

MEMORANDUM

DATE: MARCH 31, 2005

TO: CALIFORNIANS FOR LITERACY AND COMMUNITY LIBRARIES

FROM: DIANE M. FISHBURN *DMF*
MELISSA A. MIKESELL

RE: GENERAL RULES RE THE INVOLVEMENT OF PUBLIC
EMPLOYEES AND PUBLIC AGENCIES

The Californians For Literacy Committee (the "Committee") has requested a brief overview of the general rules which apply to public agencies and public employees during a public advocacy campaign on the Statewide Library Bond Measure. This memorandum is intended for general guidance only; before any public agencies or employees engage in any activities relating to the measure, specific legal guidance should be sought from public agency counsel.

OVERALL PROHIBITION ON USE OF PUBLIC RESOURCES

Public resources may not be used to advocate for, or support particular result in a ballot measure election. This includes the use of a public employee's compensated time. This means that individuals may not campaign in support of the measure, solicit funds for the Committee, or otherwise engage in advocacy activities during their compensated time. Individuals may certainly volunteer on behalf of the campaign during their nonworking hours.

It also means that public employees and agencies may not otherwise use, or authorize another person to use, public resources to assist the Committee with fundraising or advocacy on the measure or otherwise subsidize the Committee's operations and activities. Keep in mind that this includes a prohibition on the use of public e-mail systems, public offices, stationery, telephones, vehicles, equipment or any other public property for any campaign activity.

Lance H. Olson
Bruce J. Hagel
Diane M. Fishburn
Elizabeth L. Gade
Deborah B. Caplan
N. Eugene Hill
Richard C. Míadich
Melissa A. Mikesell
Erin V. Peth

PERMITTED ACTIVITIES BY PUBLIC AGENCIES AND EMPLOYEES

The use of public resources, including staff time, have been permitted in the following situations:

1. Dissemination of information about a measure to the public—so long as there is no advocacy of the passage or defeat of the measure and the information is presented in an objective, balanced manner. This information could include fact sheets, copies of the measure, and an analysis of the measure's impact on the public agency or its jurisdiction. Materials prepared by the Committee itself should not generally be disseminated by a public agency; however, they may be provided to any agency by Committee representatives in the context of an informational meeting or hearing (see below). Any proposed public materials should be reviewed by public agency counsel prior to production or dissemination.

2. The dissemination of information about a measure may include informational hearings or meetings so long as there is no advocacy by the agency of the passage or defeat of the measure, the meeting is noticed and conducted as an ordinary meeting, and the hearing is open to participation by the public and all interested persons.

3. A public agency may adopt a resolution opposing or supporting a measure at a regularly scheduled, open meeting at which the public has an opportunity to present its views, but the agency must also be cautious in how it communicates the resolution. In general, it may not publicize its adoption of the resolution through, for example, the use of a publicly funded press release, a press conference or a mailing.

With respect to other activities which may be engaged in by a public agency or by public agency employees during their working hours or in their public representational capacity, specific guidance should be sought from public agency counsel.