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State election board, not prosecutors, to oversee Gutierrez election probe

by **Judith Sloan Deutsch**, *Staff Writer*

March 12, 1997

The state election board, with the help of the attorney general's office, will decide in the next two weeks whether county school board member Ana Sol Gutierrez could have violated campaign election laws.

If state officials decide that a violation may have occurred, the five-member panel would give Gutierrez a chance to answer the charges in writing, according to Assistant Attorney General Mary O. Lunden, who represents the state election board. If Gutierrez's written response fails to explain discrepancies and irregularities in her campaign account, the response would likely result in the matter being turned over to state prosecutors, Lunden said.

The Gazette incorrectly reported last week that state prosecutors already had decided whether Gutierrez violated state election laws and were about to announce their findings early next month.

"If the state board does send out a show-cause letter, the candidate is given 30 days to show why the matter should not be referred to the appropriate prosecuting authority," Lunden said.

Meanwhile, the state election board's campaign finance department is scrutinizing the records and will make a recommendation within two weeks, said Helen Koss, chairwoman of the State Administrative Board of Election Laws (SABEL).

"We have to find out if the burden of the law has been met," Koss said.

The campaign finance review is the result of Montgomery County election officials recently turning over their findings to the state election board and the state's attorney general after trying unsuccessfully for two years to get Gutierrez to explain why her 1990 campaign received a \$100 loan from Gutierrez's mother and repaid her mother \$500. The local board also reported that Gutierrez failed to provide 1995 and 1996 post-election reports on her account.

On Feb. 21, Gutierrez said in written statements to the county election board that discrepancies in her campaign account are the result of simple recording errors and miscommunication.

County election board director Carol Evans said Gutierrez did not respond for two years to repeated contacts from the election board.

In a written statement released to the Gazette, Gutierrez said, "My treasurer and I have no further comments to make to the press in view of the fact that this matter has been referred to the proper authorities and is pending resolution." Until the matter is brought to a "full and proper closure," Gutierrez said, news reports published by the Gazette are "speculative and based on incomplete information."

Gutierrez also said the county election board has not scheduled a hearing on the matter for March 13, as reported by the Gazette last month.

In written statements to the county election board, Gutierrez said that she regrets the errors in her campaign finance reports. She also criticized the county election board's complex recording forms and its failure to explain how to resolve problems with her account.

At that time, Gutierrez turned in new campaign finance reports, revised to clear up discrepancies in loan payments made to Gutierrez's mother.

The revised reports also state that Gutierrez did not file 1995 and 1996 annual reports on the campaign account because she believed that she had properly closed the account in 1994.

Gutierrez said in written statements that a contribution of \$100 and a loan of \$500 from her mother were recorded on the wrong forms.

She also wrote that she believed that her telephone calls and on-site visits to county election board headquarters in Rockville were enough to clear up the matter.

Those calls and visits did not take place, according to Evans, the county's election board director.

By last October, the county election officials sent Gutierrez a letter requesting written explanation of the discrepancies in her campaign report. Gutierrez did not respond.

Evans said that violations of election laws carry several potential penalties, including withholding money from salaries and being barred from filing for public office for a period of time. Gutierrez is also subject to fines of up to \$250 for failing to provide 1995 and 1996 post-election reports on her account, election officials said.

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