

MONTHLY OPINION REPORT

CALIFORNIA ATTORNEY GENERAL'S OFFICE



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August 1, 2021

The Attorney General's Opinion Unit is responsible for researching and drafting the formal opinions of the Attorney General. This Monthly Opinion Report lists all of the questions that are currently under consideration for formal opinions.

The Attorney General welcomes and solicits the views of all interested persons concerning the issues raised in any question submitted for an opinion. Views should be in writing and directed to the deputy assigned to prepare the opinion. Contact information for deputies is included at the end of this report. All views submitted before publication will be considered, but early submissions are greatly preferred. All submissions will be treated as public records subject to disclosure under the Public Records Act.

For more information about the Opinion Unit, or to retrieve a copy of a published opinion, please see our website at <http://oag.ca.gov/opinions>.

NEW QUESTIONS ASSIGNED DURING JULY 2021

No opinion requests were assigned during this period.

OPINIONS ISSUED OR CONCLUDED DURING JULY 2021

Opinion No. 21-201—July 15, 2021

Question: The City of Lancaster has requested our permission to sue proposed defendant Michael Rives in quo warranto to oust him from his public office as a member of the Board of Directors of the Antelope Valley Healthcare District. The City alleges that ouster is required on the ground that Rives also holds a second, incompatible, public office as a member of the Board of Trustees of the Antelope Valley Community College District, in violation of Government Code section 1099.

Conclusion: There are substantial questions of law and fact as to whether membership on the Antelope Valley Healthcare District Board of Directors and the Antelope Valley Community College District Board of Trustees are incompatible public offices, thus requiring Rives to forfeit his first-held office on the Healthcare District Board of Directors. Consequently, and because the public interest would be served by allowing the action to proceed, the application for leave to sue in quo warranto is granted.

OPINIONS PENDING

Opinion Requests

- 21-501** Does California Civil Code section 4505(a) permit a homeowners association to require vendors enter a gated community through certain gates only? (Bidart)
- 21-401** May a district attorney provide criminal defense counsel or a self-represented criminal defendant an unreacted copy of a witness's or victim's state summary criminal history information during the criminal discovery process? (Medeiros)
- 20-1001** May a District Attorney provide criminal defense counsel the defendant's unredacted state summary criminal history information during the criminal discovery process? (Medeiros)
- 20-303** Does a request for access to personal information under the California Consumer Privacy Act apply to internally-generated inferences or derived data? (Duncan Lee)
- 20-301** Does a declaration of (1) a shelter crisis under Government Code section 8698 et seq., or (2) a public emergency under Government Code section 8625 et seq., constitute a state of emergency for purposes of the "Good Samaritan" Law in Health and Safety Code section 1799.102? (Binsacca)
- 20-102** May an executive director or other employee of a charter school serve as a member of the county board of education in the county where their employing school is located? (Binsacca)
- 20-101** 1. May an elected county recorder, whose operations are solely funded by recording fees collected as directed by Government Code section 27361, subdivision (a), re-claim from the county those fees diverted to the county's general fund and utilized for supporting other county departments? 2. In the alternative, may the county recorder recoup the diverted funds by means of an offset? (Daniels)
- 19-1001** Does Government Code section 83105 prohibit a Fair Political Practices Commission member from making a campaign contribution to a candidate for President and/or Congress? (Bidart)
- 19-301** Is a paid victim advocate for sexually exploited youth a mandated reporter under the Child Abuse and Neglect Reporting Act (CANRA)? (Eisenberg)

- 18-1001** Is a county animal shelter permitted to refuse to relinquish an owner-surrendered dog to a nonprofit no-kill shelter? (Duncan Lee)
- 18-902** When a subdivider owns one parcel and subdivides that parcel pursuant to a parcel map, then sells off the resulting new subdivided parcels, and subsequently acquires a contiguous parcel and seeks to divide that parcel pursuant to a parcel map, should the local agency count the previously subdivided contiguous parcels as part of the application? (Medeiros)
- 18-603** 1. May a county superintendent of schools stay the issuance of bonds by a school district in fiscal distress under Education Code section 42127.6? 2. May such a stay remain in place pending resolution of an investigation related to the fiscal distress or outstanding audit deficiencies? (Binsacca)
- 18-201** Is it a Brown Act violation for joint powers authority members to consult with their respective appointing authority during its open meeting? Is it a due process violation for member agencies of the authority to instruct their respective appointees to the authority on how to decide a pending adjudicative matter? (Bidart)
- 18-103** Does Penal Code section 919(b) require the civil grand jury to annually investigate local detention centers as “public prisons”? (Bidart)
- 14-202** 1. Must school bond “premium” be deposited in a school’s interest and sinking fund? 2. May premium be used to pay expenses of issuance? 3. May premium be used to pay underwriter’s discount? 4. May premium be used to pay interest on previous bonds? (Duncan Lee)

Quo Warranto Matters

- 21-103** May the same person serve simultaneously on the La Habra City Council and as a member of the Orange County Office of Education Board of Directors? (Nolan)
- 21-101** May the same person serve as a member of the Board of Directors for both the Imperial County Office of Education and the County Community College District? (Daniels)

CONTACT US

The Opinion Unit invites comments on the questions posed in pending opinion requests. To share your views, please contact the deputy assigned to prepare the opinion. Deputies can be reached at the following email addresses and telephone numbers:

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To submit an opinion request, please contact Mollie Lee, Senior Assistant Attorney General, at Mollie.Lee@doj.ca.gov or (415) 510-4439.

For all other inquiries, please contact Stephanie Grimes, Staff Services Analyst, at Stephanie.Grimes@doj.ca.gov or (916) 210-6005.

You may also contact the Opinion Unit at the following address:

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