CITY OF IRVINE

CANDIDATE HANDBOOK



SPECIAL MUNICIPAL ELECTION

April 15, 2025

DISCLAIMER: The information contained in this handbook is only in effect for the Special Municipal Election to be conducted April 15, 2024, and is provided for general reference purposes only. It is not intended to be all inclusive of laws and statues governing election and campaign matters for local entities. Legal questions should be directed to private legal counsel.

December 23, 2024

Dear Prospective Candidate:

Congratulations on your interest in running as a candidate in the City of Irvine's Special Municipal Election to be conducted on April 15, 2025. The purpose of the election is to fill one seat on the Irvine City Council for Council District No. 5 for a short term through December 2026.

This handbook outlines the legal requirements that must be followed for those seeking candidacy to one of these local offices. The handbook is not intended to be all inclusive of laws and statutes governing election and campaign matters for local agencies. Questions concerning the nomination process and campaign finance reporting may be directed to the City Clerk; however, questions prompting legal advice should be directed to private legal counsel.

In order to run for office, a candidate must be a resident of the City of Irvine and a legally registered voter at their current address within Council District 5 at the time nomination papers are issued. **The nomination period begins on Monday, December 23, and closes on Friday, January 17, 2025**, during normal business hours. Generally, if an incumbent who is eligible for re-election does not file a declaration of candidacy, the nomination period for that office would be extended by five days for any person other than the incumbent; however, for the April 15, 2025 Special Municipal Election, there are no eligible incumbents, and therefore, the nomination period will not be extended to January 22, 2025. Filing deadlines are established by State law and must be adhered to.

The documents listed below must be completed and returned to the City Clerk's Office no later than **Friday, January 17, 2025, at 5 p.m.** As mentioned, because there is no incumbent eligible for re-election, there will not be a five-day extension allowed for any person other than the incumbent to file a declaration of candidacy for such office.

This handbook provides information to assist you in completing the following required documents:

- ☑ **Nomination Paper**
- ☑ **Ballot Designation Worksheet**
- ☑ **Candidate's Statement (provided electronically in the SharePoint link provided via email), if a statement is filed Candidate's Statement Information Sheet**
- ☑ **Candidate's Statement Agreement, and check payable to the City of Irvine.**
- ☑ **Candidate's Statement Alternative Form (This form is used when a Candidate's Statement is not submitted for inclusion on the ballot at the Candidate's discretion.)**
- ☑ **Temporary Political Sign Policy and Guidelines**
- ☑ **Candidate Intention Statement – Form 501 (if not already filed)**
- ☑ **Statement of Economic Interest – Form 700**

The following documents are optional or provided for informational purposes only:

- ☑ **Character-Based Name**
- ☑ **Code of Fair Campaign Practices**
- ☑ **Statement of Financial Worth**
- ☑ **Literature/Mass Mailing Requirements**

It is also important that you familiarize yourself thoroughly with Chapter 7 of this handbook relative to campaign finance disclosure requirements to ensure that you understand your campaign filing requirements and meet filing deadlines.

The polls will be open on Election Day, April 15, 2025, from 7a.m. to 8 p.m. A Vote Center will be open at the Civic Center (City Hall) beginning April 5, 2025, and a Vote Center will be open at University Park Community Center on April 12, 2025. Hours for each Vote Center vary, but will be open on Election Day from 7 a.m. to 8 p.m. Election returns will be canvassed and compiled at the Orange County Registrar of Voters (ROV) commencing the evening of November 5. Live election results can be obtained by calling 714-567-7600 or online at *ocvote.org*. The ROV offers a precinct mapping system as part of their LIVE website which allows users to click into any of the precincts throughout Orange County to access live returns for each individual contest. The ROV has 30 days to complete the canvass and certify the election.

By April 27, 2025, the City Council will officially certify the Election results for the office of Councilmember for Council District 5. The newly elected Councilmember will then be administered the Oath of Office, provided a Certificate of Election, and will take their seats at the City Council dais.

Again, I congratulate you on your decision to run for elective office for Council District 5, and offer you best wishes for a successful campaign. Please contact me at 949-724-6208 if you have any questions regarding the election process or information provided.

Sincerely,

Carl Petersen, MPA, CMC
City Clerk

City of Irvine
Mission Statement

The Mission of the Employees of the City of Irvine is to create and maintain a community where people can live, work and play in an environment that is safe, vibrant and aesthetically pleasing.

The City of Irvine's five values reflect the interests and needs of the community, and the level of service they expect and deserve.

Our five values are:

Innovation

We encourage new ideas to meet the needs of our community in a creative, progressive manner.

Integrity

We are guided by high standards of moral and ethical principles in all that we do.

Professionalism

We strive to be the best through excellence, leadership and training.

Flexibility

We appreciate the diversity of opinion resulting from a participatory government, and strive to be versatile in our dynamic organization.

Responsiveness

We believe in responding with mutual respect and sensitivity to the needs of the people we serve and to our fellow employees.

Our Commitment

To provide quality municipal services.

Our Belief

Cooperation and teamwork will help us achieve our mission.

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Other Information and Forms Provided:

- Nomination Packet

  Required:
  - Nomination Paper
  - Ballot Designation Worksheet
  - Candidate's Statement Form (provided electronically in the SharePoint link delivered via email, if filed)
  - Candidate's Statement Information Sheet
  - Candidate's Statement Agreement
  - Candidate's Statement Alternative Form (if no Statement is filed)
  - Temporary Political Sign Policy and Guidelines
  - Form 501 – Candidate Intention Statement
  - Form 700 – Statement of Economic Interests

  Optional/Informational:
  - Character-Based Name Form
  - Code of Fair Campaign Practices
  - Statement of Financial Worth
  - Literature/Mass Mailing Requirements
  - Frequently Asked Questions
  - Candidate Guidance and Acknowledgement
  - Character-Based Name Form

- Electronically provided in the SharePoint folder delivered via email, the following documents:
  - Candidate's Statement Form
  - Campaign Disclosure Forms (410, 460, 462, 470/470 Supplement, 496, 497, 501)
  - Election Manual

CANDIDATE'S CHECKLIST

The following checklist is provided to guide you in returning the appropriate paperwork (included in your nomination papers) necessary for running for office. The documents listed below must be filed with the City Clerk at the same time you file your Nomination Paper. **by 5 p.m. on Friday, January 17, 2025**.

REQUIRED

____ Candidate Guidance and Acknowledgement for Electronic Issuance of Candidate Documents

____ Nomination Paper - MUST contain a minimum of **20** but no more than **30 signatures** of City of Irvine registered voters within District 5. The Declaration of Circulator and Affidavit of Nominee must be completed in its entirety before it will be accepted**. Do not sign the Affidavit of Nominee until you are in the presence of the City Clerk**.

____ Ballot Designation Worksheet.

____ Candidate Intention Statement - Form 501 (if not on file)

____ Statement of Economic Interest - Form 700.

IF FILING A CANDIDATE STATEMENT

____ Candidate's Statement of Qualifications typewritten on hard copy and electronically in the SharePoint link provided via email; and check made payable to the City of Irvine in the amount of $896.66 (electronic option only would be $509.82)

____ Candidate's Statement Information Sheet

____ Candidate's Statement Agreement

IF NOT FILING A CANDIDATE STATEMENT

____ Candidate's Statement Alternative Form

OPTIONAL

____ Character-Based Name Form

____ Code of Fair Campaign Practices.

____ Temporary Political Sign Policy and Guidelines

____ Statement of Financial Worth

APRIL 15, 2025 ELECTION CALENDAR

December 19, 2024	Notice of Election published in the Irvine World News
Dec. 23, 2024 to Jan. 17, 2025	Filing Period for Nomination Papers and Candidate Statement
January 14	Last day to publish or post offices and nominations
January 22	Last day to file Nomination Papers **IF** incumbent does not file (**NOTE:** The nomination period will NOT be extended as there is no eligible incumbent)
January 23	Order of names on the Ballot determined
February 17 to April 1	Filing Period for Write-in Candidates
March 17	First day for Mailing Vote-by-Mail Ballots (mailed out by Registrar of Voters)
March 31	Last day to register to vote.
April 1 – April 15	Period in which an elector can "conditionally" register and vote at the Registrar of Voters office or at any Orange County Vote Center.
April 8	Last day for City Clerk to publish Notice of Nominees
April 15	ELECTION DAY
By April 27	Certification of Election submitted to the City Council
January 31, 2025	Last day to file Campaign Expenditure Statements –

NOTE: Deadlines/Due Dates for campaign finance statements will be provided under separate cover

See Appendix E



CHAPTER 1

GENERAL QUALIFICATIONS TO RUN FOR AND HOLD PUBLIC OFFICE

CHAPTER 1

General Qualifications to Run for and Hold Public Office

A candidate for elective office in the City of Irvine MUST BE:

- ✓ 18 years of age.
- ✓ A resident of the City of Irvine.
- ✓ A registered voter at your current address at the time nomination papers are issued.
- ✓ Qualified to vote for the office you are running for at the time nomination papers are issued.

Issuance and Circulation of the Nomination Paper

Prior to issuing a nomination paper to a candidate, the City Clerk will sign, date and type the name of the candidate, office, and the district (office of Councilmember) for which the candidate is running on the nomination paper.

Each candidate's nomination paper must include not less than twenty **(20)** but not more than thirty **(30)** signatures of registered voters of the City of Irvine (and within their respective district, if applicable). It is suggested that 30 signatures be obtained since some signatures may be invalidated when they are filed and subsequently verified. If a candidate fails to obtain at least twenty (20) valid signatures, a "supplemental" nomination paper will be issued to the candidate to collect additional signatures. The supplemental nomination paper must be filed no later than the last day for filing for the office in question. A candidate that does not obtain at least twenty (20) valid signatures will be disqualified.

Only one candidate can be named on any one nomination paper. No voter may sign more nomination papers than the number of seats to be filled, and in the event they do, the signature will count only on the first nomination paper(s) filed for the office: (1) One for City Councilmember within their district; and (2) One for Mayor.

To be valid, signatures must be affixed on the nomination paper and each signer must add include their printed name and place of residence, giving the street and number.

Any voter registered to vote in this Election and qualified to vote for the office for which the nomination is made may circulate a nomination paper. Each nomination paper must be circulated by only one voter and the circulator must complete the certificate of circulation in handwriting, certifying that they saw written all signatures affixed thereto and knows they are the signatures of the persons whose names they purport to be.

Each nomination paper must also be accompanied by a verified statement of the candidate that they will accept the nomination and accept the office in the event of their election.

A candidate's Ballot Designation shall be no more than **three** words, as defined by the Elections Code, designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents. Please see Chapter 2 for Ballot Designation information, examples, and guidelines.

The last day and hour for nomination papers to be filed in the City Clerk's Office for the Office of Councilmember is January 17, 2025 at 5 p.m.

A candidate may withdraw their candidacy after their nomination paper is filed with the City Clerk up to and including the last applicable day of filing, 5 p.m., January 17, 2025.

Nomination papers are considered confidential documents until the nomination period is closed. Once the nomination period closes, the nomination papers are public documents; however, they are only available for viewing only, and may not be reproduced.

The following State of California Election Code sections are excerpts from the California Elections Code. A complete copy of the California Elections Code is available for your review in the City Clerk's Office or online at leginfo.legislature.ca.gov.

Method of Nomination; Nomination Filing
Section 10220

Candidates may be nominated for any of the elective offices of the City in the following manner:

Not earlier than the 113th day **(December 23, 2024)** nor later than the 88th day **(January 17, 2025)** before a municipal election during normal office hours, as posted, the voters may nominate candidates for election by signing a nomination paper. Each candidate shall be proposed by not less than 20 but not more than 30 voters, only one candidate may be named in any one nomination paper. No voter may sign more than one nomination paper for the same office, and in the event the voter does so, that voter's signature shall count only on the first nomination paper filed which contains the voter's signature.

Nomination papers subsequently filed and containing that voter's signature shall be considered as though that signature does not appear thereon. Each seat on the governing body is a separate office. Any person registered to vote at the election and qualified to vote for the elective office of the City for which the nomination is made, may circulate a nomination paper. Only one person may circulate each nomination paper. Where there are full terms and short terms to be filled, the term shall be specified in the nomination paper.

NOTE: For the April 15, 2025, Special Municipal Election, the office of Councilmember for District 5 will be a term of less than two years.

Candidate/File for One Office Only
Section 10220.5

Notwithstanding any other provision of law, a candidate shall not file nomination papers for more than one municipal office or term of office for the same municipality in the same election.

Signatures/Nomination Papers
Section 10221(a)

The signatures to each nomination paper shall be appended on the same sheet of paper, and each signer shall add his or her place of residence, giving the street and number, if any, or another designation of his or her place of residence, so as to enable its location to be readily ascertained.

Section 10221(b)

Once a nomination paper is filed with the elections official, the nomination paper may not be returned to the candidate to obtain additional signatures. If the nomination paper is determined to be insufficient or the candidate fails to obtain the correct number of valid signatures on his or her nomination paper, the elections official shall retain the original nomination paper, provide a copy of the nomination paper to the candidate with an indication on of which signatures are valid, and issue one supplemental petition to the candidate on which the candidate may collect additional signatures. The supplemental petition shall be filed not later than the last day for filing for that office. The form of the supplemental petition shall be the same as the nomination paper, except that the word “Supplemental” shall be inserted above the phrase “Nomination Paper.”

Affidavit of Circulator/Nomination Papers
Section 10222

Every nomination paper shall have annexed an affidavit of the person who circulated it; to the effect that they saw written all the signatures appended thereto, and knows that they are the signatures of the persons whose names they purport to be.

Statement of Acceptance/Nomination Papers
Section 10223

Each nomination paper shall be accompanied by a verified statement of the candidate that will accept the nomination, and will also accept the office in the event of their election. The statement shall contain a blank space wherein the candidate shall be required to fill in their name in the manner in which they wish the same to appear on the ballot and also the designation which they wish to have under their name on the ballot, which designation shall conform to one of the designations permitted under this code relating to the forms of ballots generally.

Filing Date/Nomination Papers
Section 10224

All nomination papers shall be filed with the city elections official (City Clerk) during regular business hours as posted, not later than the 88th day before the election **(January 17, 2025 at 5 p.m.).** Until that time, but not after, a candidate may withdraw his or her nomination paper after it is filed with the elections official as provided in this section.

Time Extension If Incumbent Fails To File
Section 10225

(a) Notwithstanding Sections 10220 and 10224, if nomination papers for an incumbent officer of the City are not filed by or on the 88th day before the election (January 17, 2025 at 5 p.m.), the voters shall have until the 83rd day before the election (January 22, 2025 at 5:30 p.m.) to nominate candidates other than the person who was the incumbent on the 88th day, for that incumbent's elective office.

NOTE: The nomination period will not be extended as there is no eligible incumbent for Council District 5.

Confidentiality/Nomination Papers
Section 17100(b)

Nomination papers are confidential documents until the close of the nomination period. Following the close of the nomination period, nomination documents may be viewed but not photocopied or distributed because they contain signatures of voters.

The following Code section has been extracted from the City of Irvine Charter. A complete copy of the Charter can be found in Chapter 8.

Contingent Vacancy
City of Irvine Charter Section 400

If any Council seat held by a Council member serving the remainder of a term pursuant to this provision becomes vacant prior to the end of such term by means other than the recall, such Council seat shall be filled by appointment or election at large; provided, however, that if the vacating Council member resides in either the Council District designated 5 or the Council District designated 6 then, notwithstanding Section 403 of the Irvine City Charter, a by-district election shall be held for the District where the vacating Council member resides at the earliest feasible date.

Code of Fair Campaign Practices
Section 20400

The State Legislators enacted the “Code of Fair Campaign Practices” in 1994. The purpose is to encourage every candidate for public office to subscribe to the Code of Fair Campaign Practices. Subscription to the “Code of Fair Campaign Practices” is voluntary. If the candidate chooses to subscribe, the completed form remains on file in the office of the City Clerk and is available for public review. To subscribe, please complete the form included in your nomination packet and submit with your nomination paper.

Regulations - Code of Fair Campaign Practices

(Division 20, Chapter 5, Elections Code.)

Article 1. General Intent

20400. The Legislature hereby declares that the purpose of this Chapter is to encourage every candidate for public office in this state to subscribe to the Code of Fair Campaign Practices.

It is the ultimate intent of the Legislature that every candidate for public office in this state who subscribes to the Code of Fair Campaign Practices will follow the basic principles of decency, honesty, and fair play in order that, after vigorously contested, but fairly conducted campaigns, the citizens of this state may exercise their constitutional right to vote, free from dishonest and unethical practices which tend to prevent the full and free expression of the will of the voters.

The purpose in creating the Code of Fair Campaign Practices is to give voters guidelines in determining fair play and to encourage candidates to discuss issues instead of untruths or distortions.

Sample

Article 2. Definitions

20420. As used in this Chapter, "Code" means the Code of Fair Campaign Practices.

Article 3. Code of Fair Campaign Practices

20440. At the time an individual is issued his or her declaration of candidacy, nomination papers, or any other paper evidencing an intention to be a candidate for public office, the Elections Official shall give the individual a blank form of the Code of Fair Campaign Practices and a copy of this Chapter. The Elections Official shall inform each candidate for public office that subscription to the code is voluntary.

In the case of a committee making an independent expenditure, as defined in Section 82031 of the Government Code, the Secretary of State shall provide a blank form and a copy of this Chapter to the individual filing, in accordance with Title 9 (commencing with § 81000) of the Government Code, an initial campaign statement on behalf of the committee.

The text of the Code shall read, as follows: **(See "CODE OF FAIR CAMPAIGN PRACTICES" on next page).**

20442. The Elections Official shall accept, at all times prior to the election, all completed forms which are properly subscribed to by a candidate for public office and shall retain them for public inspection until 30 days after the election.

20443. Every code subscribed to by a candidate for public office pursuant to this Chapter is a public record open for public inspection.

20444. In no event shall a candidate for public office be required to subscribe to or endorse the code.

Form - Code of Fair Campaign Practices

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold, in order that, after vigorously contested, but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammeled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

(1) **I SHALL CONDUCT** my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents or political parties that merit this criticism.

(2) **I SHALL NOT USE OR PERMIT** the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.

(3) **I SHALL NOT USE OR PERMIT** any appeal to negative prejudice based on a candidate's actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, sexual orientation, sex, including gender identity, or any other characteristic set forth in Section 12940 of the Government Code, or association with another person who has any of the actual or perceived characteristics set forth in Section 12940 of the Government Code.

(4) **I SHALL NOT USE OR PERMIT** any dishonest or unethical practice which tends to corrupt or undermine our American system of free elections, or that hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.

(5) **I SHALL NOT** coerce election help or campaign contributions for myself or for any other candidate from my employees.

(6) **I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE** support deriving from any individual or group that resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing elections.

(7) **I SHALL DEFEND AND UPHOLD** the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of California or treasurer or chairperson of a committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

_____

Signature Date

_____

Printed Name

_____

Date of Election

Sample



CHAPTER 2

BALLOT DESIGNATION PROVISIONS

CHAPTER 2
Ballot Designation Provisions

Each candidate has the option of having a ballot designation appear immediately following their name on the ballot. Ballot designations describe the current profession, vocation, occupation, or incumbency status of the candidate that will appear on the ballot under the candidate's name.

Definitions:

> **"Profession"** means a field of employment requiring special education or skill and requiring specific knowledge of a particular discipline. The labor and skill involved in a profession is predominantly mental or intellectual, rather than physical or manual. Recognized professions generally include, but are not limited to, law, medicine, education, engineering, accountancy, and journalism. Examples of an acceptable designation of a "profession," as defined in Elections Code § 13107, subdivision (a)(3), include, but are not limited to, "attorney," "physician," "accountant," "architect," and "teacher."
>
> **"Vocation"** means a trade, a religious calling, or the work upon which a person, in most but not all cases, relies for their livelihood and spends a major portion of their time. As defined, vocations may include, but are not limited to, religious ministry, child rearing, homemaking, elderly and dependent care, and engaging in trades such as carpentry, cabinetmaking, plumbing, and the like. Examples of an acceptable designation of a "vocation," as defined in Elections Code § 13107, subdivision (a)(3), include, but are not limited to, "minister," "priest," "mother," "father," "homemaker," "dependent care provider," "carpenter," "plumber," "electrician," and "cabinetmaker."
>
> **"Occupation"** means the employment in which one regularly engages or follows as the means of making a livelihood. Examples of an acceptable designation of an "occupation," as defined in Elections Code § 13107, subdivision (a)(3), include, but are not limited to, "rancher," "restaurateur," "retail salesperson," "manual laborer," "construction worker," "computer manufacturing executive," "military pilot," "secretary," and "police officer."

Ballot Designations:

- Can be no more than **three (3)** words.
- Must appear on the Affidavit of Nominee on the back of the Nomination Paper at the time it is filed.
- Become public record once the Nomination Paper is filed.
- **Cannot be changed after the final date to file nomination documents unless requested by the Election Official due to an unacceptable designation.**

Ballot designations which exceed space allotted on the ballot **(approximately 35 characters)** are printed in a smaller typeface pursuant to Section 13107 (i) of the Elections Code.

BALLOT DESIGNATION WORKSHEET – every candidate is required to file a Ballot Designation Worksheet, listing their preferred ballot designation, and alternate designations should the preferred ballot designation be unacceptable.

The listing of a designation on the ballot is OPTIONAL. Only **one** of the following six categories is allowed: (E.C. 13107, 13107.3 and 13107.5)

1. **ELECTIVE OFFICE TITLE** – Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination documents, to which the candidate was elected by vote of the people.

   - **Example A:** Boardmember, XYZ School District
   - **Example B:** Councilmember, City of Los Angeles

2. **INCUMBENT** – The word **Incumbent** may be used **IF** the candidate is a candidate for the same office which the candidate holds at the time of filing the nomination papers, and was elected to that office by a vote of the people. A candidate shall **not** use the word "incumbent" if the candidate was elected to their office in an at-large election and is a candidate in a district-based election.

3. **APPOINTED INCUMBENT** – The phrase "a**ppointed incumbent" IF** the candidate holds an office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office**.** In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed."

   - **Example A:** Appointed Incumbent
   - **Example B:** Appointed Member of the City Council

   EXCEPTION: Candidates who seek reelection to an office which the candidate holds and to which the candidate was appointed, as a nominated candidate, in lieu of an election shall not be required to use the phrase "appointed incumbent."

4. **PRINCIPAL OCCUPATION** – No more than **three (3) words** designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents. State geographical names are considered one word.

   - **Example A:** High School Teacher
   - **Example B:** Attorney/Educator/Businessowner
   - **Example C:** CEO/Councilmember

5. **COMMUNITY VOLUNTEER** – A Community Volunteer shall constitute a valid principal vocation or occupation subject to the following conditions:

   - A candidate's community volunteer activities constitute their principal profession, vocation or occupation.
   - A candidate is not engaged concurrently in another principal profession, vocation or occupation.
   - A candidate may not use the designation of "community volunteer" in combination with any other principal profession, vocation or occupation designation.

6. **NO BALLOT DESIGNATION DESIRED** – A ballot designation is optional. If the Candidate did not request a ballot designation the Election Official must indicate NONE on the Certified List of Qualified Candidates.

7. **UNACCEPTABLE BALLOT DESIGNATION** - If the Election Official determines that the ballot designation is not authorized by law, the Election Official shall notify the candidate that an alternative designation will be used from the Ballot Designation Worksheet.

   Pursuant to Election Code § 13107 (e), the Election Official shall not accept a ballot designation if:

   1. It would mislead the voter.
   2. It would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.
   3. It abbreviates the word "retired" or places it following any word(s) which it modifies.
   4. It uses a word or prefix, such as "former" or "ex", which means a prior status. The only exception is the use of the word "retired."
   5. It uses the name of any political party, whether or not it has qualified for the ballot.
   6. It uses a word or words referring to a racial, religious, or ethnic group.
   7. It refers to any activity prohibited by law.

Refer to your Ballot Designation worksheet and relevant provisions of Elections Code 13107 in your nomination packet.

For examples of acceptable and unacceptable Ballot Designations, please refer to the sheet immediately following this page.

