



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

November 9, 2009

Michael Flores
815 Alvarado Avenue
Sunnyvale, California 94085

Re: Your Request for Informal Assistance
Our File No. I-09-235

Dear Mr. Flores:

This letter responds to your request for information regarding the campaign provisions of the Political Reform Act (the "Act").¹ Because you seek general guidance, we are providing informal assistance, rather than advice. Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).) Also, please note that any assistance is based solely on the provisions of the Act. (Regulation 18329(b)(8)(d).)

QUESTIONS

1. May a candidate for city council control a political party that supports various candidates and measures?

2. What are the requirements for filing a Statement of Organization by such a committee?

CONCLUSIONS

1. Assuming that your organization is a "political party committee," as defined in the Act, Section 82016(b) provides that it cannot be a "controlled committee," that is, a committee controlled by an individual who is a candidate such as yourself.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

2. Under Section 84101, a committee is required to file a Statement of Organization on Form 410 with the Secretary of State within ten days of qualifying as a committee.

FACTS

You are a candidate for city council for the City of Sunnyvale. You are also in the process of forming a political party. In our telephone conversation of October 14, 2009, you indicated that the political party will support candidates and ballot measures in various elections. The party will be receiving contributions from persons sharing its political purposes and making expenditures to further those purposes. You ask if you may control the political party.

DISCUSSION

1. The Act does not regulate "political parties" *per se*. Instead, the Act regulates committees. Under Section 82013, the term "committee" means any person or combination of persons who directly or indirectly does any of the following:

"(a) Receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year;

(b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year;

(c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees."

A contribution is defined in Section 82015 as a payment made for a political purpose. The regulations explain that payments made for a political purpose include:

"payments made for the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure."
(Regulation 18215(a)(1).)

It appears that the major purpose of your "political party" organization is to influence the actions of voters and that contributions received by the organization will be used to further the organization's purpose. Therefore, the payments the organization receives would be "contributions" to the organization. Once this organization has received contributions of \$1,000 or more, it will be a committee under Section 82013(a) and will be subject to all requirements of the Act relating to committees.

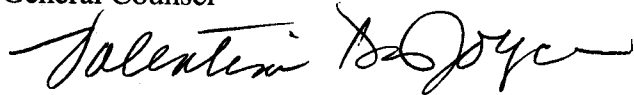
Section 82016(a) defines "controlled committee" as a committee controlled directly or indirectly by, among others, a candidate. Section 82016(b) provides that a political party committee, as defined in the Act,² is not a controlled committee. Accordingly,³ since you are a candidate, you may not "control" a political party committee.

2. Requirements for the filing of a Statement of Organization (Form 410) are set forth in Section 84101, which provides that a committee must file with the Secretary of State within ten days after it qualifies as a committee. Additional instructions appear on the Form 410 itself.

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

Sincerely,

Scott Hallabrin
General Counsel



By: Valentina Joyce
Counsel, Legal Division
Legal Division

VJ:jgl

² "Political party committee" means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code. We refrain from determining whether your organization is a political party under the Elections Code. The Commission's advice is limited to matters arising under the Political Reform Act. (Regulation 18329(b)(8)(d).)

³ The Act also contains other restrictions on the types of committees a candidate may control and on what candidate controlled committees may spend their campaign funds. You do not provide sufficient facts for additional analysis of these issues but we note that Section 85201 requires all of a candidate's campaign expenditures to be made from a single bank account relating to the elective office sought by the candidate and Section 85501 prohibits a candidate's controlled committee from making independent expenditures to support or oppose other candidates.