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8 **BEFORE THE FAIR POLITICAL PRACTICES COMMISSION**
9 **STATE OF CALIFORNIA**
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11 In the Matter of) FPPC No. 18/101
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RIVERSIDE COUNTY OFFICE OF
EDUCATION

Respondent.

STIPULATION, DECISION, AND ORDER

18 **INTRODUCTION**

19 Respondent Riverside County Office of Education (the “RCOE”) provides services and support
20 to school districts in Riverside County. The Political Reform Act (the “Act”)¹ prohibits the sending of a
21 mass mailing featuring an elected official at public expense. The RCOE violated the Act by producing
22 and distributing over 200 copies of a 36-page booklet, which featured several elected officers, at public
23 expense.

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

1 **SUMMARY OF THE LAW**

2 The violation in this case occurred in 2018, so all legal references and discussions of the law
3 pertain to the Act’s provisions as they existed at that time.

4 Need for Liberal Construction and Vigorous Enforcement of the Act

5 When enacting the Political Reform Act, the people of California found and declared that previous
6 laws regulating political practices suffered from inadequate enforcement by state and local authorities.²
7 For this reason, the Act must be construed liberally to accomplish its purposes.³

8 There are many purposes of the Act. One stated purpose of the Act is to ensure that receipts and
9 expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and
10 improper practices are inhibited.⁴ Another is to provide adequate enforcement mechanisms so the Act
11 will be “vigorously enforced.”⁵

12 Mass Mailing Sent at Public Expense

13 A “mass mailing” is defined in the Act as over two hundred substantially similar pieces of mail,
14 but does not include a form letter or other mail which is sent in response to an unsolicited request, letter,
15 or other inquiry.⁶

16 No mass mailing may be sent at public expense.⁷ Specifically, a mailing is prohibited if all of the
17 following criteria are met:⁸

- 18 (1) Any item sent is delivered, by any means, to the recipient at his or her residence, place of
19 business, or post office box. The item delivered to the recipient must be a tangible item, such
20 as a written document.
21 (2) The item sent features an elected officer affiliated with the agency which produces or sends
22 the mailing. An item features an elected officer when it includes, among other things, the
23 elected officer’s photograph or singles out the elected officer by the manner of display of her

23 ² Section 81001, subd. (h).
24 ³ Section 81003.
25 ⁴ Section 81002, subd. (a).
26 ⁵ Section 81002, subd. (f).
27 ⁶ Section 82041.5.
28 ⁷ Section 89001.
⁸ Section 89002, subd. (a).

- 1 name or office in the layout of the document, such as by captions.⁹ A mailing containing the
2 name, office, photograph, or any other reference to an elected officer who consults or acts in
3 concert with the agency to prepare or send the mailing also fulfills the second criteria.
4 (3) Any of the costs of distribution is paid for with public moneys or costs of design, production,
5 and printing exceeding \$50 are paid with public moneys and is done with the intent of sending
6 the item other than as permitted by Regulation 18901.
7 (4) More than 200 substantially similar items are sent in a calendar month.

8 The Act provides an exception for an item sent in the normal course of business from one
9 governmental entity to another governmental entity.¹⁰

10 SUMMARY OF THE EVIDENCE

11 In or around January 2018, the RCOE prepared and distributed the “2017 Report to the
12 Community” (the “Report”), a 36-page booklet regarding the RCOE’s achievements and programs. The
13 Report touted students’ college preparedness, students’ and teachers’ academic accomplishments, and
14 highlights from each district within Riverside County. In addition, the Report featured the Riverside
15 County Superintendent of Schools (the “Superintendent”) and members of the Riverside County Board
16 of Education, all elected officers affiliated with the RCOE. The Report included at least 18 pictures of
17 the Superintendent, printed her name on the booklet cover, and published a 2-page letter that she wrote.
18 That letter showed the Superintendent’s picture, signature, name, title, and Twitter handle. A page of the
19 Report titled “Meet The Riverside County Board Of Education” showed the name, picture, and
20 represented area of each board member. The Superintendent and some of the board members were on the
21 June 5, 2018 ballot for re-election.