EXAMPLES OF BALLOT DESIGNATIONS

ACCEPTABLE:

- Investment Counselor
- Health Care Manager
- Appointed Incumbent
- Community Volunteer
- Businesswoman/Attorney/Councilwoman
- CPA/Parent
- Retired USAF Officer
- City Councilmember, City of Irvine
- City of Irvine Councilmember/Educator

UNACCEPTABLE:	REASON:
Incumbent Mayor/Engineer	"Incumbent" must be used as noun and alone
Prominent Businesswoman	Status
Businessman, Father	Slash marks must be used for punctuation
Nonprofit Organization Founder	Must be within past 12 months
Republican Legislative Assistant	No party affiliation can be mentioned
Community Volunteer/Parent	"Community Volunteer" must stand alone
Tax Activist	Suggests an evaluation of candidate's qualifications and is a status
Former Council Member	Can't use "former" or "ex"
Veteran	Status
Army General, Ret.	"Retired" must appear before other words and not be abbreviated

SECRETARY OF STATE
Ballot Designation Regulations
Excerpts from the California Code of Regulations

20710. General Provisions.

(a) The regulatory purpose of this Chapter is to ensure the accurate designation of the candidate upon the ballot in order that an informed electorate may intelligently elect one of the candidates.
(b) The Secretary of State shall, at all times, apply and interpret the provisions of Elections Code Section 13107 and the regulations included in this Chapter in a manner consistent with the regulatory purpose of this Chapter.
(c) Candidates are not required to use a ballot designation pursuant to Elections Code Section 13107, subdivision (a), and may opt to leave the space for such a designation on the ballot blank. In order to notify the elections official as to whether he or she will use a ballot designation or will opt to leave the ballot designation space blank, the candidate must initial the appropriate box on the Declaration of Candidacy or otherwise so indicate on the Declaration of Candidacy.
(d) Pursuant to Elections Code Section 13107, subdivision (a), a candidate may submit a proposed ballot designation pursuant to any one of the four provisions specified in Elections Code Section 13107, subdivision (a), subparts (1) through (4), applicable to that candidate. The candidate shall be free to select from which of the applicable four subparts he or she is submitting his or her proposed ballot designation.
(e) The regulations set forth in this Chapter shall apply only to elections held for offices for which elections returns are certified by the Secretary of State of the State of California.
(f) Whenever, the word "should" is used in this Chapter, it is recommended, not mandatory.

Note: Authority cited: Section 12172.5, Government Code. Reference: Section 13107, Elections Code.

20711. Ballot Designation Worksheet.

(a) In order to facilitate review of a candidate's proposed ballot designation by the Secretary of State pursuant to Elections Code Section 13107, the candidate shall submit, at the time of filing his or her proposed ballot designation on the Declaration of Candidacy, a completed Ballot Designation Worksheet on a form provided by the Secretary of State.

(b) All Ballot Designation Worksheets filed with the Office of the Secretary of State or the county elections officials pursuant to this section shall be public records and shall be available for inspection and copying at the public counter of the Elections Division of the Office of the Secretary of State, Fifth Floor, 1500 11th Street, Sacramento, California 95814, or at the office of the applicable county elections official.

(c) The Secretary of State shall provide a master copy or copies of the Ballot Designation Worksheet to all elections officials responsible for providing and accepting the nomination documents for candidates in elections for offices certified by the Secretary of State. The Ballot Designation Worksheet shall request that the candidate proposing the ballot designation provide the following information:

(1) The candidate's name, home, business and mailing addresses, telephone numbers, e-mail address, if available, and fax number;
(2) A designation of the office for which the candidate is seeking election;
(3) The name, home, business and mailing addresses, telephone numbers, e-mail address, if available, and fax number of the attorney representing the candidate or for any other person to be contacted in the event the Secretary of State requires further information regarding the proposed ballot designation;
(4) The proposed ballot designation submitted by the candidate;
(5) The candidate may submit one or more proposed alternate ballot designations ranked in order of the candidate's preference;
(6) A brief statement identifying the factual basis upon which the candidate claims the proposed ballot designation and each proposed alternate ballot designation, including the following:

(A) If the candidate holds elected office and is submitting his or her proposed ballot designation pursuant to Elections Code Section 13107, subdivisions (a)(1) or (a)(2), the candidate shall indicate the elective office he or she currently occupies and may attach a copy of his or her Certificate of Election;
(B) If the candidate is a judicial officer and is submitting his or her proposed ballot designation pursuant to Elections Code Section 13107, subdivisions (a)(1) or (a)(2), the candidate shall indicate the elective office he or she currently holds and may attach either (A) a copy of his or her Certificate of Election or (B) a copy of his or her commission or certificate of appointment, issued at the time the candidate was appointed to the judicial office which he or she currently occupies;
(C) If the candidate submits a ballot designation pursuant to Elections Code Section 13107, subdivision (a)(3), the candidate shall indicate:
(i) The title of the position or positions which he or she claims supports the proposed ballot designation;
(ii) The dates during which the candidate held such position;
(iii) A description of the work he or she performs in the position;
(iv) The name of the candidate's business or employer;

(v) The name and telephone number of a person or persons who could verify such information; and

(vi) A statement that the professions, vocations or occupations relied upon to support the proposed ballot designation constitute the primary, main or leading professions, vocations or occupations of the candidate, in accordance with the definition of the term "principal" as set forth at Section 20714, subdivision (b).

(D) If the candidate submits a ballot designation pursuant to Elections Code Section 13107, subdivision (a)(4), the candidate shall indicate the date on which he or she was appointed to the office for which he or she is an appointed incumbent.

(d) The candidate may attach or append any supporting documents or other exhibits to his or her Ballot Designation Worksheet which he or she believes support his or her proposed ballot designation. Such attached documents or other exhibits shall be deemed to be incorporated by reference as part of the candidate's Ballot Designation Worksheet and shall be considered as such by the Secretary of State.

(e) If a candidate requests a change of his or her ballot designation pursuant to Elections Code Section 13107(h), that request shall be accompanied by a Ballot Designation Worksheet.

Note: Authority cited: Section 12172.5, Government Code. Reference: Sections 13107 and 13107.3, Elections Code.

20712. Proposed Ballot Designations Submitted Pursuant to Elections Code Section 13107, Subdivision (a)(1).

Proposed ballot designations submitted pursuant to Elections Code Section 13107, subdivision (a)(1), shall be subject to the following provisions:

(a) In the case of candidates holding elective city, county, district, state, or federal office, the candidate's ballot designation shall be the elective office which the candidate holds at the time of filing the nomination documents.

(b) In the case of judicial officers, the candidate's ballot designation shall be the elective office which the candidate holds at the time of filing the nomination documents.

(c) There shall be no word count limitation applicable to ballot designations submitted pursuant to Elections Code Section 13107, subdivision (a)(1).

(d) Proposed ballot designations indicating a position of legislative leadership or leadership in another elected body, such as "Majority Leader of the California Senate," "Minority Leader of the California State Assembly," "Speaker of the California State Assembly," "President Pro Tempore of the California State Senate," "City of Orange Mayor Pro Tem," and the like, are not elective offices

described in Elections Code Section 13107, subdivision (a)(1). Such ballot designations are improper, pursuant to Elections Code Section 13107, subdivision (a)(1). They may, however, subject to the three-word limit, be considered under the provisions of Section 13107(a)(3). Examples of acceptable ballot designations under this section include, but are not limited to, "Assembly Minority Leader," "California Assembly Speaker," and "Mayor Pro Tem."

(e) Proposed ballot designations indicating that the candidate is a member of the state or county central committee of a political party, or an officer of a state or county central committee of a political party, are improper, as such positions do not constitute elective county or state offices as specified in Elections Code Section 13107, subdivision (a)(1).

Note: Authority cited: Section 12172.5, Government Code. Reference: Section 13107, Elections Code.

20713. Proposed Ballot Designations Submitted Pursuant to Elections Code Section 13107, Subdivision (a)(2).

Proposed ballot designations submitted pursuant to Elections Code Section 13107, subdivision (a)(2), shall be subject to the following provisions:

(a) A proposed ballot designation submitted pursuant to Elections Code Section 13107, subdivision (a)(2), is limited "incumbent," as that term is defined in Elections Code Section 13107, subdivision (a)(2).

(b) The term "incumbent" must be used as a noun. It shall not be used in conjunction with any other words, including any accompanying adjectives or modifiers, and must stand alone. A candidate qualified to use this designation pursuant to Elections Code Section 13107, subdivision (a)(2), shall be entitled to use the ballot designation "Incumbent."

(c) The word "incumbent" is strictly limited for use in ballot designations submitted pursuant to Elections Code Section 13107, subdivision (a)(2), and may not be used as an adjective in any other ballot designation.

Note: Authority cited: Section 12172.5, Government Code. Reference: Section 13107, Elections Code.

20714. Proposed Ballot Designations Submitted Pursuant to Elections Code Section 13107, Subdivision (a)(3).

Proposed ballot designations submitted pursuant to Elections Code Section 13107, subdivision (a)(3), shall be subject to the following provisions:

(a) The terms "profession," "vocation," or "occupation," as those terms are used in Elections Code Section 13107, subdivision (a)(3), are defined as follows:

(1) "Profession" means a field of employment requiring special education or skill and requiring knowledge of a particular discipline. The labor and skill involved in a profession is predominantly mental or intellectual, rather than physical or manual. Recognized professions generally include, but are not limited to, law, medicine, education, engineering, accountancy, and journalism. Examples of an acceptable designation of a "profession," as defined in Elections Code Section 13107, subdivision (a)(3), include, but are not limited to, "attorney," "physician," "accountant," "architect," and "teacher."

(2) "Vocation" means a trade, a religious calling, or the work upon which a person, in most but not all cases, relies for his or her livelihood and spends a major portion of his or her time. As defined, vocations may include, but are not limited to, religious ministry, child rearing, homemaking, elderly and dependent care, and engaging in trades such as carpentry, cabinetmaking, plumbing, and the like. Examples of an acceptable designation of a "vocation," as defined in Elections Code Section 13107, subdivision (a)(3), include, but are not limited to, "minister," "priest," "mother," "father," "homemaker," "dependent care provider," "carpenter," "plumber," "electrician," and "cabinetmaker."

(3) "Occupation" means the employment in which one regularly engages or follows as the means of making a livelihood. Examples of an acceptable designation of an "occupation," as defined in Elections Code Section 13107, subdivision (a)(3), include, but are not limited to, "rancher," "restaurateur," "retail salesperson," "manual laborer," "construction worker," "computer manufacturing executive," "military pilot," "secretary," and "police officer."

(b) "Principal," as that term is used in Elections Code Section 13107, subdivision (a)(3), means a substantial involvement of time and effort such that the activity is one of the primary, main or leading professional, vocational or occupational endeavors of the candidate. The term "principal" precludes any activity which does not entail a significant involvement on the part of the candidate. Involvement which is only nominal, pro forma, or titular in character does not meet the requirements of the statute.

(1) If a candidate is licensed by the State of California to engage in a profession, vocation or occupation, the candidate is entitled to consider it one of his or her "principal" professions, vocations or occupations if the candidate has maintained his or her license current as of the date he or she filed his or nomination documents by complying with all applicable requirements of the respective licensure, including the payment of all applicable license fees and the status of the candidate's license is active at the time he or she filed his or her nomination documents.

(2) A candidate who holds a professional, vocational or occupational license issued by the State of California may not claim such profession, vocation or occupation as one of his or her "principal" professions, vocations or occupations if the candidate's licensure status is "inactive" at the time the candidate files his or her nomination document, or the candidate's license has been suspended or revoked by the agency issuing the license at the time the candidate files his or her nomination documents.

(c) In order for a ballot designation submitted pursuant to Elections Code Section 13107, subdivision (a)(3), to be deemed acceptable by the Secretary of State, it must accurately state the candidate's principal professions, vocations or occupations, as those terms are defined in subdivisions (a) and (b) herein. Each proposed principal profession, vocation or occupation submitted by the candidate must be factually accurate, descriptive of the candidate's principal profession, vocation or occupation, must be neither confusing nor misleading, and must be in full and complete compliance with Elections Code Section 13107 and the regulations in this Chapter.

(d) If the candidate is engaged in a profession, vocation or occupation at the time he or she files his or her nomination documents, the candidate's proposed ballot designation is entitled to consist of the candidate's current principal professions, vocations and occupations. In the event the candidate does not have a current principal profession, vocation or occupation at the time he or she files his or her nomination documents, the candidate may use a ballot designation consisting of his or her principal professions, vocations or occupations, which the candidate was principally engaged in during the calendar year immediately preceding the filing of the candidate's nomination papers.

(e) A candidate may engage in multiple principal professions, vocations or occupations. Accordingly, the candidate may designate multiple principal professions, vocations or occupations. If a candidate proposes a ballot designation including multiple principal professions, vocations or occupations, the proposed ballot designation must comply with the following provisions:

(1) The proposed ballot designation must comply with the three-word limitation specified in Elections Code Section 13107, subdivision (a)(3), and as implemented pursuant to subdivision (f) herein.

(2) Each such proposed profession, vocation or occupation shall be separately considered by the Secretary of State and must independently qualify as a "principal" profession, vocation or occupation, as that term is defined pursuant to subdivision (b) herein.

(3) When multiple professions, vocations or occupations are proposed as a ballot designation, they shall be separated by a slash ("/"). An example of an acceptable designation would be "Legislator/Rancher/Physician."

(f) Pursuant to Elections Code Section 13107, subdivision (a)(3), the candidate's ballot designation shall be limited to not more than three (3) words. The following rules shall govern the application of the three-word limitation:

(1) The proposed ballot designation shall be grammatically correct, generic, and all words must be spelled correctly.
(2) Punctuation shall be limited to the use of a comma (e.g., District Attorney, Los Angeles County) and a slash (e.g., Legislator/Rancher/Physician), pursuant to subdivision (e) of this section. A hyphen may be used if, and only if, the use of a hyphen is called for in the spelling of a word as it appears in a standard reference dictionary of the English language, which was published in the United States at any time within the 10 calendar years immediately preceding the election for which the words are counted.
(3) All California geographical names shall be considered to be one word and shall be limited to the names of cities, counties and states. The names of special districts and political subdivisions are not "geographical names," as that term is used in Elections Code Section 13107, subdivision (a)(3). If the candidate desires, the geographical name may be used in the form of "City of . . . ," "County of . . . ," or "City and County of . . ." Examples of geographical names considered to be one word include Tehama County, Los Angeles County and County of Sacramento. Examples of designations containing a special district or political subdivision that are not geographical names include "Butte County Rural Fire District Captain," "Huntington Beach Unified School District President," and "South Bay Irrigation District Director."
(4) An acronym shall be counted as one word.

(g) A candidate who chooses to include the name of his or her elective office with another profession, vocation, or occupation may do so pursuant to Elections Code section 13107(a)(3), but that ballot designation shall be limited to no more than three words. Examples of acceptable designations under this section include "State Senator/Rancher," "California Assemblywoman/Attorney," "County Supervisor/Teacher," and "State Controller/Businessman." Examples of unacceptable designations under this section include "Assemblyman, 57th District/Educator," "California State Senator/Architect," "Placer County Supervisor/Business Owner," and "Member, Board of Equalization/Banker."

Note: Authority cited: Section 12172.5, Government Code. Reference: Sections 9 and 13107, Elections Code.

20714.5. "Community Volunteer."

(a) "Community Volunteer" means a person who engages in an activity or performs a service for or on behalf of, without profiting monetarily, one or more of the following:

(1) A charitable, educational, or religious organization as defined by the United States Internal Revenue Code section 501(c)(3);
(2) A governmental agency; or
(3) An educational institution.

(b) The activity or service must constitute substantial involvement of the candidate's time and effort such that the activity or service is the sole, primary, main or leading professional, vocational or occupational endeavor of the candidate within the meaning of subdivisions (a) and (b) of section 20714 of this Chapter.

Note: Authority cited: Section 12172.5, Government Code; and Section 13107.5(b), Elections Code. Reference: Sections 13107 and 13107.5, Elections Code; and Section 501(c)(3), United State Internal Revenue Code.

20715. Proposed Ballot Designations Submitted Pursuant to Elections Code Section 13107, Subdivision (a)(4).

(a) Pursuant to Elections Code Section 13107, subdivision (a)(4), a candidate may propose a ballot designation consisting of the phrase "appointed incumbent" if the candidate holds an office, other than a judicial office, by virtue of appointment, and the candidate is a candidate for election to the same office. The candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed."
(b) Pursuant to Elections Code Section 13107, subdivision (a)(4), a candidate may propose a ballot designation consisting of the word "appointed" in conjunction with the elective office, if the candidate is a candidate for election to the same office or to some other office. The candidate may not use any words designating the office unmodified by the word "appointed."
(c) There shall be no word count limitation applicable to ballot designations submitted pursuant to Elections Code Section 13107, subdivision (a)(4).

Note: Authority cited: Section 12172.5, Government Code. Reference: Section 13107, Elections Code.

20716. Unacceptable Ballot Designations.

(a) The Secretary of State shall reject as unacceptable any proposed ballot designation which fails to comply with Elections Code Section 13107, subdivision (a); is prohibited pursuant to Elections Code Section 13107, subdivision (b); is misleading; or is otherwise improper pursuant to the regulations set forth in this Chapter.
(b) The following types of activities are distinguished from professions, vocations and occupations and are not acceptable as ballot designations pursuant to Elections Code Section 13107, subdivision (a)(3):

(1) Avocations: An avocation is a casual or occasional activity, diversion or hobby pursued principally for enjoyment and in addition to the candidate's principal profession, vocation or occupation. Avocations may include, but are not limited to, hobbies, social activities, volunteer work (except as set forth in Section 20714.5 of this Chapter), and matters pursued as an amateur.

(2) Pro Forma Professions, Vocations and Occupations: Pro forma professions, vocations or occupations are positions held by the candidate which consume little or none of the candidate's time and which, by their nature, are voluntary or for which the candidate is not compensated, except as set forth in Section 20714.5 of this Chapter. Pro forma professions, vocations and occupations may include, but are not limited to, such pursuits as honorary peace officer, honorary chairperson, honorary professor, goodwill ambassador, official host or hostess and the like.

(3) Statuses: A status is a state, condition, social position or legal relation of the candidate to another person, persons or the community as a whole. A status is generic in nature and generally fails to identify with any particular specificity the manner by which the candidate earns his or her livelihood or spends the substantial majority of his or her time. Examples of a status include, but are not limited to, veteran, proponent, reformer, scholar, founder, philosopher, philanthropist, activist, patriot, taxpayer, concerned citizen, husband, wife, and the like.

(c) Pursuant to Elections Code Section 13107, subdivision (e)(1), the Secretary of State shall reject as unacceptable any proposed ballot designation which would mislead voters. In making this determination, the Secretary of State shall determine whether there is a substantial likelihood that a reasonably prudent voter would be misled as to the candidate's principal profession, vocation or occupation by the candidate's proposed ballot designation. The determination shall take into account the plain meaning of the words constituting the proposed ballot designation and the factual accuracy of the proposed ballot designation based upon supporting documents or other evidence submitted by the candidate in support of the proposed ballot designation, pursuant to Section 20711 and 20717 of this Chapter.

(d) A ballot designation may not comprise or include commercial identification information, such as a trademark, service mark, tradename, or the specific name of a business, partnership, corporation, company, foundation, or organization. Examples of an improper use of commercial identification information include, but are not limited to, "Acme Company President," "Universal Widget Inventor," "Director, Smith Foundation," "UCLA Professor," and the like.

(e) Pursuant to Elections Code Section 13107, subdivision (e)(2), the Secretary of State shall reject as unacceptable any proposed ballot designation which would suggest an evaluation of the candidate's qualifications, honesty, integrity, leadership abilities or character. Any laudatory or derogatory adjectives which would suggest an evaluation of the candidate's qualifications shall not be permitted. Such impermissible adjectives include, but are not limited to, "senior," "emeritus," "specialist," "magnate," "outstanding," "leading," "expert," "virtuous," "eminent," "best," "exalted," "prominent," "famous," "respected," "honored," "honest," "dishonest," "corrupt," "lazy," and the like.

(f) Pursuant to Elections Code Section 13107, subdivision (b)(3), the Secretary of State shall reject as unacceptable any proposed ballot designation which abbreviates the word "retired" or places it following any word or words which it modifies. Examples of impermissible designations include "Ret. Army General," "Major USAF, Retired" and "City Attorney, Retired."

(g) Pursuant to Elections Code Section 13107, subdivision (e)(4), the Secretary of State shall reject as unacceptable any proposed ballot designation which uses a word or prefix to indicate a prior profession, vocation, occupation or elected, appointed or judicial office previously held by the candidate. Such impermissible words or prefixes include, but are not limited to, "Ex-," "former," "past," and "erstwhile." Examples of impermissible designations include "Former Congressman," "Ex-Senator," and "Former Educator."

(1) Subject to the provisions of Elections Code Section 13107, subdivision (e)(4), use of the word "retired" in a ballot designation is generally limited for use by individuals who have permanently given up their chosen principal profession, vocation or occupation.

(2) In evaluating a proposed ballot designation including the word "retired," the Secretary of State will consider the following factors in making a determination as to the propriety of the use of the term "retired":

(A) Prior to retiring from his or her principal profession, vocation or occupation, the candidate worked in such profession, vocation or occupation for more than 5 years;
(B) The candidate is collecting, or eligible to collect, retirement benefits or other type of vested pension;
(C) The candidate has reached at least the age of 55 years;
(D) The candidate voluntarily left his or her last professional, vocational or occupational position; and,
(E) The candidate's retirement benefits are providing him or her with a principal source of income.

(3) If a candidate is requesting a ballot designation that he or she is a retired public official, the candidate must have previously voluntarily retired from public office, not have been involuntarily removed from office, not have been recalled by voters, and not have surrendered the office to seek another office or failed to win reelection to the office. If such a candidate did not voluntarily retire from public office, he or she may not use the word "retired" in his or her ballot designation.

(4) A candidate may not use the word "retired" in his or her ballot designation if that candidate possesses another more recent, intervening principal profession, vocation, or occupation.

(h) Pursuant to Elections Code Section 13107, subdivision (e)(5), the Secretary of State shall reject as unacceptable any proposed ballot designation which uses the name of any political party, whether or not it has qualified for recognized ballot status.

(i) Pursuant to Elections Code Section 13107, subdivision (e)(6), the Secretary of State shall reject as unacceptable any proposed ballot designation which uses a word or words referring to a racial, religious, or ethnic group.

(1) The Secretary of State shall reject as unacceptable any ballot designation which expressly contains or implies any ethnic or racial slurs or ethnically or racially derogatory language.

(2) If the candidate is a member of the clergy, the candidate may not make reference to his or her specific denomination. However, the candidate may use his or her clerical title as a ballot designation (e.g., "Rabbi," "Pastor," "Minister," "Priest," "Bishop," "Deacon," "Monk," "Nun," "Imam," etc.)

(j) Pursuant to Elections Code Section 13107, subdivision (e)(7), the Secretary of State shall reject as unacceptable any proposed ballot designation which refers to any activity prohibited by law. Unlawful activity includes any activities, conduct, professions, vocations, or occupations prohibited by state or federal law.

Note: Authority cited: Section 12172.5, Government Code. Reference: Section 13107, Elections Code.

20717. Requests for Supporting Documentation.

In addition to the Ballot Designation Worksheet required to be filed with the Secretary of State pursuant to Elections Code Section 13107.3 and Section 20711 of this Chapter, the Secretary of State may request that a candidate submit additional supporting documentation or other evidence to support the proposed ballot designation.

(a) Time is of the essence regarding all matters pertaining to the review of proposed ballot designations submitted by candidates for public office. Failure to promptly submit requested supporting materials will preclude consideration of such materials in and the rendering of a final decision on the candidate's proposed ballot designation.

(b) The Secretary of State will communicate, whenever possible, with the candidate in the most expeditious manner, including, but not limited to, telephone, facsimile transmission and electronic mail at the number or address provided by the candidate. When the candidate does not have reasonable access to a facsimile machine or electronic mail, the Secretary of State will transmit written communication to the candidate by means of overnight express delivery to the address provided by the candidate.
(c) The candidate shall have the burden of establishing that the proposed ballot designation that he or she has submitted is accurate and complies with all provisions of Elections Code Section 13107 and this Chapter.

Note: Authority cited: Section 12172.5, Government Code. Reference: Sections 13107 and 13107.3, Elections Code.

20718. Communication of Decisions Regarding Ballot Designations.

(a) If a candidate's proposed ballot designation has been rejected, an official copy of the decision of the Secretary of State will be made in writing and transmitted directly to the candidate by registered or certified mail, return receipt requested, to the address provided by the candidate. The Secretary of State shall also provide a copy to the elections official in the candidate's county of residence and to the elections official of each county within the political subdivision. Copies may also be made available to all other candidates in the race.
(b) At the request of the candidate, the Secretary of State will transmit a copy of the decision of the Secretary of State regarding the candidate's proposed ballot designation by facsimile transmission or e-mail to the facsimile number or e-mail address listed on the candidate's Ballot Designation Worksheet.
(c) All written decision of the Secretary of State regarding ballot designations are public records and are available for inspection and copying at the public counter of the Elections Division of the Office of the Secretary of State, 1500 11th Street, Fifth Floor, Sacramento, California 95814.

Note: Authority cited: Section 12172.5, Government Code. Reference: Section 13107, Elections Code.

20719. Service of Legal Process Regarding Ballot Designations.

(a) In the event a candidate or other interested party files a petition for the issuance of an extraordinary writ with the court or other legal action pertaining to a candidate's ballot designation, the summons and any other legal process should be served upon the Chief Counsel to the Secretary of State, 1500 11th Street, Sixth Floor, Sacramento, California 95814. The Chief Counsel may designate a Deputy Secretary of State to accept service of process on behalf of the Secretary of State.

