



FAIR POLITICAL PRACTICES COMMISSION

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February 8, 2000

Ms. Ginny Vida
Executive Director, Ethics Commission
City and County of San Francisco
1390 Market Street, Suite 801
San Francisco, California 94102-5302

**Re: Your Request for Advice
Our File No. A-99-320**

Dear Ms. Vida:

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

QUESTION

May the San Francisco Ethics Commission continue to use FPPC forms 419, 420 and 490 for their electronic filing system through May 1, 2000, when the Ethics Commission will update its electronic filing system to accommodate the new form 460?

CONCLUSION

Yes, the San Francisco Ethics Commission may continue to accept the forms 419, 420 and 490 from filers through May 1, 2000, when the Ethics Commission is able to modify its electronic filing system to use the new CAL format developed by the Secretary of State, which will accommodate the form 460 adopted by the FPPC in August of 1999.

FACTS

In July 1999, the San Francisco Ethics Commission ("Ethics Commission") introduced its online filing system for local electronic filers of campaign finance statements. The new program

¹ Government Code sections 81000 - 91015. Commission regulations appear at title 2, sections 18109 - 18996, of the California Code of Regulations.

marked the culmination of much effort and expense by the Ethics Commission to format and design a system by which local campaign committees could electronically file forms 419, 420 and 490, without purchasing expensive political reporting software. The public greatly benefitted from this program because electronic disclosure on the Ethics Commission's web site has permitted much faster and easier access to the voluminous campaign data filed with your agency.

In August 1999, the FPPC adopted the new form 460 to replace forms 419, 420 and 490. Your computer engineers are now developing the new form 460 for your system; the Ethics Commission is seeking additional funding from the city for this project.

The Secretary of State has adopted new formats, CAL and X12, for electronic filing of the FPPC forms. Based on the recommendations of the Secretary of State's engineers, the Ethics Commission has decided to replace its current EFPOC format with the State's new CAL standard. In view of budgetary considerations and the time required for implementation of the new format, you anticipate that you will not be able to accommodate the new form 460 electronically until May 1, 2000.

You are requesting permission to continue the use of your present system, which would accept and require filings based on the old forms 419, 420 and 490, at least until May 1, 2000. You believe that continuing the use of the old forms would not adversely affect the public, since substantially the same information disclosed by form 460 would be disclosed on the old forms. If the Ethics Commission is required to accept filings via form 460 immediately, the Ethics Commission may be forced to discontinue use of its electronic filing program. In that case, the public would lose the ability to access campaign data via your web site.

ANALYSIS

Early in its history, the Commission was asked by the Los Angeles city clerk what to do if someone submitted a campaign statement on a form or by some means other than that prescribed by the Commission. (*In re Layton* (1975) 1 FPPC Ops. 113.) The clerk asked whether the person should be considered to have filed a campaign statement, or whether late fees should be assessed until the person filed the prescribed form. The Commission responded as follows:

"A campaign statement is an itemized report which is prepared on a form prescribed by the Commission and which provides the information required by the Campaign Disclosure chapter of the Political Reform Act. Section 82006. A statement which contains all the required information, although submitted on an incorrect form, would satisfy the filing requirement if it constituted substantial compliance with the statute.

* * *

In the case of a campaign statement, it is reasonable to find that substance governs over form and the required information is the essential element of the statement. Although the statement must be filed on the prescribed form, a person who files a statement in good faith on the wrong form before the deadline and who corrects his error promptly after it is brought to his attention should not be assessed a lateness penalty." (*Id.* at p. 2.)

When the FPPC makes changes to forms, there is always a transition period when the new forms are being distributed by filing officers out to the filers. During the transition period, filers who have copies of the old forms sometimes continue to submit their filings on an old form. In these cases, the FPPC recommends that the filing officer send the filer a copy of the new form and ask them to submit their next filing on the new form. However, generally the filing officer does not reject the filing on the old form.

In the context of electronic filing, a switch over to new forms obviously cannot be treated on a filer-by-filer basis like this. The electronic software system must be modified to accommodate a forms change. In your case, the San Francisco Ethics Commission faces an even larger modification of its system. It is not just making a minor update to the forms. It is switching from the Electronic Filing Proof of Concept ("EFPOC") system — the test system developed by the Secretary of State in 1998, to the CAL format — the electronic filing system now being developed and implemented by the Secretary of State and its private contractor, Science Applications International Corporation ("SAIC"). The first electronic filings that state candidates were required to make with the Secretary of State using the CAL or X12 format were due in January of 2000.

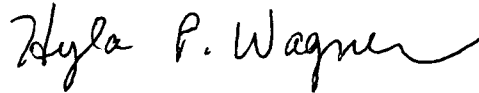
The Ethics Commission's modification of its online filing system to switch from the EFPOC to the CAL format is a major retooling of the system, for which the Ethics Commission is presently seeking funding. There are budgetary and time considerations involved in the changeover to CAL. It will take at least until May to reconfigure the system.

The FPPC has been coordinating with the Secretary of State on its development of the statewide electronic filing system, and it is supportive of local jurisdictions' efforts to make campaign disclosure available online. The FPPC recognizes that the San Francisco Ethics Commission is making every effort to conform its online and electronic filing system to the state system, and to accommodate the new form 460 and other forms changes adopted by the FPPC in August of 1999. Given these practical circumstances, the San Francisco Ethics Commission may continue to accept and require electronic and paper filings based on the old forms 419, 420 and 490 through May 1, 2000, when the Ethics Commission will update its electronic filing system to accommodate the new form 460.

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

Sincerely,

Luisa Menchaca
Assistant General Counsel

A handwritten signature in cursive script that reads "Hyla P. Wagner". The signature is written in black ink and is positioned below the typed name of the sender.

By: Hyla P. Wagner
Senior Commission Counsel

LM:HPW:tls