

1 Repeal 2 Cal. Code Regs., Section 18901 to read:

2 **18901. Mass Mailings at Public Expense. [Repealed]**

3 ~~(a) Except as provided in subdivision (b), a mailing is prohibited by section 89001 if all~~  
4 ~~of the following criteria are met:~~

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

9 ~~(2) The item sent either:~~

10 ~~(A) Features an elected officer affiliated with the agency which produces or sends the~~  
11 ~~mailing, or~~

12 ~~(B) Includes the name, office, photograph, or other reference to an elected officer~~  
13 ~~affiliated with the agency which produces or sends the mailing, and is prepared or sent in~~  
14 ~~cooperation, consultation, coordination, or concert with the elected officer.~~

15 ~~(3)(A) Any of the costs of distribution is paid with public moneys; or~~

16 ~~(B) Costs of design, production, and printing exceeding \$ 50.00 are paid with public~~  
17 ~~moneys, and the design, productions, or printing is done with the intent of sending the item other~~  
18 ~~than as permitted by this regulation.~~

19 ~~(4) More than two hundred substantially similar items are sent, in a single calendar~~  
20 ~~month, excluding any item sent in response to an unsolicited request and any item described in~~  
21 ~~subdivision (b).~~

22 ~~(b) Notwithstanding subdivision (a), mass mailing of the following items is not~~  
23 ~~prohibited by section 89001:~~

1           ~~(1) Any item in which the elected officer's name appears only in the letterhead or~~  
2 ~~logotype of the stationery, forms (including "For Your Information" or "Compliments of" cards),~~  
3 ~~and envelopes of the agency sending the mailing, or of a committee of the agency, or of the~~  
4 ~~elected officer, or in a roster listing containing the names of all elected officers of the agency. In~~  
5 ~~any such item, the names of all elected officers must appear in the same type size, typeface, type~~  
6 ~~color, and location. Such item may not include the elected officer's photograph, signature, or any~~  
7 ~~other reference to the elected officer, except as specifically permitted in this subdivision (b)(1) or~~  
8 ~~elsewhere in this regulation.~~

9           ~~(2) A press release sent to members of the media.~~

10           ~~(3) Any item sent in the normal course of business from one governmental entity or~~  
11 ~~officer to another governmental entity or officer.~~

12           ~~(4) Any intra-agency communication sent in the normal course of business to employees,~~  
13 ~~officers, deputies, and other staff.~~

14           ~~(5) Any item sent in connection with the payment or collection of funds by the agency~~  
15 ~~sending the mailing, including tax bills, checks, and similar documents, in any instance where~~  
16 ~~use of the elected officer's name, office, title, or signature is necessary to the payment or~~  
17 ~~collection of the funds. Such item may not include the elected officer's photograph, signature, or~~  
18 ~~any other reference to the elected officer except as specifically permitted in this subdivision~~  
19 ~~(b)(5) or elsewhere in this regulation.~~

20           ~~(6) Any item sent by an agency responsible for administering a government program, to~~  
21 ~~persons subject to that program, in any instance where the mailing of such item is essential to the~~  
22 ~~functioning of the program, where the item does not include the elected officer's photograph;~~

1 ~~and where use of the elected officer's name, office, title, or signature is necessary to the~~  
2 ~~functioning of the program.~~

3 ~~(7) Any legal notice or other item sent as required by law, court order, or order adopted~~  
4 ~~by an administrative agency pursuant to the Administrative Procedure Act, and in which use of~~  
5 ~~the elected officer's name, office, title, or signature is necessary in the notice or other mailing.~~  
6 ~~For purposes of this subdivision (b)(7), inclusion of an elected officer's name on a ballot as a~~  
7 ~~candidate for elective office, and inclusion of an elected officer's name and signature on a ballot~~  
8 ~~argument, shall be considered necessary to such a notice or other item.~~

9 ~~(8) A telephone directory, organization chart, or similar listing or roster which includes~~  
10 ~~the names of elected officers as well as other individuals in the agency sending the mailing,~~  
11 ~~where the name of each elected officer and individual listed appears in the same type size,~~  
12 ~~typeface, and type color. Such item may not include an elected officer's photograph, name,~~  
13 ~~signature, or any other reference to an elected officer, except as specifically permitted in this~~  
14 ~~subdivision (b)(8) or elsewhere in this regulation.~~

15 ~~(9)(A) An announcement of any meeting or event of the type listed in paragraphs 1 or 2.~~

16 ~~1. An announcement sent to an elected officer's constituents concerning a public meeting~~  
17 ~~which is directly related to the elected officer's incumbent governmental duties, which is to be~~  
18 ~~held by the elected officer, and which the elected officer intends to attend.~~

19 ~~2. An announcement of any official agency event or events for which the agency is~~  
20 ~~providing the use of its facilities or staff or other financial support.~~