(b) Telephone notice pertaining to any ex parte applications filed with the court by any candidate or other interested party should be directed to the attention of the Chief Counsel to the Secretary of State at (916) 653-7244. Counsel for all parties to such ex parte matters are admonished that waivers of the Secretary of State's right to timely notice and the right to personally appear at the ex parte hearing will be granted in writing and only in limited instances.

(c) The Secretary of State shall provide a copy of any legal actions in subdivision (a) or (b) above to the elections official in the county of the candidate's residence and any other county in the district.

(d) The Secretary of State shall be named as a respondent in any legal action pertaining to a ballot designation for a candidate described in Elections Code Section 15375, except for a candidate for judge of the superior court.

Note: Authority cited: Section 12172.5, Government Code. Reference: Sections 13107 and 13314, Elections Code.

Ballot Order of Candidates

On August 15, 2024, the Secretary of State will conduct a drawing of the letters of the alphabet constituting a random drawing to be used in determining the order of all candidates on the ballot. The result of the drawing will be forwarded to the City Clerk, who will notify candidates of the results upon receipt of the information from the Registrar of Voters. This same order will be used in the voters' pamphlet for those candidates filing a Candidate Statement.

Drawing of Randomized Alphabet
Election Code Section 13112

The Secretary of State shall conduct a drawing of the letters of the alphabet, the result of which shall be known as a randomized alphabet. The Procedure shall be as follows:

(a) Each letter of the alphabet shall be written on a separate slip of paper, each of which shall be folded and inserted into a capsule. Each capsule shall be opaque and of uniform weight, color, size, shape and texture. The capsules shall be placed in a container, which shall be shaken vigorously in order to mix the capsules thoroughly. The container then shall be opened and the capsules removed at random one at a time. As each is removed, it shall be opened and the letter on the slip of paper read aloud and written down. The resulting random order of letters constitutes the randomized alphabet, which is to be used in the same manner as the conventional alphabet in determining the order of all candidates in all elections. For example, if two candidates with the surnames Campbell and Carlson are running for the same office, their order on the ballot will depend on the order in which the letters M and R were drawn in the randomized alphabet drawing.



CHAPTER 3

CANDIDATE'S STATEMENT OF QUALIFICATIONS

CHAPTER 3
Candidate's Statement of Qualifications

Each candidate for City Council or Mayor may prepare a candidate statement of qualifications. The candidate statement will be printed in the sample ballot that is mailed to all registered voters by the Orange County Registrar of Voters. The statement includes the name and occupation of the candidate and a brief description (**no more than 200 words**), of the candidate's qualifications. Please see City Council Resolution No. 24-95 included at the end of this chapter for regulations regarding candidate statements, and included in your nomination packet for the required candidate statement form, which has also been provided you in electronic form. The candidate's age is optional. The name, age and occupation lines are not included in the **200 word limitation**.

If a candidate has a character-based name, or does not have a character-based name by birth, but who identifies by a particular character-based name, the candidate may use the name instead of a phonetic transliteration. If a candidate chooses to use a character-based name, the Character-Based Name Form must be filled out and submitted. The Form is included in the Candidate's materials.

Character-Based Name
Election Code Section 13211.7

Elections Code Section 13211.7 provides as follows:

"(a)

(1) In jurisdictions required to provide translated ballot materials pursuant to Section 203 of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503), as that section may be amended from time to time, any ballot that provides a translation of a candidate's name shall contain a phonetic transliteration of the candidate's name, except as provided in subdivision (b).

(2) This section applies only to character-based languages, including, but not limited to, Mandarin Chinese, Cantonese, Japanese, and Korean.

(3) If a candidate's name is to appear on the ballot in more than one jurisdiction in an election, all of those jurisdictions required to provide translated ballot materials pursuant to Section 203 of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503) shall use the same phonetic transliteration or character-based translation of the name.

(4)

(A) In a jurisdiction in which separate ballots containing translations of the candidates' names are printed in different languages, both the alphabet-based names and the translations of the candidates' names, for candidates that have translated names, shall appear on the translated ballot.

(B) If a jurisdiction is unable to comply with subparagraph (A) due to limitations of its existing voting system, any new voting system purchased by the jurisdiction after July 1, 2020, shall be able to accommodate the requirements of subparagraph (A).

(b)

If a candidate has a character-based name by birth that can be verified by birth certificate or other valid identification, the candidate may use that name on the ballot instead of a phonetic transliteration. A candidate who does not have a character-based name by birth, but who identifies by a particular character-based name and can demonstrate to the local elections official that the candidate has been known and identified within the public sphere by that name over the past two years, may use that name instead of a phonetic transliteration.

(Added by Stats. 2019, Ch. 82, Sec. 1. (AB 57) Effective January 1, 2020.)

The candidate statement shall not include the political party affiliation of the candidate, nor membership or activity in partisan political organizations (EC §13307(a)(1). The required form of typewritten statements and word count standards are included in this Chapter. Candidates filing a statement will be required to pay a fee in advance toward the total cost of printing, handling, translating and mailing of the candidate statements, including costs incurred as a result of complying with the Voting Rights Act of 1965 (as amended).

Costs for candidate statements are as follows:

Council Seat:	Publish	Electronic Only
Councilmember: District No. 5	$896.66	$509.82

Candidate's Statement – No Reference to Another
Election Code Section 13308

In addition to the restrictions set forth in Section 13307, any candidate's statement submitted pursuant to Section 13307 shall be limited to a recitation of the candidate's own personal background and qualifications, and shall not in any way make reference to other candidates for that office or to another candidate's qualifications, character, or activities. The elections official shall not cause to be printed or circulated any statement that the elections official determines is not so limited or that includes any reference prohibited by this section.

Copy of Candidate's Statements for Public Examination; Provisions to Amend or Delete Information Election Code Section 13313

Elections Code Section 13313 provides that the Elections Official shall allow a 10-calendar-day public examination period for candidate statements. During that 10-day-calendar period, any voter of the City or the City Clerk may seek a writ of mandate or an injunction requiring any or all of the material in a candidate's statement to be amended or deleted. The writ of mandate request shall be filed no later than the end of the 10-calendar-day public examination period. The examination period begins immediately following the filing deadline for candidate statements.

Translations/Cost to Print Included

In compliance with provisions of the Voting Rights Act of 1965, and as amended, the City will translate all candidate statements into Chinese (including Taiwanese), Korean, Spanish, and Vietnamese for inclusion in the sample voter pamphlet. Registered voters may request copies of the pamphlets in any of the aforementioned languages from the Registrar of Voters. Each candidate filing a statement for publication will be required to pay **the fee referenced on page 27 or $509.82 for the electronic-only option**, in advance toward the total cost of printing, handling, translating and mailing the of candidate statements, including costs incurred as a result of complying with the Voting Rights Act of 1965 (as amended). THE CANDIDATE STATEMENT MUST BE FILED WHEN THE NOMINATION PAPER IS FILED IN THE OFFICE OF THE CITY CLERK. **You must provide your prepared candidate statement in an electronic format and hard copy.** The City Clerk will review your statement to ensure it is in proper form and complies with the word count standards. Following the City Clerk's review, the final candidate statement will be printed for you at City Hall for your signature. The candidate must sign and date the statement before it is filed.

Candidate statements may be withdrawn, but not changed, during the period for filing nomination papers (**December 23 – January 17**), and until **5:30 p.m**. of the next working day after the close of the nomination period which is **January 20, 2025** (EC §13307(a)(3). Candidate statement are confidential documents during the nomination period and are not available for public review until after the expiration of the filing deadline.

The candidate must sign and file a Candidate's Statement Agreement if they choose to file a Candidate Statement, or a Candidate's Statement Alternative Form if they choose not to file a Candidate's Statement, included in the nomination packet.

The candidate is required to pay the fee at the time the statement is filed. When the statement is filed, a copy of the signed statement and the signed fee agreement will be provided to the candidate.

If the nomination period is extended, the next working day after the close of the extended filing period is the last day that a candidate statement may be withdrawn, but not changed. **NOTE:** The nomination period will not be extended for the April 15, 2025, Special Municipal Election as there are no eligible incumbents.

Confidentiality of Candidate's Statements
Section 13311

Notwithstanding the California Public Records Act, the statements filed pursuant to Section 13307 shall remain confidential until the expiration of the filing deadline.

False Statements in Candidate Statement/Fine
Section 18351

Any candidate in an election or incumbent in a recall election who knowingly makes a false statement of a material fact in a candidate's statement, prepared pursuant to Section 11327 or 13307, with the intent to mislead the voters in connection with their campaign for nomination or election to a nonpartisan office is punishable by a fine not to exceed one thousand dollars ($1,000).

Guidelines for Preparation of Candidate's Statement

The Registrar of Voters Office has a semi-automated system for Sample Ballot input/layout of Candidate Statements of Qualifications. Due to the volume of statements and printing deadlines, it is necessary to have a standardized format for candidate statements. The following guidelines have been prepared to assist candidates in the preparation of their statements.

1. The following paragraph styles are acceptable with this system.

Indented Paragraphs

Xxxxx xxxxx xxxxxxxxxx xxxxxx xxxxx. X xxxx xx xxxxxxxxx xxxxxxxx xxxxxxxxxx xxxxxxxx xxxxxxxxxx xxxxxxxx x xxxxxxxxx xx xxx xxxxxxxx. Xxxxxxxxxx xxxxxxx xxxxxxxxxxxxxxxx xxxxxxx xxx.

Xxxx xxxxxxx xx x x xxxxxxxxxxx x xxxxxx xxxxx. Xxxxxxxxxxxxxxxx xxxxxxxxx xxxxxxxxx xxxxxxxxx xxxxxxxx xxx x xxxxxxxxxx xxxxxxx xxxxxxxxx.

Block Paragraph

Xxxxxx xxxxx xxxxxxxxxxx xxxxxxxxx xxxxxxxx. Xxxxxxxxxxxxxxxxxxxx xxxxxxxxx xxxxxx xxxxx xxxxx xxxxxxxxxx xxxxxx xxxxx. X xxxx xx xxxxxxxxx xxxxxxxx xxxxxxxxx xxxxxxxx xxxxxx xxxxx xxx.

Xxxxxxxxxx xxxxxxxx x xxxxxxxxx xx xxx xxxxxxxx. Xxxxxxxxxx xxxxxxx xxxxxxxxxxxxxxx xxxxxxx xxxxx xxxxxxxxxx xxxxxx xxxxx. X xxxx xx xxxxxxxxx xxxxxxxx xxxxxxxx xxxxxxxx xxxxxx xxxxxxx xx.

DO NOT USE ANY PARAGRAPH/FORMAT STYLE OTHER THAN THOSE LISTED ABOVE.

1. All statements must be submitted electronically on the form provided and must be typed or printed by automated equipment. **Please use Arial font, 12 point type size. DO NOT PRINT ANY STATEMENT ON LINED PAPER.**

2. NOTE: Name, age, and occupation lines are not included in the word count. Only the text is counted. **The words reflected in the "Occupation" field must follow the ballot designation guidelines.**

3. Do not underline or **bold** WORDS. §13307(b)

4. Words may NOT be all CAPITAL letters, including e-mail and website addresses. §13307(b)

5. Do not use *italics* or type styles to highlight portions of the statement. §13307(b)

6. Do not use different type sizes. §13307(b)

7. **A 200-word** statement must fit on one quarter of a Sample Ballot page. If your statement exceeds this limitation we will be forced to adjust your format to fit in the space allowed.

8. Do not use bullet points, stars, asterisks, or numbers that function as bullet points to off-set paragraphs.

All statements are printed in the sample ballot pamphlet with the following titles which are not included in the word count:

NAME OF CITY
TITLE OF OFFICE

We hope these general guidelines will assist in the preparation of your statement. There are other requirements regarding the content of your statement, which are outlined in this handbook.

The City Clerk will review your statement to ensure it is in proper form, content, and complies with the word count standards. Following the City Clerk's review, the final candidate statement will be printed for you at City Hall on the appropriate form for your signature. The candidate must sign and date the statement before it is filed. **Corrections to spelling, punctuation, and grammar will not be made after the document has been filed. Please proofread your statement carefully before signing it.**

Due to minority language provisions of the Federal Voting Rights Act, the County of Orange is required to provide election materials in the required languages. The materials covered by this Act include Candidate Statements. Therefore, all costs include translating and printing candidate statements into those languages.

Filing a "Candidate Statement of Qualifications" is optional!

Word Count Standard for Candidate Statement (Elections Code Section 9)

The following are the guidelines for computing the word count:

1. Your statement may not exceed **two hundred (200)** words.

2. The "title of the office," "name," "district," "age," and "occupation" lines are not included in the word count – only the text is counted.

3. Punctuation marks are not included in the word count
   Symbols such as "&" (and), and "#" (number/pound) are not considered punctuation ..... each symbol is counted as one word

4. Dictionary words ..... one word
   The words "a", "the", "and", "an" are counted as individual words.

5. All proper nouns, including geographical names, and names of persons .. one word
   Examples: County of Orange, Orange County, San Juan Capistrano, City of Brea, Gus Enright, Jane Smith

.

6. Abbreviations – UCLA, U.C.L.A., PTA, P.T.A., USMC, U.S.M.C. ..... one word

7. Acronyms ..... one word

8 Regularly hyphenated words appearing in any generally available standard reference dictionary published in the United States within 10 calendar years preceding the election..... one word
   (Each part of all other hyphenated words shall be counted as a separate word)

9 Dates: ..... one word

10. Whole numbers - Digits (1 or 10 or 100, etc.) ..... one word
Spelled out (one or ten or one hundred).....each word counts as one word

11. Numeric combinations (1973, 18 ½, 1971 – 73, 5%) ..... one word

12. Monetary amounts: If dollar sign is used with figures – ($1,000) ..... one word
Spelled out (one thousand dollars)……..each word counts as one word

13. Telephone/fax numbers ..... one word

14. E-mail/Internet web site address ..... one word

If the text exceeds the word limit, the candidate must delete or change a sufficient number of words, or a sentence, to put the statement within the required word limit before the statement is filed. The candidate should correct any misspellings before the statement is filed. Other than formatting requirements, your statement will be printed as filed.

The submitted statement must be typed. No word will be printed in "ALL CAPS," bolding or underlining. Do not use bullet points, stars, asterisks, or numbers that function as bullet points to block-indent paragraphs.

Contest ID:_____

Candidate ID :_____

Words: _____

[ ] 200

April 15, 2025

Candidate's Statement of Qualifications

CITY OF: _____
OFFICE SOUGHT: _____
WARD/DISTRICT #_____(If applicable)

NAME:

AGE:
(Optional)

OCCUPATION:

INSTRUCTIONS: (Elections Code § 13307)

1. Signed and dated statement must be filed in the City Clerk's Office at the time final nomination documents are filed. A copy will be given to the candidate.
2. This statement is printed at candidate's expense and should reflect the candidate's qualifications.

Date_____ _____

Candidate's Signature

SEE BACK-SIDE OF THIS PAGE FOR CANDIDATE'S STATEMENT FORMATTING GUIDELINES.

CANDIDATE'S STATEMENT FORMATTING GUIDELINES

The Registrar of Voters office has a semi-automated system for voter information guide input/layout of Candidate's Statement of Qualifications. Due to the volume of statements and printing deadlines, it is necessary to have a standardized format for candidates' statements. We have prepared the following guidelines to assist candidates in the preparation of their statements.

1. The following paragraph styles are acceptable with this system.

INDENTED PARAGRAPHS:

Xxxxx xxxxx xxxxxxxxxx xxxxx xxxxx. X xxxx xx xxxxxxxxx xxxxxxxxx xxxxxxxxxxx xxxxxxx xxxxxxxxxx xx xxx xxxxx. Xxx xxxxx xxxxxxx xxxxx xx xx.

Xxxx xxxxxxxx xx x x xxxxxxxxxx x xxxxxx xxxxx. Xxx xxxxxx xxxxxx xxxxx xx xxx xxxxx xxx xxxxxx. Xx xxxxx xxx.

BLOCK PARAGRAPHS:

Xxxxx xxxxxxx xxxxx. Xxxx x xx xxxx xxxxxxxxxx xxx. Xxxx xxx xxx xxxxxxxxxx. Xxxxxxx xx x xxxxxxx xx xx
xxxx. X xxx xxxxx xxx x xx xxxx. Xxx xxx xxx xxxxxxx xxxxx xxx.

Xxx xxxxxx xxx. Xx xxx xxxxxxx xxxxxx xxxxx. X xxx xxxxx xxxxxx xxxxx xxx. Xxxxx xxxxxxxxxxxxxx xx xx
x xx xxx xxx. Xxx xxxx xxxxxxxx xxxxx xxx. Xxx xxxxx xxxxxx xxxxxx xxxxx.

DO NOT USE ANY PARAGRAPH/FORMAT STYLE OTHER THAN THOSE LISTED ABOVE.

2. All statements may be submitted on our form or typed or printed by automated equipment and submitted electronically in Word format. **DO NOT PRINT ANY STATEMENT ON LINED PAPER.**

3. NOTE: Name, age, and occupation lines are not included in the word count. Only the text is counted. **The words reflected in the "Occupation" field must follow the ballot designation guidelines.**

4. Do not underline or **bold** WORDS; words may NOT be all CAPITAL letters. §13307

5. Do not use *italics* or different type styles or type sizes to highlight portions of the statement. §13307

6. A 200-word statement must fit on one quarter of a Voter Guide page. A 400-word statement must fit on a half page of a Voter Guide page. If your statement exceeds this limitation we will be forced to adjust your format to fit in the space allowed.

7. Do not use bullet points, stars, asterisks, or numbers that function as bullet points to off-set paragraphs. **Excessive number of paragraphs or block-indentation in your statement may cause the statement to not fit in the allotted space even though the word count hasn't exceeded the maximum number of words. If the statement does not fit into the box, you will be asked to edit your statement. Keep this in mind as you write and format your statement.**

8. You may block indent a paragraph as long as you do not use bullet points, stars, asterisks or numbers.

Use these general guidelines to assist you in the preparation of your statement. There are other requirements regarding the content of your statement that are outlined in your Candidate's Handbook.

CHECK YOUR STATEMENT CAREFULLY FOR ERRORS IN SPELLING, PUNCTUATION, AND GRAMMAR BEFORE FILING. WITH THE EXCEPTION OF THE FORMATTING REQUIREMENTS, YOUR STATEMENT WILL BE PRINTED EXACTLY AS SUBMITTED.

CITY COUNCIL RESOLUTION NO. 24-95

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATE STATEMENTS SUBMITTED TO THE VOTERS AT A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 15, 2025

WHEREAS, §13307 of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidate statement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. GENERAL PROVISIONS. That pursuant to §13307 of the Elections Code of the State of California, each candidate for the elective office of Councilmember representing Council District 5 to be voted for at a Special Election to be held in the City of Irvine on April 15, 2025, may prepare a candidate's statement on an appropriate form provided by the City Clerk. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in typewritten form in the office of the City Clerk at the time the candidate's nomination papers are filed. The statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:30 p.m. of the next working day after the close of the nomination period.

SECTION 2. FOREIGN LANGUAGE POLICY

a) Pursuant to the Federal Voting Rights Act, candidate statements will be translated into all languages required by the Orange County Registrar of Voters. The Orange County Registrar of Voters is required to translate candidate's statements into the following languages in addition to English: Chinese, Korean, Spanish, and Vietnamese.

b) The Orange County Registrar of Voters will print and mail voter information guides and candidate statements in Chinese, Korean, Spanish, and Vietnamese to only those voters who are on the County voter file as having requested a voter information guide in a particular language.

c) The Orange County Registrar of Voters will make the voter information guides and candidate statements in the required languages available at all polling places/vote centers, on the County's website, and in the Elections Official's office.

d) The City Clerk shall make sample ballots and candidate statements in the required languages available upon request in the Office of the City Clerk.

SECTION 3. PAYMENT.

a) Translations:

1. The candidate shall be required to pay for the cost of translating the candidate statement into any required foreign language as specified in (a) and/or (b) of Section 2 above pursuant to Federal and/or State law.
2. The candidate shall be required to pay for the cost of translating the candidate statement into any foreign language that is not required as specified in (a) and/or (b) of Section 2 above, pursuant to Federal and/or State law, but is requested as an option by the candidate.

b) Printing:

1. The candidate shall be required to pay for the cost of printing the candidate statement in English in the main voter pamphlet.

2. The candidate shall be required to pay for the cost of printing the candidate statement in a foreign language required in (a) of Section 2 above, in the main voter pamphlet.

3. The candidate shall be required to pay for the cost of printing the candidate statement in a foreign language requested by the candidate per (b) of Section 2 above, in the main voter pamphlet.

4. The candidate shall be required to pay for the cost of printing the candidate statement in a foreign language required in (a) of Section 2 above, in the facsimile voter pamphlet.

The City Clerk shall estimate the total cost of printing, handling, translating, and mailing the candidate's statements filed pursuant to this section, including costs incurred as a result of complying with the Voting Rights Act of 1965 (as amended), and require each candidate filing a statement to pay in advance to the local agency his or her cost as a condition of having their statement included in the voter's pamphlet. In the event the estimated payment is required, the estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements.

Accordingly, the City Clerk is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expense or refund any excess paid depending on the final actual cost. In the event of underpayment, the City Clerk may require the candidate to pay the balance of the cost incurred. In the event of overpayment, the City Clerk shall prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

SECTION 4. MISCELLANEOUS

a) All translations shall be provided by professionally-certified translators.

b) The City Clerk shall allow indentations and hyphens to the same extent and manner as allowed in previous City elections.

c) The City Clerk shall comply with all recommendations and standards set forth by the California Secretary of State regarding occupational designations and other matters relating to elections.

SECTION 5. No candidate will be permitted to include additional materials in the voter information guide.

SECTION 6. That the City Clerk shall provide each candidate or the candidate's representative a copy of this Resolution at the time nominating petitions are issued.

SECTION 7. That all previous resolutions establishing City Council policy on payment for candidate statements are repealed.

SECTION 8. That this resolution shall apply only to the election to be held on April 15, 2025, and shall then be repealed.

SECTION 9. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 10th day of December 2024.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 1oth day of December 2024.

AYES:	6	COUNCILMEMBERS:	Carroll, Go, Liu, Mai, Treseder, and Agran
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

CITY CLERK OF THE CITY OF IRVINE



CHAPTER 4

CONFLICT OF INTEREST INFORMATION

Statement of Economic Interests

(Form 700)

CHAPTER 4

Conflict of Interest Information
Statement of Economic Interests (Form 700)

Each candidate is required to complete a Statement of Economic Interests (Form 700). A Form 700 is included with the forms under separate cover with this packet. The original statement is forwarded to the Fair Political Practices Commission by the Elections Official (City Clerk), and a copy of the statement remains on file in the office of the City Clerk. Statements are also posted to the City's website. A Form 700 must also be filed by successful candidates prior to assuming office. See your nomination packet for Form 700. The Form 700 – Reference Pamphlet can be found in **Appendix B.**

These statements are available online and in the City Clerk's office for public review. You must report investment, interests in real property, and business positions held on the date of filing your declaration of candidacy. In addition, you must disclose income, including loans, gifts, honoraria and travel payments, received during the 12 months prior to the date of filing your declaration of candidacy. **Please Note:** Form 700 must be filed at the same time as nomination papers.

Advice and assistance relative to the requirements of the Political Reform Act is available from the Fair Political Practices Commission at its toll free number by calling 866-275-3772 *2 (Telephone advice is available Monday – Thursday 9:00 a.m. – 11:30 a.m.) or visiting fppc.ca.gov.

Limitations and Other Restrictions on Gifts, Honoraria, Travel and Loans

The information contained in this section summarizes major provisions on limitations and restrictions on gifts, honoraria, travel and loans. This is a fact sheet only provided for your information and is not intended to be used solely to ensure compliance. Refer to **Appendix C** or you may call the California Fair Political Practices Commission (FPPC) at 866-275-3772 *2 if you have any questions regarding limitations and restrictions



CHAPTER 5

POLITICAL ADVERTISING DISCLAIMERS

CHAPTER 5

Political Advertising Disclaimers

Under the Political Reform Act, committees must put "paid for by" disclaimers on campaign advertising, including campaign mailers, radio and television ads, telephone robocalls, and electronic media ads. See **Appendix D** for the Fair Political Practice Commission's fact sheet, which discusses "disclosure" requirements for committees that purchase advertisements or circulate material supporting or opposing a state or local candidate or ballot measure. Below is information regarding mass mailings and sender identification requirements.

Mass Mailings Requirements

As defined in Government Code Section 82041.5 the term "Mass Mailing" means over 200 substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry. Literature and mass mailing requirements are regulated per Government Code 84305.

The Fair Political Practices Commission (FPPC) considers mass mailings as more than 200 substantially similar pieces of mail sent by an officeholder, candidate or committee in a calendar month. The sender, as used in Government Code Section 84305, is the candidate or committee who pays for the largest portion of expenditures attributable to the designing, printing, and posting of the mailing. See "Sender Identification for Mass Mailings" in this section and provided by the FPPC.

