



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811

September 4, 2020

Ms. Miyo Prassas

Sent via email at: jwprassas@yahoo.com

Re: Reconsideration of Sworn Complaints Against the Hermosa Beach City School District, Committee to Improve Hermosa Schools – Yes On S, and Pat Escalante; COM-05182020-00960, COM-05182020-00961, & COM-05192020-00965

Dear Ms. Prassas:

This letter is in response to your request for reconsideration of the complaints against the above-named persons and entity. The Fair Political Practices Commission only enforces the provisions of the Political Reform Act (the “Act”) found in Government Code section 81000, et seq.¹

The complaints you filed on May 18, 2020 and May 19, 2020 alleged that the Hermosa Beach City School District (the “District”) violated the Act’s campaign disclosure provisions by failing to file as a major donor committee by making expenditures related to Measure S on the June 7, 2016 Primary Election ballot. Additionally, the complaints alleged Committee to Improve Hermosa Schools – Yes On (the “Committee”) failed to report in-kind contributions from the District and Pat Escalante had a conflict of interest with Measure S. After a thorough review of the complaints, the applicable legal standards, and the relevant facts, the Enforcement Division staff declined to open a case because they concluded that the facts presented do not satisfy the required legal standards.

You subsequently submitted additional information and are now asking the Enforcement Division that the complaint be reconsidered in light of the additional information. That additional information has been reviewed in light of the applicable legal standards and there is no good cause to direct the Chief of the Enforcement Division to reopen this matter. Therefore, your request for reconsideration under Regulation 18360, subdivision (d), is denied. The basis for this decision is set forth below.

The Enforcement Division of the Commission has no jurisdiction to enforce violations of any laws other than the Act. Some of the conduct alleged in your complaint, however, is not prohibited under, nor regulated by, the Act. Allegations of violations of the California Education Code 7054(2) and misuse of public funds are not under the jurisdiction of the Act. Additionally, the Commission does not regulate the content of communications, nor does the Commission regulate speech. Therefore, the allegations pertaining to the content of websites failing to include fair and impartial presentation of the facts is not under the purview of the Act.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

When a state or local governmental agency uses public moneys for a communication that (1) expressly advocates for or against a clearly identified candidate or ballot measure or (2) unambiguously urges a particular result in an election, the Act identifies that payment as an independent expenditure. (Section 82031 and Regulation 18420.1, subd. (a).)

A communication paid for with public moneys by a state or local governmental agency unambiguously urges a particular result in an election if: (1) it clearly is campaign material or campaign activity, such as bumper stickers, billboards, door-to-door canvassing, or other mass media advertising; or (2) when considering the style, tenor, and timing of the communication, it can be reasonably characterized as campaign material and is not a fair representation of fact serving only an informational purpose. (Regulation 18420.1(b).)

The presentations given at the May 25, 2016 and May 31, 2016 public meetings did not expressly advocate for nor unambiguously urge the passage of Measure S. Under Reg. 18420.1(b)(2). The presentations were not clearly campaign material, nor could they be reasonably characterized as campaign material based on the video's style and tenor. Therefore, there is insufficient evidence to conclude that these presentations given by the District constituted expenditures under the Act to require the District to file as a committee. Moreover, since these presentations are not considered expenditures by the District, the Committee did not incur an obligation to report these as non-monetary contributions.

Additionally, the complaint alleges that Ms. Escalante violated the Act's conflict of interest provisions by using her position to direct the passage of Measure S. The complaint alleges that Ms. Escalante had a disqualifying conflict of interest with the promise of future salary increases and continued employment if Measure S passed. Since the measure was placed on the ballot to be decided by public vote, we were unable to find evidence of Ms. Escalante participating in governmental decisions. Also, please note that governmental salary is not considered income under the Act and does not give rise to a conflict of interest. (Section 82030(b)(2).)

Therefore, after review of the complaints, your request for reconsideration is denied. Thank you for bringing this matter to our attention.

Sincerely,

Dave Bainbridge

Dave Bainbridge
General Counsel
Fair Political Practices Commission