



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

May 29, 2019

Clementine Bonner Klein
Acting City Clerk of Monterey
580 Pacific St. Rm 6
Monterey, CA 93940

Re: Your Request for Advice
Our File No. A-19-105

Dear Ms. Bonner Klein:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").¹

Please note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Is an e-filing service such as Netfile or Southtech an acceptable means of retention for documents, such as campaign reports and statements, so long as the forms are retained for the required amount of time?

CONCLUSION

After an original report or statement has been on file for at least two years, a filing officer may utilize any space-saving device that is capable of retaining documents indefinitely including electronic retention by Netfile or Southtech.

FACTS AS PRESENTED BY REQUESTER

The City of Monterey (the "City") currently contracts with Netfile for the City's campaign e-filing system. The City is seeking to also use Netfile's e-filing system as a space-saving device to retain campaign reports and statements.

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.

ANALYSIS

The Act provides that after an original report or statement has been on file for two years, the document may be placed on microfilm or some other space-saving device and the original document may be destroyed. Specifically, Section 81009(g) states:

“After an original report or statement or a copy has been on file for at least two years, the officer with whom it is filed may comply with this section by retaining a copy on microfilm or other space-saving materials available for public inspection instead of the original report or statement or copy. Upon request the filing officer shall provide copies of such statements...”

The Act does not provide guidance as to the means of retaining documents, e.g., film versus an e-filing system that retains all documents in an online database. In order to be in compliance with Section 81009(g)'s retention requirement, the filing officer must ensure that the transfer from the original document to another means of retention will result in the public's access to the reports or statements over an indefinite period of time. As long as the system can meet these requirements it is a permissible space-saving device.

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

Sincerely,

Dave Bainbridge
General Counsel



By: Katelyn Greene
Counsel, Legal Division

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