The following Code Section §84305 has been extracted from the California Government Code.

(a)

(1) Except as provided in subdivision (b), a candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the candidate's, candidate controlled committee established for an elective office for the controlling candidate's, or political party committee's address is a matter of public record with the Secretary of State.

(2) Except as provided in subdivision (b), a committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass mailing that is not required to include a disclosure pursuant to Section 84504.2 unless the name, street address, and city of the committee is shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the committee's address is a matter of public record with the Secretary of State.

(b) If the sender of the mass mailing is a single candidate or committee, the name, street address, and city of the candidate or committee need only be shown on the outside of each piece of mail.

(c)

(1) A candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass electronic mailing unless the name of the candidate or committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(2) A committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass electronic mailing that is not required to include a disclosure pursuant to Section 84502 or 84504.3 unless the name of the committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(d) If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subdivision (a) or (c).

(e) For purposes of this section, the following terms have the following meaning:

(1) "Mass electronic mailing" means sending more than 200 substantially similar pieces of electronic mail within a calendar month. "Mass electronic mailing" does not include a communication that was solicited by the recipient, including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization.

(2) "Sender" means the candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee who pays for the largest portion of expenditures attributable to the designing, printing, and posting of the mailing which are reportable pursuant to Sections 84200 to 84216.5, inclusive.

(3) To “pay for” a share of the cost of a mass mailing means to make, to promise to make, or to incur an obligation to make, any payment: (A) to any person for the design, printing, postage, materials, or other costs of the mailing, including salaries, fees, or commissions, or (B) as a fee or other consideration for an endorsement or, in the case of a ballot measure, support or opposition, in the mailing.

(f) This section does not apply to a mass mailing or mass electronic mailing that is paid for by an independent expenditure.

CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
Sender Identification for Mass Mailings
Postal Mailings and Emails

When a general purpose committee pays for a mailing of more than 200 substantially similar in a calendar month ("mass mailing"), the committee's name and address must be on the mailing. Mass mailings include more than 200 substantially similar electronic messages (emails) sent to the public within a calendar month. All mass mailings must include the words "Paid for by" immediately adjacent to or above identification of the name of the committee. The committee's address is also required on postal mailings

The committee name and address must be printed in no less than 6-point type which shall be in a color or print which contrasts with the background so it is easily read (e.g., no light blue on blue). A post office box may be used as the address only if the committee's street address is on its Statement of Organization (Form 410) on file with the Secretary of State.

Example: The ABC Homeowner's Association paid $500 for a mailer supporting I.M. Winner, a school board candidate. The mailing was sent at the behest of Mr. Winner, and he paid $200 for the postage to send the mailer. Since the ABC Homeowner's Association was not an existing committee, nor did it qualify as a committee when it sent the mailer, Mr. Winner must be identified as the sender of the mass mailing.

Identification Requirements: The sender must be identified on the outside of the mailing in the following manner:

"Paid for by" (Sender's Name)
Address
City

Additional Requirements:

-- At least 6-point type which shall be in a color or print which contrasts with the background so as to be easily legible (Committee Name)
-- At least six point type (address)
-- Name of controlling candidate, if applicable
-- P.O. Box may be used if street address is listed on the committee's Form 410 filed with the Secretary of State

NOTE: If a mass mailing is paid for by more than one committee, the name and address of the committee that is paying the greatest share of the mass mailing, including costs for designing, postage, and printing, must be placed on the outside of each piece of mail as described above. If two or more committees pay equally for the mailer, the name and address of at least one of the committees must be shown on the outside as described above, and the names and addresses of all committees must appear on at least one insert.

A committee's identification number is not required, but may be included in the sender identification. The name of the treasurer or printer is not required on mailings.

Emails:

When over 200 substantially similar emails are sent by a political committee, the email must include "Paid for by [committee name]." The committee's street address is not required on mass emails sent by a committee, but may be included.

To: Voter@emailaddress.web
From: ABCTradeAssociation@emailaddress.web Subject:
Vote for Smith for Senate

The following message is paid for by ABC Trade Association and was not authorized by Candidate Smith.

Valuing a Mailing:

Multiple candidates/measures: If a mass mailing (including emails) supports or opposes more than one candidate or measure, the fair market value attributable to each may be calculated by prorating the costs based on the amount of space allotted to each candidate or measure supported or opposed in the mailing.

Political and non-political material: The cost of a mailing containing both express advocacy supporting or opposing a ballot measure or candidate as well as non-political material may be prorated. Costs directly associated with the political message are reportable, including staff time of more than 10 percent in a calendar month.

Required Recordkeeping:

For each mass mailing, the following must be retained for a period of four years:

- A sample of the mailing;
- A record of the date;
- The number of pieces sent; and
- The method of postage used.

The FPPC does not regulate the content of mailings (i.e. false or misleading statements). The information discussed above is required under State law. Candidates and committees active in local elections should contact the local elections offices for information concerning local rules.



CHAPTER 6

ADOPTED CITY COUNCIL ELECTION RESOLUTIONS

CHAPTER 6

Adopted City Council Election Resolutions

In accordance with the provisions of the City Charter, a regular municipal election for the purpose of electing a Mayor and three Members of the City Council shall be held in November of even years. In addition, special municipal elections may be called from time to time by the Council. The City Council, at its meeting of December 10, 2024, adopted Resolution No. 24-94 Calling and Giving Notice of the Special Municipal Election, and requesting election services from the County of Orange/Orange County Registrar of Voters; and Resolution No. 24-95 Adopting Regulations for Candidates for Elective Office Pertaining to Candidate Statements.

Fully executed copies of Resolution Nos. 24-94 and 24-95 are contained in this Chapter.

CITY COUNCIL RESOLUTION NO. 24-94

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, CALLING FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 15, 2025, FOR THE ELECTION OF A COUNCILMEMBER REPRESENTING COUNCIL DISTRICT 5 TO FILL A VACANCY AS REQUIRED BY THE PROVISIONS OF THE CITY CHARTER

WHEREAS, a vacancy in the office of Councilmember representing Council District 5 was created by the election of Councilmember Larry Agran to the office of Mayor on December 10, 2024; and

WHEREAS, the term of office in which the vacancy occurs for Council District 5 ends on December 8, 2026.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the City Charter, there is called and ordered to be held in the City of Irvine, California, on Tuesday, April 15, 2025, a Special Municipal Election for the purpose of the election of a Councilmember representing District 5 for the term of office in which the vacancy was created by the election of Councilmember Larry Agran to the office of Mayor which ends on December 8, 2026.

SECTION 2. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 3. That the City Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 4. That the polls/vote centers shall be located at Irvine City Hall, 1 Civic Center Plaza, Irvine, California; and University Park Community Center, 1 Beech Tree Lane, Irvine, California.

SECTION 5. That the polls/vote center at Irvine City Hall shall be operational between April 5, 2025, through April 11, 2025, at eight o'clock a.m. and shall remain open continuously from that time until five o'clock p.m., and April 12, 2025, through April 14, 2025, at eight o'clock a.m. and shall remain open continuously from that time until eight o'clock p.m. pursuant to California Elections Code § 4003(b).

SECTION 6. That the polls/vote center at University Park Community Center shall be operational between April 12, 2025, through April 14, 2025, at eight o'clock a.m. and shall remain open continuously from that time until eight p.m. pursuant to California Elections Code § 4003(d).

SECTION 7. That the polls/vote centers at Irvine City Hall and University Park Community Center shall be open at seven o'clock a.m. of the day of the election, April 15, 2025, and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls/vote centers shall be closed, pursuant to Election Code § 10242, except as provided in except as provided in §§14212, 14401 of the Elections Code of the State of California.

SECTION 8. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 9. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 10. That pursuant to the requirements of §10002 of the Elections Code, the Board of Supervisors of the County of Orange is hereby requested to consent and agree to permit the Orange County Registrar of Voters to render specific services to the City of Irvine relating to the conduct of the Special Municipal Election; and further, pursuant to Elections Code §10002, the City of Irvine is hereby authorized to reimburse the County of Orange for the actual cost incurred in conducting the election upon receipt of a bill stating the amount due as determined by the elections official.

SECTION 11. That the City Clerk is authorized, instructed, and directed to coordinate with the Orange County Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 12. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 10th day of December 2024.

Larry Agran
MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 10th day of December 2024.

AYES:	6	COUNCILMEMBERS:	Carroll, Go, Liu, Mai, Treseder, and Agran
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

CITY CLERK OF THE CITY OF IRVINE

CITY COUNCIL RESOLUTION NO. 24-95

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATE STATEMENTS SUBMITTED TO THE VOTERS AT A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, APRIL 15, 2025

WHEREAS, §13307 of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidate statement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. GENERAL PROVISIONS. That pursuant to §13307 of the Elections Code of the State of California, each candidate for the elective office of Councilmember representing Council District 5 to be voted for at a Special Election to be held in the City of Irvine on April 15, 2025, may prepare a candidate's statement on an appropriate form provided by the City Clerk. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in typewritten form in the office of the City Clerk at the time the candidate's nomination papers are filed. The statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:30 p.m. of the next working day after the close of the nomination period.

SECTION 2. FOREIGN LANGUAGE POLICY

a) Pursuant to the Federal Voting Rights Act, candidate statements will be translated into all languages required by the Orange County Registrar of Voters. The Orange County Registrar of Voters is required to translate candidate's statements into the following languages in addition to English: Chinese, Korean, Spanish, and Vietnamese.

b) The Orange County Registrar of Voters will print and mail voter information guides and candidate statements in Chinese, Korean, Spanish, and Vietnamese to only those voters who are on the County voter file as having requested a voter information guide in a particular language.

c) The Orange County Registrar of Voters will make the voter information guides and candidate statements in the required languages available at all polling places/vote centers, on the County's website, and in the Elections Official's office.

d) The City Clerk shall make sample ballots and candidate statements in the required languages available upon request in the Office of the City Clerk.

SECTION 3. PAYMENT.

a) Translations:

1. The candidate shall be required to pay for the cost of translating the candidate statement into any required foreign language as specified in (a) and/or (b) of Section 2 above pursuant to Federal and/or State law.
2. The candidate shall be required to pay for the cost of translating the candidate statement into any foreign language that is not required as specified in (a) and/or (b) of Section 2 above, pursuant to Federal and/or State law, but is requested as an option by the candidate.

b) Printing:

1. The candidate shall be required to pay for the cost of printing the candidate statement in English in the main voter pamphlet.

2. The candidate shall be required to pay for the cost of printing the candidate statement in a foreign language required in (a) of Section 2 above, in the main voter pamphlet.

3. The candidate shall be required to pay for the cost of printing the candidate statement in a foreign language requested by the candidate per (b) of Section 2 above, in the main voter pamphlet.

4. The candidate shall be required to pay for the cost of printing the candidate statement in a foreign language required in (a) of Section 2 above, in the facsimile voter pamphlet.

The City Clerk shall estimate the total cost of printing, handling, translating, and mailing the candidate's statements filed pursuant to this section, including costs incurred as a result of complying with the Voting Rights Act of 1965 (as amended), and require each candidate filing a statement to pay in advance to the local agency his or her cost as a condition of having their statement included in the voter's pamphlet. In the event the estimated payment is required, the estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements.

Accordingly, the City Clerk is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expense or refund any excess paid depending on the final actual cost. In the event of underpayment, the City Clerk may require the candidate to pay the balance of the cost incurred. In the event of overpayment, the City Clerk shall prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

SECTION 4. MISCELLANEOUS

a) All translations shall be provided by professionally-certified translators.

b) The City Clerk shall allow indentations and hyphens to the same extent and manner as allowed in previous City elections.

c) The City Clerk shall comply with all recommendations and standards set forth by the California Secretary of State regarding occupational designations and other matters relating to elections.

SECTION 5. No candidate will be permitted to include additional materials in the voter information guide.

SECTION 6. That the City Clerk shall provide each candidate or the candidate's representative a copy of this Resolution at the time nominating petitions are issued.

SECTION 7. That all previous resolutions establishing City Council policy on payment for candidate statements are repealed.

SECTION 8. That this resolution shall apply only to the election to be held on April 15, 2025, and shall then be repealed.

SECTION 9. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 10th day of December 2024.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 10th day of December 2024.

AYES:	6	COUNCILMEMBERS:	Carroll, Go, Liu, Mai, Treseder, and Agran
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

CITY CLERK OF THE CITY OF IRVINE



CHAPTER 7

CAMPAIGN DISCLOSURE INFORMATION AND POLITICAL REFORM ACT

CHAPTER 7

Campaign Disclosure Information and Political Reform Act

Committee Treasurer and Principal Officer

Under California's Political Reform Act, every committee must have a treasurer before the committee may accept contributions or make expenditures. Although there are no restrictions on who may be a treasurer, in order to adequately perform the duties, the treasurer must understand the campaign finance laws and his or her responsibilities under the Act. The candidate controlling the committee may be the treasurer or assistant treasurer for his or her own committee. **No individual should accept the position of a committee treasurer as a mere figurehead.**

Contributions may not be accepted and expenditures may not be made if the treasurer's post is vacant at any time, even if the committee has an assistant treasurer. If the treasurer is unavailable to carry out his or her duties, a new treasurer must be designated and the committee's Statement of Organization (Form 410) must be amended. The individual listed on the most recent Form 410 filed with the Secretary of State continues to be liable until an amendment is filed to designate a new treasurer.

The committee treasurer or assistant treasurer must sign and verify all reports and statements filed. The verification is signed under penalty of perjury and indicates that:

- The signer has used all reasonable diligence in preparing the statement; and

- To the best of his or her knowledge, the statement is both true and complete.

The signer is legally responsible for the accuracy and completeness of the document, even if it is prepared by a third party, including a professional accountant. An unsigned statement is considered "not filed" and is subject to late fines.

Treasurer Responsibilities

A committee treasurer is required to:

- Establish a system of recordkeeping sufficient to ensure that contributions and expenditures are recorded promptly and accurately in compliance with the Act's recordkeeping and disclosure requirements. (Following the recordkeeping guidelines in this manual ordinarily constitutes compliance with this requirement.)

- Maintain campaign records personally or monitor records kept by others.

- Take steps to ensure all the Act's requirements are met regarding receipt, expenditure, and reporting of campaign funds.

- Prepare campaign statements personally or carefully review the statements and underlying records prepared by others.

- Correct any inaccuracies or omissions and inquire about any information that would cause a person of reasonable prudence to question the accuracy of the campaign statements. Among the circumstances that might give rise to an inquiry regarding a contribution, include: the size of the contribution; the reported source; the likelihood of that source making a contribution of that size; the manner in which the contribution is recorded in the campaign records; and all other circumstances surrounding receipt of the contribution.

Assistant Treasurer Responsibilities

An assistant treasurer may be designated on the Statement of Organization (Form 410). In the event that the treasurer is unavailable, the assistant treasurer is required, like the treasurer, to use reasonable diligence in preparing and reviewing any campaign statements that they sign and must certify to that effect under penalty of perjury. For statements signed by the assistant treasurer, both the treasurer and the assistant treasurer are liable for any violations pertaining to that report.

There are no restrictions on who may be an assistant treasurer, although they should know the reporting obligations, restrictions, and prohibitions provided under the law. For a controlled committee, the candidate may be designated as the assistant treasurer.

Principal Officer(s)

A primarily formed committee must designate a principal officer(s) on the Statement of Organization (Form 410). The principal officer is also responsible for maintaining detailed accounts, records, bills, and receipts necessary to prepare campaign statements. If no individual other than the treasurer has the primary responsibility for approving the political activity of the committee, the treasurer must be identified as both the treasurer and the principal officer.

Candidate/Officeholder Responsibilities

A candidate or officeholder is required to:

- Carefully review the campaign statements prepared for filing by the committee and ensure that the statements are properly filed.

- Correct any inaccuracies and omissions in campaign statements of which the candidate is aware, and check and correct any information on campaign statements which a person of reasonable prudence would question based on all the surrounding circumstances.

- Ensure that the treasurer is exercising all reasonable diligence in the performance of his or her duties.

- Take whatever steps are necessary to replace the treasurer or raise the treasurer's performance to required standards if the candidate or officeholder knows, or has reason to know, that the treasurer is not exercising all reasonable diligence in the performance of his or her duties.

- Perform with due care any other tasks assumed in connection with the raising, spending, or recording of campaign funds insofar as such tasks relate to the accuracy of information entered on campaign statements.

Education

The FPPC provides educational seminars and webinars for candidates and treasurers. In addition, there are several instructive materials available on the website. Candidates and treasurers may also seek advice from FPPC staff by calling the toll-free advice line (866-275-3772) or e-mailing questions to advice@fppc.ca.gov.

Failure to File or Late Filing of Campaign Disclosure Statements

May Result in a Fine!

Filing deadlines for campaign statements may not be extended **unless** the deadline falls on a Saturday, Sunday, or an official State holiday, to which the deadline is then extended to the next business day. This extension **does not** apply to Form 497 or Form 496 reports. Such reports must be filed within 24 hours regardless of the day of the week. Form 496 and 497 must either be faxed to 949-724-6188, by personal delivery, electronically filed through the City's campaign finance disclosure e-filing system (NetFile), or sent by guaranteed overnight service within twenty-four (24) hours. Late statements are subject to a $10 per day late fine.

Campaign Statements (Form 470, 460) are to be filed electronically through the City's campaign finance disclosure e-filing system (NetFile), by personal delivery, or first-class mail unless otherwise noted. Form 470 and Form 460, which contains thirty (30) pages or less, may be faxed to 949-724-6188, provided that the exact original (a copy containing an original signature of the candidate/committee treasurer) and the required copies are sent by first-class mail or by guaranteed overnight delivery service within twenty-four (24) hours of the filing deadline.

For detailed information on Campaign Disclosure Statements, refer to Fair Political Practices Commission (FPPC) Campaign Disclosure Manual 2 – Local Candidates (Campaign Manual 2). The FPPC prepares the information manual, which was provided to you upon declaring candidacy for office and can also be downloaded from the FPPC website at fppc.ca.gov.

Refer to **Appendix E** for campaign statement due dates. Refer to **Appendix F** for Campaign Basics, Candidate Check List, and Frequently Asked Questions related to Candidates and Committees.

Campaign Forms Summarized

Listed below is a brief description of the various campaign forms that are included in your candidate handbook. These statements are provided to assist City Council and Mayoral candidates in completing the filing requirements of the State of California Political Reform Act (CPRA). The FPPC is the enforcement agency for the CPRA.

Do not consider the information below as complete explanations of your filing requirements. It is very important that you and your treasurer carefully read the instructions attached to each form and refer to Campaign Manual 2 for a complete explanation of your filing obligations and treasurer's duties. This will ensure that you file appropriately and timely and avoid late filing fees and possible amendments.

Campaign Manual 2 and all of the campaign forms listed below can be downloaded from the FPPC web site at www.fppc.ca.gov. If you or your treasurer require technical assistance on recordkeeping or reporting requirements, please call the FPPC toll-free at 1-866-275-3772.

Please note: The City of Irvine imposes campaign contribution limits. See the information on Campaign Finance and Contribution Limits included in this Chapter for detailed information.

Form 501 – Candidate Intention Statement

Form 501 must be filed before you solicit or receive any contributions or before you make expenditures from personal funds on behalf of your candidacy.

You must file a separate Form 501 for each election, including re-election to the same office.

Exception: This form is not required if you will not solicit or receive contributions from other persons and the only expenditures will be from your personal funds used for the candidate's statement of qualifications in the sample ballot pamphlet.

Where to file: File original and a copy with City Clerk's Office.

Form 410 - Statement of Organization - Recipient Committee

If you receive contributions totaling $2,000 or more during the calendar year, you then qualify as a "Recipient Committee." A "contribution" includes monetary payments, loans and non-monetary goods or services. Personal funds (except those used to pay for a candidate statement) are counted towards the $2,000 threshold. You must file Form 410 within ten (10) days of reaching the $2,000 limit in contributions.

Form 410 may be filed prior to raising $2,000 and then must be amended within ten (10) days of reaching the $2,000 threshold to disclose the date qualified as a committee.

Committee Name: The name of a local committee must include the candidate's name, office sought and year of the election (e.g. Jones for Mayor **2024**; Susan Smith for Irvine City Council **2024**).

Where to file: The candidate is responsible for filing the original form and a copy with the Secretary of State (see Form 410 for address), including a $50 payment made payable to the Secretary of State. Thereafter, the $50 fee is due annually no later than January 15. In addition to the $50 fee, a penalty of $150 may be assessed if payment is late. **A copy must also be filed with the City Clerk's Office**.

Exception: If you qualify as a recipient committee during the 16 days prior to the election date, you must file Form 410 within 24 hours of qualifying with the City Clerk's Office by fax, guaranteed overnight delivery, personal delivery, or electronically through the City's finance disclosure e-filing system (NetFile). In addition, an original Form 410 must be filed with the Secretary of State within ten (10) days of qualifying (regular mail may be used).

If you need to amend the information contained in the Form 410 during the 16-day period prior to the election, you must file an amended form within 24 hours with the City Clerk's Office by fax, guaranteed overnight delivery, personal delivery, or electronically through the City's campaign finance disclosure e-filing system (NetFile). In addition, an original amended form must be filed with the Secretary of State within ten (10) days of qualifying (regular mail may be used).

It is important that all required fields in Form 410 are completed or the Secretary of State will reject your form. Please refer to the Form 410 Fact Sheet and the separate Form 410 Fact Sheet regarding the identification of a committee treasurer. The fact sheets are available at fppc.ca.gov and are included with the electronic copy of campaign forms provided with this handbook.

Form 470 - Campaign Statement - Short Form

Form 470 is used by candidates who do not have a controlled recipient committee, and who do not anticipate receiving contributions or spending $2,000 or more during the calendar year. You may file Form 470 at the same time you file your nomination papers or as a pre-election statement. No additional campaign statements will be required during the calendar year so long as the $2,000 limit is maintained for contributions and for expenditures.

NOTE: A candidate's personal funds used specifically for the statement of qualifications (candidate statement printed in the sample ballot) are excluded from the $2,000 threshold.

Where to file: File an original and a copy, or electronically with City Clerk's Office, using the City's campaign finance disclosure e-filing system.

Form 470 - Supplement

If, after filing Form 470, receipts or expenditures reach $2,000 or more in the calendar year, a candidate is required to file the Form 470 Supplement as written notification within 48 hours. The Form 470 supplement form must be sent by guaranteed overnight delivery service, personal delivery, fax, or electronically using the City's campaign finance disclosure e-filing system (NetFile). REGULAR MAIL MAY NOT BE USED.

Where to file: File an original with the City Clerk's Office or electronically using the City's campaign finance disclosure e-filing system (NetFile). Candidates are responsible for sending a copy of the Supplemental Form 470 to the Secretary of State and to each candidate seeking the same office. Please contact the City Clerk's Office for contact information for other candidates.

Exception: The 48-hour notice requirement applies only when Form 470 Short Form is filed with your nomination papers or as a first pre-election statement.

Form 460 – Recipient Committee Campaign Statement

Form 460 is the most common campaign reporting form used by candidates and their committees. This form must be used if the candidate has a controlled recipient committee, or has raised or spent (or will raise or spend) $2,000 or more during the calendar year in connection with election to office; or $2,000 or more will be raised or spent during the calendar year at the behest of the candidate. Refer to Campaign Manual 2 when completing each schedule of Form 460 to ensure you have met all of your reporting obligations.

Note: The full names, addresses and zip codes of all contributors, lenders, and payees of $100 or more must be reported on certain schedules of Form 460. In addition, occupation and employer is required for individuals. A contribution of $100 or more must be returned if the contributor's name, address, occupation, and employer are not in the committee's records within 60 days of receiving the contribution. Form 460 must be amended within 70 days of the closing date of the period in which the contribution was disclosed to report required information. Refer to Campaign for complete information on all of your reporting obligations.

Where to file: File the original and a copy with the City Clerk's Office, or electronically using the City's campaign finance disclosure e-filing system (NetFile).

Form 496 - Late Independent Expenditure Report

Form 496 is filed by committees who make "independent expenditures" totaling $1,000 or more to support or oppose a single candidate or a single ballot measure during the 90 days immediately prior to the election.

An "independent expenditure" is an expenditure made in connection with a communication (e.g., a billboard, advertisement, mailing) that expressly advocates the nomination, election, or defeat of a clearly identified candidate, or the qualification, passage, or defeat of a clearly identified measure. An independent expenditure is a payment that is not made to, or at the behest of, the affected candidate or committee.

Refer to Campaign Manual 2 and Form 496 in the Candidate Handbook for important information regarding "independent expenditures" and exceptions to reporting requirements. Late independent expenditures also must be disclosed on the candidate or committee's next campaign statement (Form 460), and on the Supplemental Independent Expenditure Report (Form 465).

Where to file: File with the City Clerk's Office by fax, overnight delivery, personal delivery, or electronically using the City's campaign finance disclosure e-filing system (NetFile) within 24 hours of making the expenditure. REGULAR MAIL MAY NOT BE USED. Refer to Campaign Manual 2 for other agencies that may also require a copy of Form 496.)