21 ~~(B) Any announcement provided for in this subdivision (b)(9) shall not include the~~  
22 ~~elected officer's photograph or signature and may include only a single mention of the elected~~  
23 ~~officer's name except as permitted elsewhere in this regulation.~~

1           ~~(10) An agenda or other writing that is required to be made available pursuant to sections~~  
2 ~~11125.1 and 54957.5 of the Government Code, or a bill, file, history, journal, committee~~  
3 ~~analysis, floor analysis, agenda of an interim or special hearing of a committee of the~~  
4 ~~Legislature, or index of legislation, published by the Legislature.~~

5           ~~(11) A business card which does not contain the elected officer's photograph or more~~  
6 ~~than one mention of the elected officer's name.~~

7           ~~(c) The following definitions shall govern the interpretation of this regulation:~~

8           ~~(1) "Elected officer affiliated with the agency" means an elected officer who is a~~  
9 ~~member, officer, or employee of the agency, or of a subunit thereof such as a committee, or who~~  
10 ~~has supervisory control over the agency, or who appoints one or more members of the agency.~~

11           ~~(2) "Features an elected officer" means that the item mailed includes the elected officer's~~  
12 ~~photograph or signature, or singles out the elected officer by the manner of display of his or her~~  
13 ~~name or office in the layout of the document, such as by headlines, captions, type size, typeface,~~  
14 ~~or type color.~~

15           ~~(3) "Substantially similar" is defined as follows:~~

16           ~~(A) Two items are "substantially similar" if any of the following applies:~~

17           ~~1. The items are identical, except for changes necessary to identify the recipient and his~~  
18 ~~or her address.~~

19           ~~2. The items are intended to honor, commend, congratulate, or recognize an individual or~~  
20 ~~group, or individuals or groups, for the same event or occasion; are intended to celebrate or~~  
21 ~~recognize the same holiday; or are intended to congratulate an individual or group, or individuals~~  
22 ~~or groups, on the same type of event, such as birthdays or anniversaries.~~

23           ~~3. Both of the following apply to the items mailed:~~

1 a. ~~Most of the bills, legislation, governmental action, activities, events, or issues of public~~  
2 ~~concern mentioned in one item are mentioned in the other.~~

3 b. ~~Most of the information contained in one item is contained in the other.~~

4 (B) ~~Enclosure of the same informational materials in two items mailed, such as copies of~~  
5 ~~the same bill, public document, or report, shall not, by itself, mean that the two items are~~  
6 ~~“substantially similar.” Such informational materials may not include the elected officer’s name,~~  
7 ~~photograph, signature, or any other reference to the elected officer except as permitted elsewhere~~  
8 ~~in this regulation.~~

9 (4) ~~“Unsolicited request” is defined as follows:~~

10 (A) ~~A written or oral communication (including a petition) which specifically requests a~~  
11 ~~response and which is not requested or induced by the recipient elected officer or by any third~~  
12 ~~person acting at his or her behest. However, an unsolicited oral or written communication~~  
13 ~~(including a petition) which contains no specific request for a response, will be deemed to~~  
14 ~~constitute an unsolicited request for a single written response.~~

15 (B) ~~An unsolicited request for continuing information on a subject shall be considered an~~  
16 ~~unsolicited request for multiple responses directly related to that subject for a period of time not~~  
17 ~~to exceed 24 months. An unsolicited request to receive a regularly published agency newsletter~~  
18 ~~shall be deemed an unsolicited request for each issue of that newsletter.~~

19 (C) ~~A previously unsolicited request to receive an agency newsletter or mass mailing on~~  
20 ~~an ongoing basis shall not be deemed to have become solicited by the sole fact that the requestor~~  
21 ~~responds to an agency notice indicating that, in the absence of a response, his or her name will be~~  
22 ~~purged from the mailing list for that newsletter or mass mailing. A notice in the following~~  
23 ~~language shall be deemed to meet this standard:~~

1           ~~“The law does not permit this office to use public funds to keep you updated on items of~~  
2 ~~interest unless you specifically request that it do so.”~~

3           ~~Inclusion of a similar notice in other items shall not constitute a solicitation under this~~  
4 ~~regulation.~~

5           ~~(D) A communication sent in response to an elected officer’s participation at a public~~  
6 ~~forum or press conference, or to his or her issuance of a press release, shall be considered an~~  
7 ~~unsolicited request.~~

8           ~~(E) A person who subscribes to newspapers or other periodicals published by persons~~  
9 ~~other than elected officers shall be deemed to have made unsolicited requests for materials~~  
10 ~~published in those subscription publications.~~

11 ~~Note: Authority cited: Section 83112, Government Code. Reference: Sections 82041.5 and~~  
12 ~~89001, Government Code.~~