request for advice. Please keep in mind that nothing in this letter should be construed to evaluate conduct that has already taken place. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

QUESTIONS

1. May the school district put a board member's name on its web page?
2. May the school district put a board member's name and address on its web page?
3. May the school district put a board member's bio, curriculum vitae or other background information on its web page?
4. May the school district put a board member's photograph on the web page?
5. May a board member of the school district have his or her own web page?
6. May a board member's web page be hyperlinked to the district's web page, so that by clicking a button on the district's web page, a user would have immediate access to the board member's web page?

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

7. May a board member receive e-mail through the district's web page?

8. May a board member send out mass e-mail using a mailing list compiled from members of the public who sent e-mail to the district?

CONCLUSION

1-8. Yes. A web page on the Internet is not currently considered a mass mailing. Therefore, the prohibition in section 89001 does not apply. Moreover, the cost of producing and maintaining the web page will not violate section 85300, which prohibits the expenditure of public funds for the purpose of seeking elective office, as long as the web page shows no indication of support, approval, or express advocacy for its board members.

ANALYSIS

Mass Mailing Prohibition

Section 89001 provides that "no newsletter or other mass mailing shall be sent at public expense." Regulation 18901(copy enclosed) provides that a mailing is prohibited by section 89001 if certain criteria are met. The following factor is pertinent to our analysis:

"Any item is delivered, by any means, to the recipient at his or her residence, place of employment or business, or post office box. For purposes of this subdivision (a)(1), the item delivered to the recipient must be a tangible item, such as a videotape, record, or button, or a written document." (Regulation 18901(a)(1).)

Thus, the ban in section 89001 is only applicable to tangible items. (*Doyle* Advice Letter, No. I-94-364.) Since distribution over the Internet is not the distribution of a tangible item, Internet pages are not prohibited mass mailings under the Act. Please note, however, the Commission did not consider the Internet when it adopted regulation 18901. We expect that the Internet and other advances in technology may necessitate amendments to the Act and/or its regulations in the near future.

Section 85300

Section 85300 provides that 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); see also Penal Code Section 426.) Thus, all moneys

held by the school district are public moneys, including any funds used for the operation of the district's web page. Pursuant to section 85300, these funds may not be used for the purpose of seeking elective office.

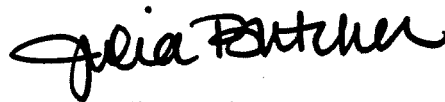
Section 85300 was not intended to prohibit every activity that might indirectly benefit a candidate for elective office. Rather, the purpose of the statute is to prohibit public financing of election campaigns. (*Vaughan* Advice Letter, No. A-90-315.) In the *Krey* Advice Letter, No. A-94-229 (copy enclosed), we advised that the mere identification of candidates who agreed to abide by local campaign ethics laws in a city newsletter, which did not show any approval or support for the candidates listed, was not an impermissible expenditure of public funds. The identification of the candidates was merely an informational service that advanced the public's interest.

Like the city newsletter in the *Krey* letter, the district's web page (or an individual board member's web page funded by the district) will be providing an informational service by providing the identity, addresses, and background information of its board members to its constituency. Therefore, as long as the web page does not show any indication of support, approval, or express advocacy for its board members, the district will not violate section 85300. (*In accord Hausman* Advice Letter, No. A-97-025; *Peltzer* Advice Letter, No. A-97-106.)

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

Sincerely,

Steven G. Churchwell
General Counsel



By: Julia Butcher
Staff Counsel, Legal Division

SGC:JB:tls