Form 497 - Late Contribution Report

The 24-hour contribution report provides immediate reporting of contributions received or made near or on the election date. Form 497 must be filed if a candidate controlled committee or a primarily formed committee:

- **Receives** contributions that total in the aggregate $1,000 or more from a single source during the 90 days before the candidate's election, including the date of the election; or

- **Makes** contributions that total in the aggregate $1,000 or more to a candidate or a committee primarily formed to support a candidate(s) or ballot measure(s) during the 90 days before the candidate's or measure's election, including the date of the election; or

- **Makes** contributions that total in the aggregate $5,000 or more to support or oppose the qualification of a single local initiative or referendum ballot measure.

Form 497 is required to be filed within 10 business days in the place(s) where the committee would be required to file campaign statements as if it were formed or existing primarily to support or oppose the local initiative, referendum, or ballot measure.

Refer Campaign Manual 2 for detailed information and exceptions to reporting requirements. **(Important: Please refer to additional information in this chapter of the Candidate Handbook regarding the City's campaign contribution limits.)**

Where to file: File Form 497 within 24 hours of receiving or making a $1,000 late monetary contribution**,** loan**,** non-monetary, or in-kind contribution. Those who receive a late non-monetary or in-kind contribution must file Form 497 within 48 hours of the date the contribution was received. File Form 497 within 10 business days of making $5,000 or more to support or oppose the qualifications of a single local measure. File with the City Clerk's Office by fax, overnight delivery, personal delivery, or electronically using the City's campaign finance disclosure e-filing system (NetFile). REGULAR MAIL MAY NOT BE USED. Refer to Campaign Manual 2 for notification requirements to recipients of non-monetary or in-kind contributions.

Form 462 Verification of Independent Expenditure Report

Candidates and committees that make "independent expenditures" totaling $1,000 or more in a calendar year to support or oppose a single candidate or single measure are required to file Form 462 in addition to any other pre-election, semi-annual, or late independent expenditure report required to be filed. An "independent expenditure" is an expenditure made in connection with a communication (e.g., a billboard, advertisement, mailing) that expressly advocates the nomination, election, or defeat of a clearly identified candidate, or the qualification, passage, or defeat of a clearly identified measure. An independent expenditure is a payment that is not made to, or at the behest of, the affected candidate or committee.

Note: Form 462 is not required for expenditures made from your committee's funds to promote your own election. Refer to Campaign Manual 2 for detailed information and exceptions to reporting requirements.

Where to file: Refer to Form 462 instructions and Campaign Manual 2.

Additional forms can be obtained from the City Clerk's Office or downloaded from the FPPC web site at fppc.ca.gov. If you or your treasurer requires technical assistance on recordkeeping or reporting requirements, please call the FPPC toll-free at 1-866-275-3772.

Campaign Finance/Campaign Contribution Limit (City Regulations)

The City of Irvine is a Charter City. All State Election Code requirements apply to the City of Irvine; however, the laws governing the election have been modified by the Charter and the Municipal Code related to campaign contributions. In addition to the regulations of the Political Reform Act, the City has local campaign financing regulations which are contained within this section for your information. The campaign contribution limit for the current election cycle (January 1, 2023 through December 31, 2024) is $620. The contribution limit is subject to fluctuation based upon the November Consumer Price Index (CPI) of even numbered years and is adjusted at the beginning of each Mayoral election cycle, or every two years. Hence, the contribution limit will be adjusted again effective January 1, 2025 for the General Municipal Election that falls in November 2026.

Subdivision A of Irvine Municipal Code Section 1-2-404 imposes campaign contribution limits for City offices as follows:

> *"No person other than the candidate shall make, and no candidate or campaign treasurer shall solicit or accept from any person, any contribution which will cause the total amount contributed by such person in any election cycle for that City candidate to exceed $300 as adjusted in accordance with section 1-2-405.*" Pursuant to the referenced adjustment, the current limit is $620.

Subdivision B of Section 1-2-404 purports to apply the campaign limit to persons making contributions to independent expenditure committees that support or oppose candidates. However, after receiving an adverse ruling from the Ninth Circuit Court of Appeals in a challenge by the Lincoln Club to the validity of Subdivision B, the City entered into a stipulated judgment not to enforce the provision. As a technical matter, this portion of the ordinance cannot be repealed without approval of the electorate because it was enacted by voter initiative.

Subdivision C of Section 1-2-404 provides that the above-described limits *"shall not apply to a City candidate's contribution of his or her personal funds or community property funds to his or her own campaign committee, but shall apply to contributions from the separate property of a City candidate's spouse.*"

A "person" for purposes of campaign contribution limits means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee or any other organization or group of persons acting in concert. Refer to Government Code Section 82047. This definition encompasses a City vendor, contractor, or consultant.

Campaign Financing (Municipal Code)

Sec. 1-2-401. Name.

This chapter shall be known and may be cited as the City of Irvine Campaign Financing Law.

Sec. 1-2-402. Purpose.

The purpose of this chapter is to ensure an environment in the City of Irvine wherein all candidates for elective office are placed on an equal plan relative to the amount of campaign contributions received by them, and further to ensure that the amount contributed by any person does not materially influence the outcome of any election. To achieve this purpose, this chapter imposes a maximum limitation on the amount of campaign contributions which may be received from a single source for an election campaign.

Sec. 1-2-403. Relation to Political Reform Act.

This chapter is intended to be a supplement to and in no way be in conflict with the Political Reform Act. Unless otherwise defined in this chapter, words and phrases shall have the same meaning here as that given to them by the Political Reform Act.

Sec. 1-2-404. Contribution limitations.

A. No person other than the candidate shall make, and no candidate or campaign treasurer shall solicit or accept from any person, any contribution which will cause the total amount contributed by such person in any election cycle for that City candidate to exceed $300 as adjusted in accordance with section 1-2-405.

B. Any person, including any committee, that makes any independent expenditure during an election cycle in support of or opposition to any City candidate, shall not accept any contribution(s) from any person which exceeds in the aggregate the amount set forth in this section for that election cycle.*****

> ****Note—Section 1-2-404(B) was challenged in a federal court lawsuit. The Ninth Circuit Court of Appeals determined that contribution limits for independent expenditure committees are subject to judicial review under the strict scrutiny standard. (Lincoln Club v. City of Irvine (9th Cir. 2001) 292 F.3d 934.) Afterward, the City entered into a stipulated judgment not to enforce the provisions of Section 1-2-404(B). However, because Section 1-2-404(B) was enacted by the voters (Initiative Ordinance 96-01), it cannot be formally repealed without approval of the voters. Therefore, its provisions remain in the Municipal Code, although they are not subject to enforcement.***

C. The provisions of this section shall not apply to a City candidate's contribution of his or her personal funds or community property funds to his or her own campaign committee, but shall apply to contributions from the separate property of a City candidate's spouse.

Sec. 1-2-405. Adjustment of campaign contribution limits and candidates loans.

The campaign contribution limitations set forth in section 1-2-404A shall be adjusted at the beginning of each mayoral election cycle as follows:

A. The base for computing the adjustment shall be the consumer price index (all items) for the Los Angeles-Anaheim-Riverside area, published by the United States Department of Labor, Bureau of Labor Statistics ("index"), which is published for the month of November, 1994 ("beginning index"). If the index published for November immediately prior to each mayoral election cycle ("adjustment index") is greater or less than the beginning index, the maximum campaign contribution or candidate loan limitation for any election occurring subsequent thereto shall be set by multiplying the maximum campaign contribution or candidate loan limitation set forth in this chapter by a fraction, the numerator of which is the adjustment index and the denominator of which is the beginning index and rounding the resultant figure to the nearest $10.

B. If the index is changed so that the base year differs from that used in the beginning index, the index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the index is discontinued or revised, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same results as would be obtained if the index had not been discontinued or revised.

Sec. 1-2-406. Definitions.

Unless the particular provisions or context otherwise requires, the definitions and provision contained in this Section shall govern the construction, meaning, and application of words and phrases used in this chapter:

(a) *City candidate* shall mean any person who is a candidate for the office of mayor or member of the city council of the city.

(b) *Election cycle* shall mean as follows:

(1) For purposes of a candidate for the office of mayor of the city, the term "election cycle" shall mean any two-year period commencing on January 1 following a city election for the office of mayor, and concluding on December 31 following the next succeeding city election for the office of mayor.

(2) For purposes of a candidate for the office of member of the city council of the city, the term "election cycle" shall mean any four-year period commencing on January 1 following a city election for the office of a councilmember and concluding on December 31 following the next succeeding city election for that office.

(3) For purposes of a special election for the office of mayor or a member of the city council of the city, the term "election cycle" shall mean any period commencing on the date on which the city council calls a special election, and concluding on the last day of the month following the month of that special election.

(c) *Political Reform Act* shall mean the Political Reform Act of 1974, as amended, Government Code Section 81000, et seq., as it may be amended from time to time.

Determining Contribution Aggregation

Effective January 1, 2020, the Political Reform Act includes the codification of an FPPC regulation that specifies the circumstances under which contributions are aggregated for the purposes of contribution limits and reporting purposes.

§ 82015.5. Contribution; Aggregation.

(a) To determine when contributions are aggregated under this title, “entity” means any person other than an individual. and “majority owned” means ownership of more than 50 percent.
(b) If an individual directs or controls an entity’s contributions, the entity’s contributions shall be aggregated with contributions made by both of the following:
(1) That individual.
(2) Any other entity whose contributions that individual directs or controls.
(c) If two or more entities make contributions that are directed or controlled by a majority of the same persons, the contributions of those entities shall be aggregated.
(d) Contributions made by entities that are majority owned by a person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their contribution-making decisions.

(Added by Stats. 2019, Ch. 312, Sec. 5. (AB 902) Effective January 1, 2020.)

Frequently Asked Questions
(City Campaign Contribution Limit)

1) **Question:** If an incumbent Councilmember has more than one committee, i.e. one (or more) from a previous campaign(s) as well as one for the current campaign, can the same person contribute to any or all committees?

Answer: An individual may contribute to a previous campaign committee (e.g., to retire past debts) ***and*** a current campaign committee (e.g. for a seat on a future election ballot) for the same candidate. In each case, however, the amount given to each committee cannot exceed the contribution limit applicable to that campaign (election cycle). Multiple contributions to the same committee must be aggregated for the purpose of determining compliance within the maximum limit. For example:

2010 Election Cycle	01/01/2009 – 12/31/2010	Limit: $440
2012 Election Cycle	01/01/2011 – 12/31/2012	Limit: $440
2014 Election Cycle	01/01/2013 – 12/31/2014	Limit: $470
2016 Election Cycle	01/01/2015 – 12/31/2016	Limit: $470
2018 Election Cycle	01/01/2017 – 12/31/2018	Limit: $490
2020 Election Cycle	01/01/2019 – 12/31/2020	Limit: $530
2022 Election Cycle	01/01/2020 – 12/31/2022	Limit: $550
2024 Election Cycle	01/01/2023 – 12/31/2024	Limit: $620
2026 Election Cycle	01/01/2025 – 12/31/2026	Limit: $650

2) **Question:** Is the campaign contribution limit for a single source based on the current election cycle or based upon a calendar year, i.e. the same source contributed to a single campaign in 2022 and plans to contribute to the same campaign in 2024, is the cumulative contribution based upon the election cycle (two years) or the calendar years?

Answer: The campaign limit for a single contribution source is based on the election cycle for the specific office in question, not on a calendar year basis. Where a person has more than one active campaign, for multiple offices, a single source can contribute up to the limit set for the relevant election cycle for each campaign.

3) **Question:** If a person contributed to an earlier campaign (which was at a lower limit from a previous election cycle), can that same person increase his/her contribution limit to the higher limit as may be determined with a subsequent election cycle?

Answer: The maximum contribution amount for a prior campaign is the limit that was established and in effect for the election cycle corresponding to the specific office in question.

Contributions and Donations by Foreign Nationals
Federal Election Campaign Act

The following information has been extracted from Title 52, Subtitle III, Chapter 301, Section 30121 of the Federal Election Campaign Act.

(a) *Prohibition*. It shall be unlawful for—

(1) a foreign national, directly or indirectly, to make—

(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election;

(B) a contribution or donation to a committee of a political party; or

(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 30104(f)(3) (52 U.S.C. § 30104(f)(3)); or

(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national.

(b) "*Foreign national" definition.* As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 611(b) of title 22, except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States or a national of the United States (as defined in section 1101(a)(22) of title 8 and who is not lawfully admitted for permanent residence, as defined by section 1101(a)(20) of title 8.

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22 U.S.C. § 611(b) provides:

(b) The term "foreign principal" includes—
(1) a government of a foreign country and a foreign political party;
(2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and
(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

Campaign Contributions - Possible Conflicts for Elected and Appointed Positions, and Commissioners

Section 84308 – Generally

Section 84308 prohibits certain officials from taking part in an entitlement for use proceeding if the official has received a contribution exceeding $250 from a party or participant in the proceeding within the preceding 12 months. An official is also prohibited from accepting, soliciting, or directing a contribution exceeding $250 from a party or participant in the proceeding for a certain period of time after a final decision is rendered in such a proceeding.

A "party" is any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use. A "participant" is person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use, ***and*** has a financial interest in the decision.
A party to a proceeding before an agency involving a license, permit, or other entitlement for use must disclose on the record any contribution in an amount of more than two hundred fifty dollars ($250) made within the preceding 12 months to an official of the agency.

Common Questions Regarding Section 84308

Q. What types of proceedings are covered by Section 84308?

A. Section 84308 pertains to "proceeding[s] involving a license, permit, or other entitlement for use." The phrase "license, permit, or other entitlement for use," in turn, "means all business, trade, and land use licenses and permits and all other entitlements for use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises."

Q. Does an official have a duty to proactively determine whether a participant has a financial interest in a decision?

A. No. Section 84308 and Regulation 18438.7 require an official to recuse when the official knows or has reason to know of a participant's financial interest in a proceeding, but neither the statute nor regulation establish a proactive duty to investigate a potential financial interest, such as reviewing other public records or questioning the individual.

Q. Do SB 1439's amendments to Section 84308 apply to contributions received or proceedings participated in throughout 2022, before SB 1439 took effect?

A. The Commission has determined a local elected official is not prohibited from taking part in entitlement for use proceedings based on contributions received in 2022, nor is an official prohibited from accepting, soliciting, or directing contributions exceeding $250 from parties or participants in proceedings finalized in 2022. (See *Kendrick* Opinion, No. O-22-002.) *www.fppc.ca.gov* FPPC Advice: *advice@fppc.ca.gov* (866.275.3772)

Q. When will the Commission amend regulations relating to Section 84308?

A. Pre-notice discussion of regulatory amendments is scheduled to occur at the Commission's February 16, 2023 meeting, with presentation for adoption scheduled to occur at the Commission's April 20, 2023 meeting. The Commission welcomes and encourages public comments regarding potential regulatory amendments. To find out how to participate in a FPPC meeting, go to *https://www.fppc.ca.gov/about-fppc/contact-us/public-comment.html*.

See **Appendix G** - Fair Political Practice Commission's 2023 Changes to Section 84308 Reference and Common Questions Pamphlet.

Use of Surplus Campaign Funds

(Government Code § 89519)

After an election, a successful candidate may use leftover campaign funds for officeholder expenses or for a future election to the same office or to a different office so long as the funds are not considered "surplus funds" and the committee does not have "net debts outstanding." The candidate must:

- File a new Form 501 **(**Candidate Intention Statement**)**,
- File an amendment to the Form 410 (Statement of Organization) "re-designate" a campaign committee.
- Open a new bank account

A defeated candidate intending to run for the same office in a future election must re-designate the committee and bank account by filing Form 501 and an amendment to Form 410 before the end of the post-election reporting (no later than March 31, 2025). Refer to Chapter 4 of Campaign Manual 2. Failure by a defeated candidate to re-designate leftover campaign funds by March 31, 2025 will result in the funds becoming "surplus funds" that are subject to restrictions. Refer to Chapters 8, 9 and 11 of the Campaign Manual 2.

Refer to **Appendix E** for campaign statement due dates.

Note: Campaign funds become surplus on the 90th day after the closing date for the postelection reporting period or upon the 90th day after the date of leaving office, whichever occurs last.

Internal Revenue Service IRS.gov

Information - Internal Revenue Service Code Section 527

Political parties; campaign committees for candidates for federal, state or local office; and political action committees are all political organizations subject to tax under IRC section 527.

Section 527 organizations are generally required to file one or more of the following:

1. An initial notice
2. Periodic reports on contributions and expenditures
3. Annual income tax returns and
4. Annual information returns

A political organization must have its own employer identification number (EIN), even if it does not have any employees. To get an EIN, an organization must file Form SS-4, *Application for Employer Identification Number*. For more information about obtaining an EIN (including how to apply online), see Employer ID Numbers (EIN) .

Additionally, many political organizations must electronically file their periodic reports. In order to electronically file these reports, an organization needs the username and password issued to it after filing its initial notice. If you have forgotten or misplaced this username and password, please contact TE/GE Customer Account Services to request a replacement.

Additional information

- News Release 2002-123
- Fact Sheet 2002-13
- Revenue Ruling 2003-49.
- Revenue Procedure 2007-27 (safe harbor allowing certain tax-exempt political organizations to establish that failure to file Form 8872 was due to reasonable cause and not willful neglect and, therefore, eligible for relief from penalties)
- State Filing Requirements

Please refer to **Appendix I** (Section 527 Fact Sheet) which has been downloaded from the IRS website. Questions regarding this filing requirement should be directed to the Tax Exempt and Government Entities Customer Account Services toll free number 1-877-829-5500



CHAPTER 8

CITY CODE AND POLICY INFORMATION

CHAPTER 8

City Code and Policy Information

- Political Activities of Public Employees
- Regulations on Use of City Seal and City Logo
- Distribution, Posting of Handbills, Circulars
- Meetings and Assemblies
- Public Address Systems
- Free Speech Rights
- Public Facility Use Policy
- Political Sign Information/Pledge of Voluntary Political Sign Practices
- Political Sign Authorization Form
- Municipal Code Sections (Public Meetings)
- City Council Compensation Schedule
- City Charter

Political Activities of Public Employees
(Government Code Section 3201 et al)

3201. The Legislature finds that political activities of public employees are of significant statewide concern. The provisions of this chapter shall supersede all provisions on this subject in the general law of this state or any city, county, or city and county charter except as provided in Section 3207.

3202. This chapter applies to all officers and employees of a state or local agency.

(a) "Local agency" means a county, city, city and county, political subdivision, district other than a school district, or municipal corporation. Officers and employees of a given local agency include officers and employees of any other local agency whose principal duties consist of providing services to the given local agency.
(b) "State agency" means every state office, department, division, bureau, board, commission, superior court, court of appeal, the Supreme Court, the California State University, the University of California, and the Legislature.

3203. Except as otherwise provided in this chapter, or as necessary to meet requirements of federal law as it pertains to a particular employee or employees, no restriction shall be placed on the political activities of any officer or employee of a state or local agency.

3204. No one who holds, or who is seeking election or appointment to, any office or employment in a state or local agency shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position, within the state or local agency, upon consideration or condition that the vote or political influence or action of such person or another shall be given or used in behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration. This prohibition shall apply to urging or discouraging the individual employee's action.

3205. (a) An officer or employee of a local agency shall not, directly or indirectly, solicit a political contribution from an officer or employee of that agency, or from a person on an employment list of that agency, with knowledge that the person from whom the contribution is solicited is an officer or employee of that agency.

(b) A candidate for elective office of a local agency shall not, directly or indirectly, solicit a political contribution from an officer or employee of that agency, or from a person on an employment list of that agency, with knowledge that the person from whom the contribution is solicited is an officer or employee of that agency.

(c) This section shall not prohibit an officer or employee of a local agency, or a candidate for elective office in a local agency, from requesting political contributions from officers or employees of that agency if the solicitation is part of a solicitation made to a significant segment of the public which may include officers or employees of that local agency.

(d) Violation of this section is punishable as a misdemeanor. The district attorney shall have all authority to prosecute under this section.

(e) For purposes of this section, the term "contribution" shall have the same meaning as defined in Section 82015.

3205.5. No one who holds, or who is seeking election or appointment to, any office shall, directly or indirectly, offer or arrange for any increase in compensation or salary for an employee of a state or local agency in exchange for, or a promise of, a contribution or loan to any committee controlled directly or indirectly by the person who holds, or who is seeking election or appointment to, an office. A violation of this section is punishable by imprisonment in a county jail for a period not exceeding one year, a fine not exceeding five thousand dollars ($5,000), or by both that imprisonment and fine.

3206. No officer or employee of a local agency shall participate in political activities of any kind while in uniform.

3207. Any city, county, or city and county charter or, in the absence of a charter provision, the governing body of any local agency and any agency not subject to Section 19251 by establishing rules and regulations, may prohibit or otherwise restrict the following:

(a) Officers and employees engaging in political activity during working hours.
(b) Political activities on the premises of the local agency.

3208. Except as provided in Section 19990, the limitations set forth in this chapter shall be the only restrictions on the political activities of state employees.

3209. Nothing in this chapter prevents an officer or employee of a state or local agency from soliciting or receiving political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of officers or employees of such state or local agency, except that a state or local agency may prohibit or limit such activities by its employees during their working hours and may prohibit or limit entry into governmental offices for such purposes during working hours.

The following code sections have been extracted from the Irvine Municipal Code.

Regulations on Use of City Seal and City Logo

Sec. 1-5-101. - City seal.

The official seal of the City shall be in the form of a die approximately two inches in diameter, the face of which is as set forth below:



Sec. 1-5-102. - City logo.

The general design and details of the official emblem of the City, excluding colors, shall be in the form as set forth in Section 1-5-101.

Sec. 1-5-103. - Use of City seal and City logo.

A. The City seal and the City logo are the property of the City of Irvine. Both share the same image but are used for different purposes. The seal is used for purposes of certifying official records and instruments of the City of Irvine. The logo is a graphic symbol used to identify City programs, initiatives, partnerships and sponsorships.

B. The City Clerk shall be the official custodian of the official seal for the City.

C. The City Manager or his/her designee is the official custodian of the official logo of the City.

D. The City Clerk or his/her designee is authorized to use the City seal on any ordinance, resolution, proclamation, commendation, certificate or other instrument approved by the City Council or executed by the Mayor or other City officers or officials; and to authenticate official documents in the conduct of official City business.

E. It shall be unlawful for any person to make or use the City seal, the City logo, or any cut, facsimile or reproduction thereof, or make or use any design, symbol, emblem, insignia or similar device that is an imitation of said the City seal or the City logo, or that may be mistaken therefore, that is designed, intended or likely to confuse, deceive or mislead the public, for private or commercial purposes, or for any purpose other than for the official business of the City, its Council, officers or departments, without the express consent of the City Clerk or City Manager or their designees under the authority granted by the City Council.

F. The City Manager is authorized to develop, implement and administer appropriate policies and guidelines for use of the City logo, including without limitation use in multi-communication mediums by authorized outside entities. Any person granted consent to use the City logo shall fully comply with such policies and guidelines.

G. The word "person" as used in this division shall include a person, firm, association or corporation, and whether acting as principal agent, employee or otherwise.

Distribution, Posting of Handbills, Circulars

§ 3-4-120 - No person shall post or affix, cause to be posted or affixed, to any tree, shrub, plant, fence, building, structure, monument, wall, apparatus, post, bridge, bench, gate or other physical object, any handbill, circular, booklet, card, pamphlet, sheet or written or printed notice advertising any commodity, article, merchandise, business activity, person or thing within any public park.

Meetings and Assemblies

§ 3-4-123 - A. Any lodge, society, social organization or club or other organization desirous of using any public facility for a parade, picnic, meeting, assembly or other similar purpose at which more than 50 people are expected to, or in fact, attend, may do so by first notifying the Director of Community Services of such intended use not less than 30 days prior to such use.

B. Persons desirous of setting up or maintaining any exhibition, place of amusement, concert, moving picture show, bandstand, performance, entertainment or amusement within any public place must first obtain a permit from the Director of Community Services.

Public Address Systems

§ 3-4-125 - Use of public address systems within any public area, except in those areas specifically designated, shall not be permitted. Persons wishing to set up, use, operate or maintain a public address system, in those areas specifically designated, shall first obtain a written permit from the Director of Community Services.

Free Speech Rights

§ 4-14-601 – Prohibitions

No person shall interfere with the exercise of free speech rights by persons within areas open to the general public in shopping centers, apartment complexes and other private or public property open to the general public. As used in this section, “free speech rights” shall mean the right to freedom of speech, the right to solicit and collect signatures on petitions and the right to distribute literature or display temporary signs or placards of a political nature; provided such activities do not result in the obstruction of entrances, exits or passageways or create a threat to public safety.

§ 4-14-602 - Penalty for Violation

A. Any person violating this Chapter is guilty of an infraction and may be punished by the issuance of an administrative citation pursuant to Chapter 3 of Division 13 of Title 4 (section 4-13-302, et seq.) of the Municipal Code.