22 In total, the RCOE produced 7,000 copies of the Report at a total cost of \$29,647.12. Of the 7,000
23 copies, the RCOE mailed 1,741 copies of the Report to the public and made the rest available at the
24 offices of the RCOE and other governmental agencies. The cost for the 1,741 copies was \$7,373.66. The
25 RCOE staff prepared and distributed the Report, unaware of the prohibition against sending mass mailing
26 at public expense.

27 ⁹ Section 89002, subd. (c)(2).

28 ¹⁰ Section 89002, subd. (b)(2).

1 **VIOLATION**

2 Count 1: Mass Mailing Sent at Public Expense

3 The RCOE designed, printed, and distributed over 200 copies of a booklet at public expense,
4 featuring photographs and names of several elected officials, in violation of Government Code sections
5 89001 and 89002, subdivision (a).

6 **PROPOSED PENALTY**

7 This matter consists of one count. The maximum penalty that may be imposed is \$5,000.¹¹

8 In determining the appropriate penalty for a particular violation of the Act, the Commission
9 considers the facts of the case, the public harm involved, and the purpose of the Act. Also, the
10 Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of
11 any intention to conceal, deceive, or mislead; (c) whether the violation was deliberate, negligent, or
12 inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments
13 voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of
14 violations.¹²

15 The RCOE used public funds to pay for the design, production, and distribution of a mass mailing
16 featuring elected officers. No evidence indicated an intent to deceive the public, and instead showed that
17 the RCOE staff were unaware of the prohibition against sending mass mailing at public expense. The
18 evidence also does not show a pattern of violations, and the RCOE does not have prior record of violating
19 the Act.

20 The Commission also considers penalties in prior cases with comparable violations. Recent cases
21 with a similar violation include the following:

22 *In the Matter of El Monte Union High School District*; FPPC No. 16/465. (The Commission
23 approved a stipulated decision on July 21, 2016.) The District prepared and sent over 200 copies of a
24 booklet, the "Community Annual Report 2015-2016" at public expense, featuring a quotation each from
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26 ¹¹ Section 83116, subd. (c).

27 ¹² Regulation 18361.5, subd. (d).

1 the Board President and Board Vice President. The Commission approved a penalty of \$2,000 for this
2 violation.

3 *In the Matter of El Monte City School District; FPPC No. 15/2078.* (The Commission approved
4 a stipulated decision on July 21, 2016.) The District prepared and sent over 200 copies of a brochure at
5 public expense, featuring photographs and names of members of the governing board. The Commission
6 approved a penalty of \$2,000 for this violation.

7 For the foregoing reasons, a penalty of \$2,000 for the violation is recommended.

8 **CONCLUSION**

9 Complainant, the Enforcement Division of the Fair Political Practices Commission, and
10 Respondent Riverside County Office of Education hereby agree as follows:

11 1. Respondent violated the Act as described in the foregoing pages, which are a true and
12 accurate summary of the facts in this matter.

13 2. This stipulation will be submitted for consideration by the Fair Political Practices
14 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

15 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
16 of reaching a final disposition without the necessity of holding an administrative hearing to determine
17 the liability of the Respondent pursuant to Section 83116.

18 4. Respondent has consulted with its attorney John W. Dietrich of Atkinson, Andelson,
19 Loya, Ruud & Romo and understands, and hereby knowingly and voluntarily waives, any and all
20 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
21 This includes, but is not limited to the right to appear personally at any administrative hearing held in
22 this matter, to be represented by an attorney at the Respondent’s own expense, to confront and cross-
23 examine all witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an
24 impartial administrative law judge preside over the hearing as a hearing officer, and to have the matter
25 judicially reviewed.

1 The foregoing stipulation of the parties “In the Matter of Riverside County Office of Education,” FPPC
2 No. 18/101, is hereby accepted as the final decision and order of the Fair Political Practices
3 Commission, effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____
8 Alice T. Germond, Chair
9 Fair Political Practices Commission
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