B. For purposes of enforcing this Chapter, a police officer or other authorized employee of the City's Public Safety Department shall have the administrative citation powers granted to a Code Enforcement Official under section 4-13-303 of the Irvine Municipal Code.

Public Facility Use Policy

Under the City of Irvine's Public Facility Reservation and Fee Policy, Category IV, an Irvine resident may rent City facilities for private parties and events, fundraisers and social events for political candidates/political parties. The resident is required to pay the applicable facility rental fee under this category.

Political Sign Regulations

CITY OF IRVINE ZONING CODE - §7-3-3

Keeping Irvine Beautiful is our Goal - Political signs serve an important purpose prior to and on Election Day. However, once the election has come and gone, these signs no longer serve a purpose and may detract from the beauty of our community. All political signs must be removed no later than 10 calendar days after the election.

SIGN TYPE #107
TEMPORARY NON-COMMERCIAL SIGNS

EFFECTIVE FEBRUARY 13, 2025

§7-3-3 CITY OF IRVINE ZONING CODE

SIGN TYPE #107
TEMPORARY NON-COMMERCIAL SIGNS

Sign location:	In public right-of-way; or on private property with owner's consent. Not on City traffic signs, signals, or devices including directional signs, advisory signs, and regulation signs. Not attached to any object located in the public right-of-way. Outside of sight distance triangles and not obstructing regulatory signs, traffic signal controllers, or driver's view. Maximum of one substantially similar sign per intersection. Signs located in the public right-of-way must be spaced a minimum of 12 inches from another sign.
Maximum sign size:	3 square feet, if located within 150 feet of an intersection. Dimensions of the sign shall be 18 inches by 24 inches. 12 square feet, if not located within 150 feet of an intersection. Dimensions of the sign shall not exceed 3 feet by 4 feet.
Maximum sign height:	Top of sign may be 3 feet above the ground if located in public right-of-way within 150 feet of an intersection. Top of sign may be 6 feet above the ground, but not located within the public right-of-way and not within 150 feet of an intersection. Top of sign may be 20 feet above the ground for a wall-mounted sign, if not located in public right-of-way.
Sign illumination:	None.

Sign installation and removal:	Signs unrelated to a specific event may remain in place for 39 days and must immediately thereafter be removed. If a sign is not removed immediately after the end of the 39-day period, then the City may recover costs of sign removal from the person/organization to which the sign relates. Signs related to a specific event (e.g., election) may be installed no earlier than 39 days prior to the event to which the sign relates and must be removed no later than 10 days after the event to which the sign relates. If a sign is not removed within the 10-day period, then the City may recover costs of sign removal from the person/organization to which the sign relates. In addition, if a sign is installed earlier than 39 days prior to the event to which the sign relates, then the City may recover costs of sign removal from the person/organization to which the sign relates. In the case of an election, the event is election day rather than the start of the early voting time period. In the case of a District election, signs are only allowed within the boundaries of the District that is the subject of the election, and not City-wide. The above provisions are subject to the following exceptions: (1) no more than four signs on City-owned public property within 250 yards of any freeway onramp or offramp shall be permitted, and (2) no more than four signs may be placed on public property at or within 250 yards of a vote center on days when the vote center is open.
Permit required?	No.

This authorization form is included in your nomination packet and may be duplicated as needed. This form is retained by the candidate as a record of property owner consent.

Political Sign Authorization Form

Political signs for _____ Candidate for Member of the City Council/Mayor, City of Irvine, may be placed on my property at the following location(s) or address(es).

1) _____

2) _____

3) _____

4) _____

5) _____

6) _____

I am the owner of the above specified property and understand that Political Signs are to be removed from my property within ten (10) days after the Election to be held on April 15, 2025.

_____ _____

Date Property Owner – Print Name

_____

Property Owner – Mailing Address

TEMPORARY POLITICAL SIGN POLICY AND GUIDELINES

Temporary political signs are allowed by the City Sign Ordinance and are a protected form of free speech. While temporary political signs in public rights-of-way serve an important purpose prior to and on Election Day, at other times they can also detract from the beauty and safety of the community. Residents and businesses choose the City of Irvine because of its dedication to maintaining the reputation as one of the safest and aesthetically pleasing communities in the country.

THEREFORE, I SHALL ADHERE TO THE FOLLOWING POLICY AND GUIDELINES:

(1) I SHALL NOT place or permit the placement of any political campaign sign(s) in public rights-of-way in the City of Irvine more than ten (10) calendar days prior to the commencement of an election.

(2) I SHALL CONDUCT my political sign campaign in accordance with the requirements of State and local laws.

(3) I SHALL DEFEND AND UPHOLD the right of every qualified American voter to full and equal participation in the electoral process, including the political sign campaign process.

(4) I SHALL REMOVE ALL OF MY POLITICAL SIGNS within 10 days following the election.

I, the undersigned, candidate for public office in the State of California or treasurer or chairperson of a committee making any independent expenditures, hereby endorse, subscribe to, and solemnly pledge myself to conduct my political sign campaign in accordance with the above policy and guidelines. I have received a copy of the attached City of Irvine Zoning Code provisions for Temporary Political Signs and agree to comply with those regulations at all times prior to and following the election.

_____ _____

Signature Date

_____

Printed Name

_____

Date of Election

Municipal Code Provisions (Public Meetings)

CHAPTER 1. IN GENERAL

Sec. 1-2-101. Time and place of meetings.

A. Regular meetings of the City Council shall be held on the second and fourth Tuesdays of each month, and shall convene at the hour of 4 p.m. When the day for any regular meeting of the Council falls on a legal holiday, no meeting shall be held on such holiday; but such meeting shall be held at the same hour on the next succeeding business day which is not a holiday.

B. All meetings of the City Council shall be held at the Irvine City Council Chambers, One Civic Center Plaza, Irvine, California. However, any such meeting may be adjourned to another time, date, and place certain within the City, provided that any change of meeting time, date and place shall be announced, by the most rapid means of communication available at the time, in a notice to media organizations who have requested written notice of meetings.

Sec. 1-2-102. Special meetings.

Special meetings may be called by the Mayor or a majority of the members of the City Council pursuant to the notice and agenda requirements for special meetings set forth in Division 15 of this Title, and Government Code § 54956. Only matters contained in such notice may be considered and only urgency ordinances may be adopted. No regular ordinances or orders for payment of money shall be considered at such special meetings.

Sec. 1-2-103. Public meetings.

All meetings of the City Council shall be open to the public and comply with the Ralph M. Brown Act (Government Code § 54950 et seq.) and with Division 15 of this Title 1 except "closed session" matters, as provided by law. Such closed sessions may be held only during the course of a duly called meeting.

Sec. 1-2-104. Reorganizations; appointments.

The City Council shall choose one of its members as Vice Mayor, and one of its members as Interim Mayor, at the same meeting at which the City Council election results are certified in even-numbered years, and at its first regular meeting in December of odd-numbered years.

Sec. 1-2-105. Canvass of returns, installation of new members, declaration of election; resolution.

Upon receipt of the certification of the results of the election from the County Registrar of Voters after each general municipal election, the Mayor shall call a meeting of the City Council to canvass the returns and install its newly elected members. The City Council shall declare elected the persons having the highest number of votes given

for each office. Upon the completion of the canvass and before installing the new members, the City Council shall pass a resolution reciting the fact of the election and such other matters as are enumerated in Elections Code § 22933.

Sec. 1-2-107. Compensation for City Council members - Determination.

Compensation for City Council members shall be set, and from time to time shall be changed, in accordance with the compensation schedule for Council members established in Government Code § 36516.

Sec. 1-2-108. Same - Amount.

Compensation for City Councilmembers shall be $880 per month.

CHAPTER 3. RULES OF ORDER

Sec. 1-2-301. Agenda

All meetings of the City Council shall be noticed via posting of the agenda in accordance with the notice and agenda requirements set forth in (Division 15 of Title 1). Except as provided in Section 15-1-107 and/or as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.

Sec. 1-2-302. Order of business.

Promptly at the hour set by law on the day of each regular meeting the members of the City Council, the City Manager, the City Clerk and the City Attorney shall take their regular stations in the Council chambers and the business of the Council shall be taken up for consideration and disposition in the order established by resolution of the City Council.

Sec. 1-2-303. Duties of the presiding officer – Generally.

The Mayor, or in the Mayor's absence the Vice Mayor, shall be the presiding officer, and shall assume the place and duties of such office immediately following election. The Mayor shall preserve strict order and decorum at all meetings of the Council, state questions coming before the Council, announce its decision on all subjects and decide all questions of order, subject, however, to an appeal to the Council as a whole, in which event a majority vote of the Council members present shall govern and conclusively determine such question of order. The Mayor shall vote on all questions, and on roll call his or her name shall be called last. The seating arrangement for the City Council shall be determined by the Mayor unless such determination is overturned by a majority vote of the City Council.

Sec. 1-2-304. Same – Execution of documents

The Mayor shall sign all ordinances and resolutions adopted and contracts approved by the Council at meetings at which the Mayor is in attendance. In the event of the Mayor's absence, the Vice Mayor shall sign such documents as having been adopted and approved during the meeting at which the Vice Mayor presided.

Sec. 1-2-305. Call to order.

The Mayor, or in the Mayor's absence the Vice Mayor, shall take the chair at the hour appointed for the meeting, and shall call the Council to order. In the absence of the Mayor and the Vice Mayor, the Interim Mayor shall take the chair at the hour appointed to the meeting and shall call the Council to order. Upon the arrival of the Mayor or the Vice Mayor, the Interim Mayor shall relinquish the chair at the conclusion of the business then before the Council.

Sec. 1-2-306. Reserved.

Section 1-2-307. Roll call.

Before proceeding with the business of the Council, the City Clerk shall call the roll of the Council members, and the names of those present shall be entered in the minutes.

Sec. 1-2-308. Quorum.

A majority of the Council constitutes a quorum for the transaction of business. When there is no quorum, the Mayor, the Vice Mayor, the Interim Mayor, or any member of the Council, shall adjourn such meeting; or if no member of the Council is present, the City Clerk shall adjourn the meeting.

Sec. 1-2-309. Preparation of minutes.

The minutes of the City Council shall be kept by the City Clerk with a record of each particular type of business transacted set off in paragraphs, with proper subheadings; provided that the City Clerk shall be required to make a record only of such business as was actually passed by a vote of the Council, and shall not be required to record any remarks of a member of the Council, or of any other person, except at the special request of a member of the Council (Section 1-2-311(E) is applicable); provided, further, that a record shall be made of the names of persons addressing the Council, the title of the subject matter to which the remarks related, and whether they spoke in support of or in opposition to such matter. Such minutes shall meet the minimum standards set forth in Chapter 2 of Division 2 of this Title, Section 15-1-108(B) (Minutes and Recordings).

Sec. 1-2-310. Approval of minutes.

Unless the reading of the minutes of a Council meeting is requested by a member of the Council such minutes may be approved without reading if the City Clerk previously has furnished each member of the Council with a copy thereof. Nothing may be added to the minutes except that they may be amended by a majority vote of the Council members to accurately reflect correctly the business of the Council at such meeting.

Sec. 1-2-311. Rules of debate.

A. *Presiding officer may debate and vote.* The presiding officer may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members of the Council, and shall not be deprived of any of the rights and privileges of a member of the Council by reason of acting as the presiding officer.

B. *Getting the floor; improper references to be avoided.* Every member of the Council desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine their remarks to the question under debate, avoiding all personalities and indecorous language.

C. *Interruptions.* A member of the Council once recognized shall not be interrupted when speaking unless it be a call to order, or as herein otherwise provided. A member of the Council called to order shall cease speaking until the question of order be determined, and if in order, shall be permitted to proceed.

D. *Motion to reconsider.* A motion to reconsider any action taken by the Council may be made only on the day such action was taken. Such motion must be made by one of the prevailing side, but may be seconded by any member of the Council and may be made at any time and have precedence over all other motions. It shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or other motion at a subsequent meeting of the Council.

E. *When remarks of Council entered in minutes.* A member of the Council shall have the right, upon request to the presiding officer, to have an abstract of his or her statement on any subject under consideration by the Council entered in the minutes. Such an abstract shall contain the statement of each other Council member who addresses the subject at that time.

F. *When synopsis of debate entered in minutes.* The City Clerk may be directed by the presiding officer, with consent of the Council, to enter in the minutes a synopsis of the discussion on any subject under consideration by the Council.

G. *Disqualification and abstention.* Except as otherwise provided by law, no member of the City Council shall be permitted to abstain from voting unless such disqualification shall have been approved by the City Attorney or by unanimous vote of the remainder of the Council present. Unapproved disqualifications and abstentions shall be recorded by the City Clerk as an affirmative vote.

H. *Tied votes deemed denial.* All tied votes shall be deemed to be denials.

I. *Silence constitutes affirmative vote.* Unless a member of the Council has been permitted to and abstains from voting or is otherwise prohibited by law from voting, pursuant to subsection G hereof, such member's silence shall be recorded as an affirmative vote.

J. *Rules of order.* Except as otherwise provided in this chapter, "Robert's Rules of Order, Newly Revised," shall govern the conduct of the meetings of the Council. However, no ordinance, resolution, proceeding or other action of the City Council shall be invalidated, or the legality thereof, otherwise affected, by the failure or omission to observe or follow said rules.

Sec. 1-2-312. Reserved.

Sec. 1-2-313. Addressing the Council.

A. *Securing permission, right to address Council.* Any person desiring to address the City Council shall first secure the permission of the presiding officer so to do; provided, however, that under the following headings of business, unless the presiding officer rules otherwise, any qualified and interested person shall have the right to address the Council upon obtaining recognition by the presiding officer:

1. *Staff reports.* Interested parties or their authorized representatives may address the Council with regard to written communications referred to in the report of the City Manager or any department head.

2. *Public hearings*. Interested persons or their authorized representatives may address the Council in regard to matters then under consideration.

3. *Oral communications.* Taxpayers or residents of the City, or their authorized representatives, may address the Council by oral communication on any matter concerning the City's business, or any matter over which the Council has control.

B. *Manner of addressing of Council; time limit, spokesman for group.* Each person addressing the Council on agendized items and non-agendized items that are within the subject matter jurisdiction of the City shall step up to the microphone in front of the rail and limit his or her comments to the time specified in an adopted City Council policy or procedure. No person, other than a member of the Council, and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer.

Whenever a group of persons wishes to address the Council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and, in case additional matters that have been presented at the time by any other member of said group, to limit the numbers of persons addressing the Council, so as to avoid unnecessary repetition before the Council.

C. *Addressing the Council after close of public hearing.* After a public hearing has been closed and before action is taken by the Council, no person shall address the Council without first securing the permission of the presiding officer so to do.

Sec. 1-2-314. Decorum

A. *By Council members.* While the Council is in session, the members must preserve order and decorum; and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council or disturb any member while speaking or refuse to obey the orders of the Council or the presiding officer, except as otherwise herein provided.

B. *By other persons.* The primary purpose of oral communications is to allow citizens the opportunity to formally communicate with the City Council as a whole, for matters that cannot be handled during the regular working hours of the City government. Each person who addresses the City Council shall do so in an orderly manner and shall not make personal, impertinent, slanderous or profane remarks to any member of the City Council, staff or general public. Any person who makes such remarks, or who utters loud, threatening, personal or abusive language, or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any City Council meeting shall, at the discretion of the presiding officer or a majority of the City Council, be barred from further addressing the City Council at the meeting. If such conduct thereafter continues so as to disrupt the orderly conduct of the public's business, the Mayor shall order the person removed from the City Council chambers. Aggravated cases may be prosecuted on appropriate complaint signed by the Mayor, a member of the City Council or any other authorized City representative. The members of Council may, pursuant to Government Code § 54957.9, order the meeting room cleared and continue with the session when the orderly conduct of the meeting becomes unfeasible and order cannot be restored.

Sec. 1-2-315. Legislation, contracts.

A. *Preparation of ordinances.* All ordinances adopted by the City Council shall be prepared by the City Attorney. No ordinance shall be prepared by the City Attorney for presentation to the Council unless ordered by a majority vote of the Council, or the City Manager, or initiated or prepared by the City Attorney. Nothing herein, however, shall prohibit a member of the Council from presenting an ordinance to the Council for consideration.

B. *Prior approval by administrative staff.* All ordinances, resolutions and contract documents, before presentation to the Council, shall have been approved as to form and legality by the City Attorney or his or her authorized representative where there are substantive matters of administration involved.

C. *Introduction.* Ordinances, resolutions and other matters or subjects requiring action by the City Council must be introduced and sponsored by a member of the Council, except that the Mayor, City Manager, or City Attorney may present ordinances, resolutions or other matters or subjects to the Council, and any member of the Council may assume sponsorship thereof by moving that such ordinances, resolutions or other matters or subjects be adopted; otherwise, they shall be considered.

Sec. 1-2-316. Voting

A roll call vote shall be taken upon the passage of all ordinances, resolutions and orders for the payment of money, and entered in the minutes of the proceedings of the Council. Upon request of any Council member, a roll call vote shall be taken and recorded on any vote. Whenever a recorded or roll call vote of the Council is in order, the City Clerk shall call the names of the members in alphabetical order, except that the name of the presiding officer shall be called last.

Sec. 1-2-317. Nonmunicipal matters.

The City Council will not consider or act upon matters of a nonmunicipal nature, such as political endorsements, measures submitted to voters and bond issue or tax overrides of other agencies. While individual members of the Council may take public positions concerning nonmunicipal affairs, they shall not do so during or as part of any City meeting or official function.

Sec. 1-2-318. Reserved.

Sec. 1-2-319. Motion to adjourn.

A motion to adjourn always shall be in order, and shall be decided without debate.

The Municipal Code and Zoning Code may be viewed in full on-line at

City of Irvine Municipal Code

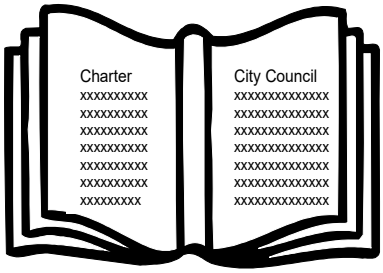
or online at *cityofirvine.org/cityclerk*.

City Council Compensation Schedule

Members of the City Council receive the following compensation:

Mayor & Council	Amount	Frequency	Comments
Stipend	$880	Monthly	Ordinance No. 08-04
Auto Allowance	$715	Monthly	Lump sum automobile allowance outlined in City Council Resolution No. 06-22
Job-Related Authorized Expenses		Monthly	Outlined in City Council Resolution No. 06-22 adopted February 28, 2006.
Health/Dental Insurance and Retirement			Each councilmember shall have the opportunity, during his or her term of office, to elect health insurance coverage at the same level and cost as other City employees and to participate in one of the City's retirement plans.
Life Insurance	None		
Great Park Boardmember	**Amount**	**Frequency**	**Comments**
Stipend	$880	Monthly	OCGP Resolution 05-08

City Charter



Following are Excerpts from the City's Charter
(To view the City Charter in its entirety, click here or visit *cityofirvine.org/cityclerk*).

We, the People of the City of Irvine, State of California, do ordain and establish this Charter as the organic law of the City of Irvine under the Constitution of the State of California.

ARTICLE I. INCORPORATION AND SUCCESSION

Section 100. Name and boundaries.

The City of Irvine, hereinafter termed the City, shall continue to be a municipal corporation under its present name, "City of Irvine." The boundaries of the City shall be as established at the time this Charter takes effect, or as they may be changed thereafter in the manner authorized by law.

Section 101. Rights and liabilities of the City.

The City shall continue to own, possess, and control all rights and property of every kind and nature owned, possessed, or controlled by it at the time this Charter takes effect and shall be subject to all its legally enforceable debts, obligations, liabilities, and contracts.

Section 102. Ordinances, codes and other regulations.

All ordinances, codes, resolutions, rules, regulations, and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until they shall have been duly repealed, amended, changed, or superseded by proper authority as provided herein.

Section 103. Officers and employees.

Subject to the provisions of this Charter, the present officers and employees of the City shall continue to perform the duties of their respective offices and employments under the same conditions as those of the existing offices and positions until the election or appointment and qualification of their successors, subject to such removal and control as herein provided.

Section 104. Pending actions and proceedings.

No action or proceeding, civil or criminal, pending at the time when this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or anything herein contained.

ARTICLE II. POWERS OF CITY

Section 200. Powers.

The City shall have all powers possible for a City to have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter specifically, but not by way of limitation, the City shall have the power to make and enforce all laws and regulations with respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. It shall also have the power to exercise any and all rights, powers and privileges heretofore or hereafter established, granted, or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution of the State of California. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power.

Section 201. Intergovernmental relations.

The City may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more cities, counties, states, or civil divisions or agencies thereof, or the United States or any agency thereof. In addition to the foregoing the City may delegate the exercise of its powers or the performance of any of its functions to any city, county, state, civil division or agency thereof or the United States or any agency thereof.

ARTICLE III. FORM OF GOVERNMENT

Section 300. Form of government.

The municipal government established by this Charter shall be known as the "Council-Manager" form of government.

ARTICLE IV. THE CITY COUNCIL

Section 400. Mayor and City Council.

Commencing with the general municipal election of November 2024, the City Council, hereinafter termed "Council," shall consist of a Mayor and six (6) Council members elected to office in the manner, at the times, and in the sequence provided in this Charter.

The Mayor shall serve a term of two (2) years and shall be elected from the City at large. Any person who serves two (2) full terms as Mayor shall not be eligible to serve again as Mayor. If a Mayor serves a partial term in excess of one (1) year, it shall be considered a full term for the purpose of this provision. Other than as set forth herein, compensation, vacancies and the filling of vacancies shall be the same for the office of Mayor as provided for the office of Council member by this Charter. The Mayor, in addition to serving as the presiding officer of the Council, shall have all of the rights, powers and duties of a Council member and shall be a member of the Council.

The term of office for each Council member shall be four (4) years and shall be elected on a by-district basis from one (1) of the six (6) single-member Council Districts of the City, as established pursuant to Section 400.1. Alternatively, and successively, three four-year terms shall be filled at one general municipal election and three four-year terms at the next such election, consistent with the sequence of terms of Council members in the fifth paragraph of this Section 400. Any person who serves two (2) full terms as a Council member shall not be eligible to serve again as a Council member. If a Council member serves a partial term in excess of two (2) years, it shall be considered a full term for the purpose of this provision.

Notwithstanding the first sentence in the third paragraph of this Section 400, the second sentence in the first paragraph of Section 401, or the first sentence of the second paragraph of Section 401, the Mayor and Council members in office at the time this Charter provision takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified, so long as they remain legally registered voters and residents of the City. Recall proceedings, if any, of any Council member(s) serving the remainder of a term pursuant to this provision, and the election of a successor to such Council member(s) to complete that term, shall be conducted at large. If any Council seat held by a Council member serving the remainder of a term pursuant to this provision becomes vacant prior to the end of such term by means other than the recall, such Council seat shall be filled by appointment or election at large; provided, however, that if the vacating Council member resides in either the Council District designated 5 or the Council District designated 6 then, notwithstanding Section 403, a by-district election shall be held for the District where the vacating Council member resides at the earliest feasible date.

The Mayor shall be elected at the general municipal election held in November 2024, and each second year thereafter. One (1) Council member from each of the four (4) Council Districts designated 1, 2, 3, and 4 shall be elected at the general municipal election held in November 2024. Notwithstanding the term of office specified in the first

paragraph of this Section 400, the Councilmember elected from the Council District designated 1 at the November 2024 general election shall hold office for a term of two (2) years and until their successor qualifies; the remaining three (3) Council members selected at the November 2024 general election shall each serve a term of four (4) years and until their respective successors qualify. One (1) Council member from each of the three (3) Council Districts designated 1, 5, and 6 shall be elected at the general municipal election held in November 2026, and shall each serve a term of four (4) years and until their respective successors qualify.

The term of the Mayor and a Council member shall commence at the next regularly scheduled meeting of the Council following certification of the election results by the election official or such earlier other date as may be established by ordinance of the Council, and they shall serve until their successor qualifies. Any ties in voting for Mayor or Council member shall be settled by the casting of lots. No person shall simultaneously hold both the office of Mayor and Council member.

The term limits shall not apply to any term that began before November 4, 2014.

As used herein the term "qualifies" shall mean, in addition to the provisions of the general law, having taken the oath of office following the election and their term of office shall have commenced.

Section 400.1. Districts.

For the purpose of electing the Council Members commencing with the November 2024 general municipal election, the City shall be divided into six (6) single-member districts (each such district a “District” and, collectively, “Districts”). The names and the respective boundaries of the Districts shall be as set forth in City Council Resolution 23-88. Following each decennial federal census, and at other such times as are authorized by applicable law, the City Council may, by ordinance or resolution, adjust the boundaries of any or all of the Districts of the City so that the Districts shall be as nearly equal in population as may be, consistent with law applicable to the creation and rearrangement of the boundaries of local districts. Any territory annexed to or consolidated with the City shall, prior to or concurrently with completion of the proceedings therefore, be added to an adjacent District or Districts by the City Council by ordinance, which addition shall be effective upon completion of the annexation or consolidation proceedings notwithstanding any other provision of the Charter to the contrary.

Section 401. Eligibility.

No persons shall be eligible to hold the office of Mayor unless they are a legally registered voter and resident of the City. Commencing with filing of nomination or such other equivalent declaration of candidacy as may be required or authorized by law in connection with the general municipal election of November 2024, no person shall be eligible to hold the office of Council Member unless they are a legally registered voter and resident of their respective District, as established pursuant to Section 400.1, and nominated and elected only by the voters of their respective District.

Every Council Member or candidate for Council Member shall be and remain a qualified voter in the District from which they seek office from the time of filing nomination papers or such other equivalent declaration of candidacy as may be required or authorized by law, throughout the full term of their office, if elected or appointed in lieu of election. No creation of a District or change in the boundary or location of any District shall abolish or terminate the term of office of any Council Member prior to the expiration of the term of office for which the Council Member was elected or appointed in lieu of election, notwithstanding any other provision of this Section, Section 400, or Section 400.1.

ARTICLE V. CITY MANAGER

Section 500. City Manager. Selection and qualifications.

There shall be a City Manager who shall be the chief administrative officer of the City. The Council shall appoint the person who it believes to be best qualified on the basis of executive and administrative qualifications, with special reference to experience in, and knowledge of, accepted practice in respect to the duties of the office as set forth in this Charter.

Section 501. City Manager. Appointment, removal, powers and duties.

The appointment, removal, powers and duties of the City Manager shall be as established by ordinance of the City Council.

ARTICLE VI. CITY CLERK

Section 600. City Clerk.

There shall be a City Clerk who shall be appointed by and serve at the pleasure of the Council.

Section 601. Powers and duties.

The City Clerk or a duly authorized representative shall:

(a) Attend all meetings of the Council and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the Council in books that shall bear appropriate titles and be devoted to such purpose.

(b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each document stating that said document is the original or a correct copy, and with respect to an ordinance, stating that said ordinance has been posted or published in accordance with this Charter. All of said books shall be properly indexed and open to public inspection.

(c) Maintain separate books in which a record shall be made of all written contracts and official bonds.

(d) Be the custodian of the seal of the City.

(e) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City, and certify copies of official records.

(f) Conduct all City elections.

(g) Perform such other duties as may be prescribed by the Council.

ARTICLE VII. OFFICERS AND EMPLOYEES

Section 700. Administrative departments.

(a) The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices, and agencies.

(b) Except as otherwise provided by this Charter, all departments, offices, and agencies under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the City Manager. With the consent of the Council, the City Manager may serve as the departmental administrator of one or more such departments, offices, or agencies or may appoint one person as the departmental administrator of two or more of them.

(c) The Council may provide for the number, titles, and compensation of all officers and employees.

Section 701. City Attorney. Powers and duties.

There shall be a City Attorney who shall be appointed and subject to removal by a majority vote of the Council. The City Attorney shall serve as chief legal adviser to the Council, the City Manager, and all City departments, offices, and agencies and shall be under the administrative direction of the City Manager. The City Attorney shall represent the City in all legal proceedings and shall perform such other duties as may be prescribed by the Council.

Section 702. Treasurer.

There shall be a Treasurer who shall be appointed and may be removed by the Council. The Treasurer shall be under the administrative direction of the City Manager and shall perform those duties required by law, and provided by ordinance or resolution.

Section 703. Departmental administrators. Appointive powers.

Each departmental administrator shall have the power to appoint, supervise, suspend, or remove such assistants, deputies, subordinates, and employees as are provided for by the Council for the department, subject to approval of the City Manager and subject to the provisions of the personnel rules and regulations adopted by the City Council.

Section 704. Administering oaths.

Each departmental administrator and such of the deputies thereof as he or she may designate shall have the power to administer oaths and affirmations in connection with any official business pertaining to his or her department.

Section 705. Official bonds.

The Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officers or employees who are required by ordinance or resolution to give such bonds. All bonds shall be executed by a responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his or her bond, for any wrongful act or omission of his or her subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

ARTICLE VIII. COMMISSIONS, COMMITTEES AND AGENCIES

Section 800. In general.

The commissions and committees heretofore established by the Council shall continue to exist and exercise the powers and perform the duties conferred upon them; provided, however, that the Council may abolish any and all of said commissions and committees and may alter the structure, membership, powers and duties thereof.

In addition, the Council may create such other agencies as in its judgment are required and may grant to them such powers and duties as are not inconsistent with the provisions of this Charter.

Section 801. Appropriations.

The Council shall include in its annual budget such appropriations of funds as the Council shall determine to be sufficient for the efficient and proper functioning of commissions, committees and agencies.

Section 802. The appointment, removal, terms of office and procedural rules.

The election, appointment, removal, and terms of office of commissions, committee and agency members and the rules and regulations pertaining to the conduct of commission, committee or agency business shall be as prescribed by ordinance or resolution of the City Council.

Section 803. Existing membership.

The members of the commissions and committees holding office when this Charter takes effect shall continue to hold office thereafter until their respective terms of office shall expire and until their successors are appointed and qualify, subject to being removed from office as provided herein.

Section 804. Compensation. Vacancies.

The members of commissions and agencies shall receive such compensation as may be specified by the Council and shall also receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures are authorized by the Council.

ARTICLE IX. ELECTIONS

Section 900. General municipal elections.

Commencing with the general municipal election in 1992, general municipal elections for the election of officers and for such other purposes as the Council may prescribe shall be held in the City on the first Tuesday after the first Monday in November of even-numbered years, except as otherwise provided by ordinance of the City Council.

Section 901. Special municipal elections.

Other municipal elections shall be known as special municipal elections and may be called from time to time by the Council.

Section 902. Procedure for holding elections.

Unless otherwise provided by ordinance hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code for the holding of municipal elections, so far as the same are not in conflict with this Charter.

Section 903. Initiative, referendum and recall.

There are hereby reserved to the voters of the City the power of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code governing the initiative and referendum and the recall of municipal officers shall apply so far as the same are not in conflict with this Charter.

ARTICLE X. FISCAL ADMINISTRATION

Section 1000. Fiscal year.

The fiscal year of the City government shall begin on the first day of July of each year and end on the thirtieth day of June of the following year. The Council may by ordinance change the fiscal year.

Section 1001. Submission of budget and budget message.

The City Manager shall submit to the City Council a proposed budget for the ensuing fiscal year, and an accompanying message at such time as the City Council shall prescribe. The budget will be adopted by the City Council before the beginning of the fiscal year.

Section 1002. General tax limits.

The Council shall not levy a property tax for general municipal purposes in excess of the maximum rate applicable to the City on the effective date of this Charter; provided, however, that a tax in excess of such rate may be levied if authorized for general law cities by the general laws of the State or if authorized by the affirmative votes of a majority of the voters voting on a proposition to increase such levy. The number of years that such additional levy is to be made shall be specified in such proposition. Nothing herein contained shall preclude the Council from establishing separate taxing areas within the City for the levy of property taxes, nor preclude the levy of a tax in excess of such maximum rate if authorized by the general laws of the State or if authorized by the affirmative votes of a majority of the voters within the area voting on a proposition to increase such levy.

Section 1003. Tax procedure.

The procedure for the assessment, levy, and collection of taxes may be prescribed by ordinance of the Council; and in the absence of such an ordinance the procedure applicable thereto shall be that prescribed by the general laws of the State.

Section 1004. Contracts on public works.

Every project involving an expenditure of more than Four Thousand Dollars (or such other amount as may be prescribed by ordinance) for the construction of public works shall be let by the Council by contract to the lowest responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least ten days before the time for opening bids. The Council may reject any and all bids presented and may re-advertise in its discretion. The Council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the work in question may be performed better or more economically by the City with its own employees and, after the adoption of a resolution to this effect by at least four affirmative votes, may proceed to have said work done without further observance of the provisions of this section.

Such contracts may be let and such purchases made without advertising for bids, if such work shall be deemed by the Council to be of urgent necessity for the preservation of life, health, or property, and shall be authorized by resolution passed by at least four affirmative votes of the Council and containing a declaration of the facts constituting such urgency.

Section 1005. Presentation and audit of demands.

Any demand against the City must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented to the Director of Finance who shall examine the same. If the amount thereof is legally due and there remains an unexhausted balance of an appropriation against which the same may be charged, he or she shall approve such demand and draw his or her warrant on the Treasurer therefore, payable out of the proper fund.
The Director of Finance shall transmit such demand, with his or her approval or rejection thereof endorsed thereon, and warrant, if any, to the City Manager. The City Manager shall cause the same to be transmitted to the Council which may then approve or disapprove payment thereof.

Section 1006. Registering warrants.

Warrants on the Treasurer which are not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from the date of registration at such rate as shall be fixed by the Council by resolution.

Section 1007. Claims against the City.

The provisions of the general laws of the date establishing conditions precedent to the commencement of any action or proceeding or bringing suit against the City, its officers, and employees shall govern, except as modified by the City Council.

Section 1008. Independent audit.

The City Council shall employ a certified public accountant who shall, at such times as may be specified by the City Council examine the books, records, inventories and reports of all officers and employees who receive, handle, or disburse public funds and all such other officers, employees, or departments as the City Council may direct. As soon as practicable after the end of the fiscal year, a final certified audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member, one to the City Manager, Director of Finance, Treasurer, and City Attorney, respectively, and three additional copies to be placed on file in the office of the City Clerk where they shall be available for inspection by the general public.



CHAPTER 9

LOBBYIST ACTIVITIES

CHAPTER 9
Lobbyist Activities

The City's regulations regarding lobbyist activities require that a person who engages in lobbying must register with the City Clerk if, with respect to any client, the person engaging in lobbying activities receives or becomes entitled to receive compensation of more than $10,000 in a calendar quarter. Municipal Code Sections 1-7-101 through 1-7-110, City Lobbying, are included in this Chapter for your information.

Lobbyist Regulations

Sec. 1-7-101. Declaration of policy.

The City Council declares and finds as follows:

A. City government functions to serve the needs of all citizens.

B. The citizens of the City have a right to know the identity of interests, which attempt to influence decisions of City government, as well as the means employed by those interests.

C. All persons engaged in compensated lobbying activities aimed at influencing decisions by City government must, when so engaged, be subject to the same regulations, restrictions, and requirements, regardless of their background, training or other professional qualifications, or license.

D. Complete public disclosure of the full range of activities by and financing of lobbyists and those who employ their services is essential to the maintenance of citizen confidence in the integrity of City government.

E. It is in the public interest to ensure that lobbyists do not misrepresent facts, their positions or attempt to deceive a City official through false communications; do not place a City official under personal obligation to themselves or their clients; and do not represent that they can control the actions of any City official.

F. It is in the public interest to adopt this division to ensure adequate and effective disclosure of information about efforts to lobby City government.

Sec. 1-7-102. Definitions.

The following words and phrases shall have the meanings set forth below, unless the context requires otherwise. Other terms used in this division shall have the meanings set forth in the California Political Reform Act of 1974 (Government Code § 81000et seq.), as amended, and in the regulations of the California Fair Political Practices Commission, as amended, if defined therein.

A. *City official* means the Mayor, the Vice Mayor, the Interim Mayor, members of the City Council, City Council Executive Assistants, the City Manager, Assistant City Managers, Department Directors, Deputy Department Directors, the Police Chief, the Deputy Police Chief, the City Attorney, the City Clerk, the Zoning Administrator, and members of the Planning Commission, the Community Services Commission, the Finance Commission, and any other commission that is advisory in nature.

B. *Client* means any person on whose behalf lobbying is conducted. In the case of a coalition or association that employs or retains persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

C. *Compensation* means money or any other thing of value that is received, or is to be received, in return for, or in connection with, lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying. Compensation includes the financial gain that a person may realize as a result of the determination of a municipal question, including gains in the form of a contingent fee. If a lobbyist engages in both lobbying activities and other activities on behalf of a person, compensation for lobbying includes all amounts received from that person, if for the purpose of evading the obligations imposed by this division, the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities. Compensation which has not yet been received is considered to be received on the date that it is earned, if that date is ascertainable; otherwise, it is received on the date on which the contract or agreement for compensation is made, or on the date lobbying commences, whichever is first. Compensation does not include any amounts previously reported.

D. *Contact* means all oral and written (including electronic) communications directed to a City official, including, but not limited to, telephone calls and messages, voicemail and answer machine messages, e-mail messages, mail, personally delivered material, meetings, and conversations.

E. *Lobbyist* means a person who engages in lobbying, whether directly or through the acts of another. If an agent engages in lobbying for a principal, both the agent and the principal are lobbyists. A lobbyist includes, but is not limited to, an in-house employee who engages in lobbying for his or her employer or for a client of the employer, and a land use project applicant who is not the record owner of the subject real property.

F. *Lobby or lobbying*, except as provided below, means any oral or written communication (including an electronic communication) to a City official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question. The term "lobby" or "lobbying" does not include a communication:

1. Merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a City official;
2. Made by a public official or employee (including, but not limited to, an official or employee of the City of Irvine) acting in his or her official capacity;
3. Made in the course of, or in connection with the gathering, preparation or dissemination of news, information or commentary to the public, or in connection with a municipal question's possible effect upon or relevance to the media's right or ability to engage in such conduct;
4. Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;
5. Made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;
6. Made in writing as a petition for official action and required to be a public record pursuant to established City procedures;
7. Made in writing to provide information in response to an oral or written request by a City official for specific information, the content of which is compelled by law;
8. Made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;
9. Made on behalf of an individual with regard to that individual's employment or benefits;
10. Made by a fact witness or expert witness at an official proceeding; or
11. Made by a person solely on behalf of that individual or his or her relative.

G. *Lobbying firm* means:
1. A self-employed lobbyist; or
2. A person that has one or more employees who are lobbyists on behalf of a client or clients other than that person.

H. *Municipal question* means a public policy issue of a discretionary nature pending before the City Councilor another City body identified in the definition of City official, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The term "municipal question" does not include the day-to-day application, administration, or execution of City programs and policies such as permitting, zoning and planning matters, but does include the amendment, modification or revision to the City's General Plan or Zoning Ordinance.

I. *Person* means an individual, business entity, trust, corporation, association, firm, partnership, committee, club, or any other organization or group of persons acting in concert.

J. *Registrant* means a person required to register under Section 1-7-103.

K. *Relative* means father, step-father, mother, step-mother, grandmother, grandfather, grandchild, brother, step-brother, sister, step-sister, spouse, aunt, uncle, cousin, child or step-child, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

Sec. 1-7-103. Persons required to register as lobbyists.

Except as provided otherwise in this division, a person who engages in lobbying must register with the City Clerk if, with respect to any client, the person engaging in lobbying activities receives or becomes entitled to receive compensation of $10,000.00 or more in a calendar quarter.

Sec. 1-7-104. Exceptions.

The following persons are exempt from the provisions of this division.

A. *Media outlets.* A person who owns, publishes or is employed by:

1. A newspaper;
2. Any other regularly published periodical;
3. A radio station;
4. A television station;
5. A wire service; or
6. Any other bona fide news medium that in the ordinary course of business disseminates news, opinions, or paid advertisements that directly or indirectly oppose or promote municipal questions or seek to influence official action relating thereto, if the person does not engage in other activities that require registration.
7. Any employee of such media outlet or other person engaged in gathering or preparing information for dissemination therein.

B. *Governmental entities.* Governmental entities and their officials and employees, provided the communications relate solely to subjects of governmental interest concerning the respective governmental bodies and the City.

C. *Unknown municipal questions.* A person who does not know and has no reason to know that a municipal question is pending at the time of contact with a City official. This exception does not apply if the existence of a municipal question is discovered during on-going contacts with a City official and the person then engages in additional lobbying of the same official or other City officials with respect to that municipal question.

D. *Dispute resolution.* An attorney or other person whose contact with a City official is made solely as part of resolving a dispute with the City, provided that the contact is solely with City officials who do not vote on or have final authority over any municipal question involved.

Sec. 1-7-105. Registration.

A. *Separate registrations.* A person required to register as a lobbyist under Section 1-7-103 must file a separate registration form for each client. A registrant who makes more than one lobbying contact for the same client shall file a single registration form covering all lobbying contacts for that client. Each registration form must be signed under oath. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form.

B. *Initial registration.* An initial registration form relating to a client must be filed by a person required to register under Section 1-7-103 within 30 days after the start of lobbying activity for that client. However, in no event shall a registrant knowingly fail to register, or knowingly fail to disclose such registration to relevant City officials, prior to official city action relating to the subject matter of the lobbying activity.

C. *Subsequent annual registration.* Except as provided in paragraph E of this Section, subsequent registration forms must be filed annually each January for each client for whom a registrant previously filed, or was required to file, an initial registration form.

D. *Required disclosures.* Initial or subsequent registration shall be on a form prescribed by the City Clerk and shall include, to the extent applicable:

1. The full name, phone number, permanent address, and nature of the business of:
    a. The registrant;
    b. The client;
    c. Any person, other than the client, on whose behalf the registrant has been engaged by the client to lobby;
    d. Any person, other than the client, who is known by the registrant to contribute financially to the compensation of the registrant, or which in whole or in major part plans, supervises, or controls the registrant's lobbying activities on behalf of the client;
    e. Any lobbying firm for which the registrant is an agent or employee with respect to the client; and
    f. Each employee or agent of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client;

2. A statement of all municipal questions on which the registrant has lobbied for the client in the year preceding the filing of the registration or foreseeably will lobby; and

3. If the registrant is a former City official or employee, a statement that the registrant's lobbying activities have not violated and will not foreseeably violate Section 1-6-107 of this Municipal Code. Also the registrant shall list any positions held as a City official or employee during the past year.

E. *Termination of registration.* A registrant shall file a notice of termination of registration with the City Clerk if the registrant is no longer required by Section 1-7-103 to register. A filing under this paragraph E does not relieve the registrant of reporting requirements imposed for the reporting period in question.

F. *Fee.* At the time of initial or subsequent annual registration with respect to a client, a registrant shall pay to the City, and the City Clerk shall collect, a fee in an amount to be determined by the City Council. All lobbyist registration fees shall be deposited into a separate account within the general fund, which account shall be used to offset the costs of administering this division and the costs of handling disclosure filings.

Sec. 1-7-106. Activity reports.

A. *Required disclosures*. Except as provided in Section 1-7-104, each registrant shall file with the City Clerk a separate report signed under oath concerning the registrant's lobbying activities for each client from whom, or with respect to whom, the registrant received compensation of $10,000.00 or more for lobbying during the prior calendar quarter. The report for the preceding calendar quarter shall be filed between the first and fifteenth day of April, July, October, or January, or on the date registration on behalf of the client is required, whichever comes later. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. The report shall be on the form prescribed by the City Clerk and shall include, with respect to the previous calendar quarter, to the extent applicable:

1. The name of the registrant, the name of the client, and any changes or updates in the information provided in the most recent registration statement filed;
2. A list of the specific issues upon which the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of specific legislative proposals and other proposed, pending, or completed official actions;
3. A list of the City officials contacted by the registrant on behalf of the client with regard to a municipal question;
4. A list of the employees or agents of the registrant who acted as lobbyists on behalf of the client;
5. The name and position of each City official or City official's relative who is employed by the registrant.

B. *Preservation of records*. Each registrant shall obtain and preserve all books, papers, and documents necessary to substantiate the activity reports required to be made pursuant to this Section for five years from the date of filing of the report containing such items.

C. *No activity or changes*. No quarterly activity report is required if there is no activity during the preceding quarter calendar year and there are no other changes to items required to be reported.

D. *Contingent fees*. A person shall disclose employment to lobby on a contingent fee basis as well as any arrangement to engage in lobbying activities on a contingent fee arrangement.

Sec. 1-7-107. Restricted activities.

A. *Personal obligation of City officials.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not do any act, or refrain from doing any act, with the express purpose and intent of placing any City official under personal obligation to such lobbyist or person.

B. *Improper influence.* A registrant shall not cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment thereto for the purpose of thereafter being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

C. *False appearances.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not cause any communication to be sent to a City official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

D. *Prohibited representations.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not represent, either directly or indirectly, orally or in writing, that that person can control or obtain the vote or action of any City official.

Sec. 1-7-108. Identification of clients.

A. *Appearances*. To the extent otherwise permitted by law, each person who lobbies or engages another person to lobby appearing before the City Council or another City body identified in the definition of "City official" shall complete a speaker identification card prior to that appearance and shall orally identify himself or herself and the client(s) he or she represents upon beginning an address. Each person who lobbies or engages another person to lobby shall also disclose on appropriate sign-in sheets his or her identity, the identity of the client he or she represents, and whether or not he or she is registered as a lobbyist.

B. *Oral lobbying contacts*. Any registrant who makes an oral lobbying contact with an official shall, at the time of the initial lobbying contact with each official, identify himself or herself as a registered lobbyist and identify the client or clients on whose behalf the lobbying contact is made.

C. *Written lobbying contacts*. Any registrant who makes a written lobbying contact (including an electronic communication) with a City official shall identify the client(s) on whose behalf the lobbying contact is made and identify himself or herself as a registered lobbyist.

Sec. 1-7-109. Timeliness of filing registrations and reports.

A registration or report filed by first-class United States mail or by common or contract carrier is timely if:

A. It is properly addressed with postage and handling charges prepaid; and

B. It bears a post office cancellation mark or a receipt mark from a common or contract carrier indicating a time within the applicable filing period or before the applicable filing deadline, or if the person required to file furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period or before that deadline.

Sec. 1-7-110. Administration.

The City Clerk shall:

A. Provide guidance and assistance on the registration and reporting requirements for lobbyists and develop common standards, rules, and procedures for compliance;

B. Review for completeness and timelines of registrations and reports;

C. Maintain filing, coding, and cross-indexing systems to carry out the purposes of this important provision of the Ethics Code, including:
1. A publicly available list of all registered lobbyists, lobbying firms, and their clients; and
2. Computerized systems designed to minimize the burden of filing and maximize public access to materials filed;

D. Make available for public inspection and copying at reasonable times the registrations and reports filed;

E. Retain registrations and reports in accordance with the California Public Records Act; and

F. Upon receipt of a complaint filed with the Clerk's office alleging that a violation of the rules applicable to lobbyists may have been committed, forward information to the City Manager's Office to determine whether to file a complaint and initiate an investigation. Lobbyists who knowingly violate this division may be liable in a civil action brought by the City Attorney for up to $1,000.00 per violation



CHAPTER 10

ETHICS AND RELATED ENACTMENTS

CHAPTER 10
Ethics and Related Enactments

The City of Irvine has adopted a Code of Ethics Ordinance to establish clear and affirmative ethical principles and standards reflecting the core values of the community to support and encourage the highest personal and professional conduct at every level of municipal government. For purposes of the City's Code of Ethics, "City officials and employees" are defined to include the following individuals:

- Mayor
- Vice Mayor
- City Councilmembers
- City Council Executive Assistants
- City Manager
- Assistant City Managers
- City Clerk
- Department Directors
- Deputy Department Directors
- Director of Public Safety/Chief of Police
- Assistant Chief of Police
- City Attorney
- Zoning Administrator
- Commissioners (Community Services, Planning, Finance, Irvine Commission on Older Adults, Sustainability, Transportation, and any other commission that is advisory in nature

The following principles as contained in the City's Code of Ethics are intended to encourage the highest standard of conduct to serve as guidelines for ethical behavior.

Code of Ethics

Sec. 1-6-101. Declaration of policy.

A. The proper operation of democratic government requires that public officials and public employees be independent, impartial, responsible, and accountable to the people; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office and public employment not be used for personal gain; and that the citizens and businesses of the City have confidence in the integrity of their government.

B. As used in this division, "City officials and employees" shall mean and include the following individuals: the Mayor; the Vice Mayor; Interim Mayor; members of the City Council; City Council Executive Assistants; the City Manager; Assistant City Managers; the City Clerk; Department Directors; Deputy Department Directors; the Police Chief; the Deputy Police Chief, the City Attorney; the Zoning Administrator; and members of the Planning Commission, the Community Services Commission, the Finance Commission, and any other commission that is advisory in nature.

C. The following principles are intended to encourage the highest standard of conduct to serve as guidelines for ethical behavior:

1. *Public interest.* Public office and public employment is a trust to be used to advance the public interest, and not to be used for personal gain.
2. *Objective judgment.* Decisions are to be made on the merits, free of partiality or prejudice, and unimpeded by conflicts of interest.
3. *Accountability.* Government is to be conducted openly, efficiently, equitably, and honorably so the public can make informed judgments and hold public officials accountable.
4. *Democracy.* City officials and employees shall demonstrate honor and respect for democratic principles, and observe the letter and spirit of laws.
5. *Public trust.* City officials and employees shall safeguard public confidence in the integrity of government by upholding the highest standards of personal and professional conduct.
6. *Professional conduct.* City officials and employees shall support the maintenance of a positive and constructive workplace environment and demonstrate a high degree of professionalism when dealing with citizens. The Mayor is charged with maintaining order and decorum during public meetings in accordance with Robert's Rules of Order. Subject to the limitations provided in California Government Code Section 54954.3(c), a provision of the Brown Act, City officials, and employees are encouraged to conduct themselves in a manner that is responsive, respectful and befitting their public position.

D. The purpose of this division is to establish ethical standards of conduct for City officials and employees by setting forth those acts or actions that are incompatible, inconsistent, or in conflict with the foregoing principles and the best interests of the City.

Sec. 1-6-102. Responsibilities of public office and employment.

City officials and employees are agents of public purpose and hold office or employment for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of the State of California, and to carry out impartially the laws of the nation, State and the City, and thus to foster respect for all governments.

They shall make their decisions and take their actions fairly and impartially and base them on the merits and substance of each matter. They are bound to observe in their official acts, the highest standards of performance and to discharge faithfully the duties of their office and employment, regardless of personal considerations. Recognizing that the public interest must be their primary concern, their conduct in both their official and private affairs should be above reproach.

Sec. 1-6-103. No preferential treatment.

A. City officials and employees shall not accept more favorable treatment than other residents of the City. Any transactions should be obtained on terms consistent with those available to the general public.

B. All citizens and businesses in the City are entitled to fair and equal treatment. City officials and employees shall not give preferential consideration or special advantages to any person or organization beyond those that are available to any other person or organization.

Sec. 1-6-104. City allegiance and proper conduct.

A. *Incompatible employment or service.* Because of their uniquely important, visible, and elevated status and responsibilities as elected officials, the Mayor and members of the City Council, and by extension their Executive Assistants, shall not engage in compensated employment or service for the purpose of lobbying for any private person or organization before any local agency (county, city or special district) located in the County of Orange.

    1. This paragraph A shall not be applicable to lobbying as an in-house employee on behalf a labor union.
    2. For purposes of this paragraph A, "lobbying" shall mean any oral or written communication (including an electronic communication) to an official of a local agency other than the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the official's agency, including but not limited to proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.
    3. Notwithstanding any other provision of this division, this paragraph A shall not become effective until January 1, 2007.

B. *Interest in City contracts.* City officials and employees shall not have a personal investment or monetary interest in any contract made by the City, except contracts relating to the performance of their official City duties.

Sec. 1-6-105. Disclosure of confidential information.

City officials and employees shall respect and maintain the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information or records without proper and legally required authorization, nor use such information or records to advance their personal, financial or other private interests, or the private gain or advantage of others. Public records may be requested through the City Clerk/Office of Records and Information consistent with the rights of citizens under the California Public Records Act.

Sec. 1-6-106. Use of City resources.

City officials and employees shall not use City-owned equipment, automobiles, trucks, instruments, tools, supplies, machines, including computers and related computer systems, or any other item that is the property of the City for other than City business, nor shall City officials and employees allow any unauthorized person or organization to rent, borrow or use any such City resources.

Sec. 1-6-107. Future employment.

A. *General prohibitions.* It shall be improper for City officials and employees, for a period of two years following the termination of their office or employment, to:

1. Represent, appear or lobby before any City agency, official, or employee for compensation on behalf of any person or any organization. For purposes of this paragraph A, "lobby" shall mean making any oral or written communication (including an electronic communication) to an official of the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the City, including but not limited to proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.
2. Accept employment or otherwise receive compensation from a person or organization that entered into a contract with the City within one year prior to the termination of the office or employment, where the former official or employee personally and substantially participated in the award of the contract.
3. Participate as a competitor in any competitive selection process for a City contract where the former official or employee recommended or approved the project or the work that is the subject of the contract, nor shall any City contract be awarded to such a former official or employee.

B. *Exceptions.* The provisions of paragraph A shall not preclude the hiring of a former City employee as a consultant to the City, provided that such hiring is approved in advance by the City Council. Nor shall paragraph A apply to any City official or employee who left office or whose City employment or service terminated prior to the effective date of this Section; provided, however, that a person who returns to City office, employment or service on or after the effective date of this Section shall be subject to the requirements hereof.

C. *Enforcement.* Notwithstanding the provisions of Section 1-6-110, any former City official or employee who knowingly violates the provisions of this Section may be liable in a civil action brought by the District Attorney, the City Attorney, or by a special prosecutor authorized by the City Council, for a fine of up to ten thousand dollars ($10,000) per violation, in addition to such other penalties or remedies as may be available.

Sec. 1-6-108. No nepotism.

A. All hiring decisions shall be made on the basis of merit and in accordance with the City's Personnel Rules and Procedures, which establish limits and guidelines on the employment of relatives, in order to avoid problems associated with supervision, safety, or morale.

B. City officials and employees shall not influence or attempt to influence the awarding of a City contract to or execution of a City agreement with a relative as defined in Section 2 of the City's Personnel Rules and Procedures.

Sec. 1-6-109. Whistle blower protection.

To the extent not otherwise prohibited by State law, City officials and employees shall not use or threaten to use any official authority or influence to discourage, restrain or interfere with or to effect a reprisal against any person, including but not limited to a City official or employee, for the purpose or with the intent of preventing such person from acting in good faith to report or otherwise bring to the attention of the City or other appropriate agency, office or department, any information that, if true, would constitute a gross waste of City funds, a gross abuse of authority, a specified and substantial danger to public health or safety due to any act or omission of an City official or employee, or the use of a City office or position or of City resources for personal gain.

Sec. 1-6-110. Enforcement.

A. This division expresses standards of ethical conduct expected for City officials and employees. As an expression of such standards, this division is intended to be self-enforcing for the most part. City officials and employees themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. It will be most effective when City officials and employees are thoroughly familiar with the expressed standards and embrace them.

B. A violation of this division shall not be considered and shall not constitute a basis for challenging the validity of any decision by the City Council or any other body or agency of the City.

C. All suspected violations of this division that also pertain to provisions of the Political Reform Act (California Government Code section 81000 et seq.) should be reported to the Fair Political Practices Commission of the State of California.

D. All suspected violations of this division that may independently constitute criminal offenses, including those outside of the purview of the Fair Political Practices Commission, should be reported to the office of the Orange County District Attorney.

E. Except as otherwise expressly provided by this division or by State law, the following shall constitute the exclusive means and procedures of enforcing the provisions of this division:

1. Alleged violations of this division committed by a member of the City Council, a member of a City commission, or the City Manager should be reported in writing to the City Attorney. Upon receipt of the report, the City Attorney shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation and endeavoring to avoid future violations in the event one has occurred.
2. Alleged violations of this division committed by the City Clerk, a City Council Executive Assistant, the Assistant City Manager, the City Attorney, a Department Director, or a Deputy Department Director should be reported in writing to the City Manager or his/her designee. Upon receipt of the report, the City Manager, of his/her designee, shall commence an investigation to determine whether the alleged violation is substantiated. The City Manager, or his/her designee, shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation. In the event the City Manager, or his/her designee, determines that a violation has occurred, the City Manager or the appointing authority may take appropriate action in accordance with applicable City rules, regulations, and procedures related to employment and/or discipline.
3. In the event that the City Attorney or City Manager (or his or her designee) determines that a violation of this division has occurred, appropriate documentation should be prepared to memorialize the determination.

Mandatory Ethics Education for Local Officials

Assembly Bill 1234 (Government Code Section 53235) which became effective in 2005, requires the City to provide ethics training for all members of a legislative body that receive compensation, salary or stipend, or reimbursement of expenses related to his/her official duties. The term “legislative body “includes not only the City Council, but also certain commissions, committees or boards.

The following legislative bodies are required to receive training:

- City Council
- Community Services Commission
- Finance Commission
- Great Park Board
- Irvine Commission for Older Adults
- Planning Commission
- Sustainability Commission
- Transportation Commission

Applicable officials must receive two hours of ethics training within one year of the first day of service, and subsequently at least once every two years. The City’s Department of Human Resources and Innovation arranges for the required training.

Irvine City Council Ethical Public Service Ordinance No. 08-03 (Measure H)

At the June 3, 2008, Special Municipal Election, Irvine voters passed Measure H, (Initiative Ordinance No. 08-03). Measure H extends existing provisions in Section 1-6-104.A of Ordinance 06-01 to commissioners appointed by the Mayor and Councilmembers (lobbying activities); and extends provisions in Section 1-6-104.B to Executive Assistants of the City Council and commissioners appointed by the Mayor and Councilmembers. Ordinance No. 08-03 was amended by the City Council on October 8, 2024.

The City Council, by a 4/5 vote, may amend Initiative Ordinance No. 08-03 only to the extent such amendments further or expand the objectives of the ordinance. All other amendments or proposed repeal must be approved by the voters. A copy of Ordinance Nos. 08-03 and 24-16 can be found in **Appendix J.**



CHAPTER 11

REGISTRAR OF VOTERS SERVICES AND INFORMATION

CHAPTER 11

Registrar of Voters Services and Information

Registered Voter Files

Candidates who have filed Nomination Papers with the City Clerk are eligible to purchase copies of the Voters' Indices, or registered voter files, for his/her own use or the use of his/her committee for election purposes only. Indices can be obtained for a fee directly from the Orange County Registrar of Voters (ROV), at 1300 South Grand Avenue, Building C, Santa Ana, CA, 714-567-7600.

Precinct Maps

A set of precinct maps can be viewed at the Registrar of Voters' Office. If you wish to purchase maps of the City in which you are a candidate, you may do so by accessing the **Registrar of Voters Map Ordering Tool**. You can also contact the Map Unit at 714-567-7586 for further assistance.

Register to Vote – Last Day

The last day for a non-registered, eligible person to register to vote is 15 days prior to an election. To be eligible to vote in the April 15, 2025 Special Municipal Election, an eligible person must register by March 31, 2025. During the 14 days prior to Election Day and including Election Day, an individual can go to the Registrar of Voters office or any Vote Center in Orange County to conditionally register to vote. However, only voters that are registered 29 days prior to an election will be mailed a Sample Ballot, Vote-by-mail Ballot, and Voter Information Guide by the Registrar of Voters; and a California State Voter Guide by the Secretary of State. In Orange County, you may request the option of receiving your Sample Ballot Pamphlet and your California Voter Guide in one of the required languages. These mailings begin approximately 40 days prior to an election and continue over a three-week period.

Translations of Ballot Materials
How to Receive Your Election Information in Chinese (including Taiwanese), Korean, Spanish, or Vietnamese

In 2006, Congress reauthorized the Voting Rights Act, which was signed into law by President George W. Bush. The 2006 reauthorization provided instruction to the U.S. Census Bureau to use the American Community Survey and other compatible census data when determining which voting jurisdictions must provide translated election materials.

Reauthorization of the Act also included instructed that the U.S. Census Bureau produce language support determinations every five years (as opposed to the previous requirements of ten-year determinations).

Orange County must provide bilingual support in Chinese (including Taiwanese), Korean, Spanish, and Vietnamese in compliance with federal law.

When a person registers to vote, they may indicate their language preference on the Voter Registration Form.

A registered voter can also request election materials in any of the required languages by contacting the Registrar of Voters Office at:

Registrar of Voters
1300 South Grand Avenue, Bldg. C
Santa Ana, CA 92705
714-567-7600

or, via the Registrar of Voter's website at ocvote.gov.

Election Day Poll Observers Guidelines

The election process is a public affair and anyone who wishes may observe. However, the vote of the individual citizen is secret, and no one may interfere with a voter's right to cast a secret ballot.

Members of the precinct boards are sworn election officials of the County of Orange and have complete responsibility for conducting all phases of the election in their precinct. Certain standards are expected of observers.

Any person who in any manner interferes with the officers holding an election or conducting a canvass, , as to prevent the election or canvass from being fairly held and lawfully conducted, is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or three years. **§ 18502**

- The election must be orderly. Do not talk in a loud voice, cause confusion, or congregate inside the polls. Do not ask to use the telephone or other facilities.

Only voters engaged in receiving, preparing, or depositing their ballots and persons authorized by the precinct board to keep order and enforce the law may be permitted to be within the voting booth area before the closing of the polls. **§ 14221**

> (a) Only members of the precinct board, and persons while signing their names on the roster, shall be permitted, during the hours within which voting is in progress, to sit at the desk or table used by the precinct board.
> (b) Any person may inspect the roster while voting is in progress and while votes are being counted. However, this shall not be done at a time or in a manner which will impede, interfere, or interrupt the normal process of voting. **§ 14223**

- No person on Election Day, or at any time that a voter may be casting a ballot, within 100 foot limit of either the entrance to a building that contains a polling place, or an elections official's office:

> (a) Circulate an initiative, referendum, recall, or nomination petition or any other Petition; and
> (b) Solicit a vote or speak to a voter on the subject of marking his or her ballot; and
> (c) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240; and
> (d) Do any electioneering. Electioneering is defined as the visible display or audible dissemination of information that advocates for or against any candidate or measure on the ballot.

"Vote Center 100 Foot" signs are posted outside vote centers, indicating the 100 foot boundary for electioneering. As used in this section, **"100 feet from the entrance to a building that contains a polling place, or elections official's office" means a distance 100 feet from the entrance of the building in which voters are signing the roster and casting ballots**.

Any person who violates any of the provisions of this section is guilty of a misdemeanor. **§ 18370**

> (a) Any person in possession of a firearm or any uniformed peace officer, private guard, or security personnel or any person who is wearing a uniform of a peace officer, guard, or security personnel, who is stationed in the immediate vicinity of, or posted at, a vote center without written authorization of the appropriate city or county elections official is punishable by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment.

(b) This section shall not apply to any of the following:

(1) An unarmed uniformed guard or security personnel who is at the polling place to cast his/her vote; and
(2) A peace officer who is conducting official business in the course of his/her public employment or who is at the vote center to cast his/her vote; and
(3) A private guard or security personnel hired or arranged for by a city or county elections official; and
(4) A private guard or security personnel hired or arranged for by the owner or manager of the facility or property in which the vote center is located if the guard or security personnel is not hired or arranged solely for the day on which an election is held. **§ 18544**

- The Precinct Board will attempt to respond to any reasonable, lawful requests from observers. The Registrar of Voters' office has instructed Precinct Officers to ask unruly poll watchers to leave, and to ask for assistance from the local law enforcement agency, if necessary.

Election Night Results

Orange County uses a central location for tallying votes. All ballots are tabulated at the Registrar of Voters Tally Center located at 1300 S. Grand Ave. Bldg. C, Santa Ana, after the close of the polls.

The vote counting procedure is open to public viewing. Unofficial results are available throughout the evening of the election in the Registrar of Voters Office beginning at approximately 8:05 p.m. and continuing until all precinct ballots have been tallied. Results may also be obtained by calling the Registrar of Voters office at 714-567-7600, or visit the County's web site at ocvote.gov for real time results, and detailed reports on election night and thereafter.



CHAPTER 12

CITY COUNCIL AND ORANGE COUNTY GREAT PARK BOARD MEETING INFORMATION

CHAPTER 12

City Council and Great Park Board Meeting Information

The following Chapter contains general information on requests for information and public meeting agenda packets. You may also visit our web site at *cityofirvine.org.*

In addition, information is available in City offices during regular business hours Monday through Thursday, 7:30 a.m. to 5:30 p.m., and Fridays, 8 a.m. to 5 p.m. Please note that the City Clerk's Office is closed on Fridays.

Public Records and Information Requests

During the election period, if you need copies of any public documents or general information, please contact the City Clerk's Office at 949-724-6205. Campaign statements filed after January 1, 2014 are now available on our web site at *cityofirvine.org.* Please do not call individual departments directly. The City Clerk's Office will facilitate your request.

Meeting Schedule

Regular Meetings of the City Council are held every second and fourth Tuesday of the month at 4 p.m. in the Council Chamber. Adjourned Regular Meetings and Special Meetings may be held on occasion and are noticed according to law.

Regular Meetings of the Great Park Board meetings are scheduled once a month on the fourth Tuesday at 2 p.m. However, because dates are subject to change, please visit *yourgreatpark.org* or contact the City Clerk's Office at 949-724-6205 for meeting dates and information.

Meetings of the City Council and Great Park are broadcast live on Cox Communications Local Access Channel 30 and AT&T U-Verse Channel 99, and livestreamed online at *cityofirvine.org/ictv*. City Council Meetings are replayed on Channel 30 and AT&T U-Verse Channel 99 on Tuesdays at 4 p.m. in weeks which there is not a live City Council or a Commission meeting, Sundays at 11 a.m., Wednesdays at 7 p.m., and Thursdays at 10 a.m. Regular Great Park Board meetings are replayed on Tuesdays at 4 p.m. in weeks in which there is not a live City Council or Commission meeting, Sunday at 11 a.m., Wednesdays at 7 p.m., and Thursdays at 10 a.m. unless a live Commission meeting is being televised, and Saturdays at 7 p.m.

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Agenda Packet Availability

Agendas and staff reports are prepared in accordance with the City's agenda preparation guidelines, City Council Policies/Procedures (Ordinance No. 22-02; Resolution No. 22-21), and the Brown Act.

Agenda packets for regularly scheduled City Council and Great Park Board meetings are managed and published by the City Clerk's Office and distributed to the City Council, and/or Board seven (7) days prior to each meeting. Agendas and staff reports are also available for public review on the City's website at *cityofirvine.org* and at *yourgreatpark.org* for the Great Park Board. Meeting agendas are also available for public review in the City Clerk's Office.

A copy of Ordinance No. 22-02 and Resolution No. 22-21 can be found in **Appendix J**.



CHAPTER 13

RESOURCE INFORMATION AND ASSISTANCE - STATE AGENCIES

CHAPTER 13

Resource Information and Assistance – State Agencies

The following Chapter contains a list of resources that are available to candidates. Please contact the City Clerk's Office at 949-724-6205 if further information is required.

Registrar of Voters
1300 South Grand Avenue, Bldg C
Santa Ana, CA 92705
Phone: 714-567-7600
Fax: 714-567-7556
Website: https://ocvote.gov/

California Fair Political Practices Commission*
1102 Q Street, Ste. 3000
Sacramento, CA 95811
Phone: 916-322-5660
Fax: 916-322-0886
Website: www.fppc.ca.gov

Toll-Free Advice Line: 866-ASK-FPPC;
866-275-3772 *2
Advice Line by email: advice@fppc.ca.gov

- Campaign Disclosure
- Conflict of Interest Disclosure
- Conflict of Interest Disqualification
- Proper Use of Campaign Funds

Reporting Enforcement Violations
Complaint referrals can be filed through the FPPC's Electronic Complaint System. The System can be access here.

State Franchise Tax Board
Toll-Free: 800-852-5711
www.ftb.ca.gov

- Committee Tax Status
- Tax Deductible Contributions
- Charitable Non-Profit Groups
- Any Other Tax-Related Questions

Secretary Of State
Political Reform Division
1500 11th Street, 4th Floor, Room 495
Sacramento, CA 95814
Phone: 916-653-6224
Fax: 916-653-5045
www.sos.ca.gov

- Committee Identification Numbers
- Termination of Committees

Elections Division
Phone 916-657-2166

- Questions Relating to the Elections Code

Internal Revenue Service
Toll-Free: 800-829-1040
www.irs.gov

- Federal Taxpayer I.D. Numbers
- Any Other Tax-Related Questions
- Disclosure Rules for 527 Organizations

The next page provides detailed information regarding assistance provided by the California Fair Political Practices Commission (FPPC)

Requesting Advice from the FPPC

The FPPC provides three methods for obtaining advice regarding the Political Reform Act's (PRA) rules and requirements. Advice is provided to those persons regulated by the PRA and to the general public. Procedures for informal and formal advice differ as described below.

1090 Issues: Effective January 1, 2014, the FPPC has limited authority to provide formal written advice on Government Code section 1090 issues when requested in writing by officials subject to section 1090, or their authorized representative. The agency will not issue telephone or email advice on this topic.

Form 700: FPPC staff will be happy to answer your Form 700 questions. **Be sure you have your disclosure category**. Each state & local agency develops unique categories as part of a conflict-of-interest code. It often limits the type of information you report. The Form 700 is used by all state and local officials so it is impractical to include the thousands of codes with the form.

Assistance by E-Mail (Informal Advice)

Email communications are public documents and may be provided to others under the California Public Records Act.

Email advice is best suited for straightforward questions such as: 1) When does a local ballot measure committee file its Form 410?; and 2) After assuming my new position as mayor how many days do I have to file the Form 700?

In the event a more complex response is required, contact the City Clerk's office directly at 949-724-6205.

All Email:

- Identify yourself, contact phone and position
- List the agency that is related to your question
- Write your question with as much specificity as possible
- If you have a question on a Form 700 disclosure, include your disclosure category.

Please Note: Third party, hypothetical questions and enforcement related matters are not addressed

Send your Email Question Here: **advice@fppc.ca.gov**

Assistance by Telephone (Informal Advice)

Toll-Free: **1-866-ASK-FPPC (1-866-275-3772 *1** or **1-916-322-5660)**
Telephone advice is available Monday through Thursday from 9 a.m. to 11:30 a.m.
Call 866-275-3772 or 916-322.5660 and press 1 to speak to a political reform consultant in the Technical Assistance Division.

Assistance by Mail (Formal Advice)

Fair Political Practices Commission
1102 Q Street, Suite 3050
Sacramento, CA 95811
FAX: **1-916-322-0886**

Informal Assistance

Telephone and Email Advice:

This advice is considered informal assistance and conservative responses are provided. In most instances, email advice will link you to the appropriate reference material posted on the FPPC website.

Both Telephone and Email Advice provide guidance based on facts provided through the inquiry. Advice does not provide immunity under Government Code Section 83114 and does not constitute legal advice or alter any legal right or liability. Political Reform Consultants will respond to your request for guidance but the response is not a rule, regulation or statement binding or a final decision of the FPPC. Advice is only applicable to the specific person submitting the question and to the specific question asked.

Notes:

- Answers to questions on past conduct or hypothetical situations are not provided.
- Advice regarding a person's duty is only provided to that person or their authorized representative.
- The FPPC does not provide guidance on laws other than the Political Reform Act (e.g. the Elections Code, the Brown Act, Federal or local laws.).
- The FPPC does not confirm in writing telephone advice.
- To report a violation of the Act, contact the Enforcement Division, click here.
- All calls and emails from reporters will be routed to the FPPC's press staff.

Helpful Hints:

- Campaign Questions: Different committees have different filing deadlines and reporting obligations. Identify if the committee is city, county or state and the type of committee, candidate, ballot measure etc. A committee ID number is helpful.

- Form 700 Disclosure: Identify your position and agency and disclosure category, if any. The Disclosure category is in the agency's conflict-of-interest code, see your supervisor for assistance. The FPPC has information for state agencies and certain multi-county agencies but does not have the disclosure categories for most local officials.

Questions Must Include:

- If a public official or representative thereof: the official's name, title and agency and, if a representative, your name and the capacity in which you represent the official (e.g., "city attorney"; "county counsel")
- If a candidate or committee, or representative thereof: the candidate's or committee's name, and, if a representative, your name and the capacity in which you represent the candidate or committee (e.g., "attorney for the candidate/committee"; "committee officer"; "committee campaign consultant")
- If any other individual or organization with obligations under the Political Reform Act, or representative thereof: the individual's or organization's name, the capacity in which they are regulated under the Act (e.g., "lobbyist"; "major donor"; "campaign contributor") and, if a representative, your name and the capacity in which you represent the individual or organization (e.g., "attorney for the organization"; "employee of lobbyist employer")

Formal Assistance

Written Advice

Under Government Code Section 83114(b) Any person may request the Commission to provide written advice with respect to the person's duties under this title. Such advice shall be provided within 21 working days of the request, provided that the time may be extended for good cause. It shall be a complete defense in any enforcement proceeding initiated by the Commission, and evidence of good faith conduct in any other civil or criminal proceeding, if the requester, at least 21 working days prior to the alleged violation, requested written advice from the Commission in good faith, disclosed truthfully all the material facts, and committed the acts complained of either in reliance on the advice or because of the failure of the Commission to provide advice within 21 days of the request or such later extended time.

Formal written advice provides the requestor with immunity from prosecution by the Commission, and provides evidence of good faith conduct in any relevant civil or criminal proceeding brought by another person, so long as the facts presented by the requestor are accurate and the requestor acts within the confines of the formal advice provided. Formal written advice does not provide immunity to persons other than the requestor, although it may be used as guidance for questions based on similar facts.

The Commission may provide an informal written reply with general guidance in response to written requests for advice that do not meet the criteria for formal written advice. Since formal and informal written advice is provided by Commission staff, neither constitutes a formal opinion by the Commission under Government Code Section 83114(a) or a statement of Commission policy. More details about the written advice process can be found in Section 18329 of Title 2 of the California Code of Regulations.

Commission Opinions

Under Government Code Section 83114(a) Any person may request the Commission to issue an opinion with respect to that person's duties under this title. The Commission shall, within 14 days, either issue the opinion or advise the person who made the request whether an opinion will be issued. Any person who acts in good faith on an opinion issued to that person by the Commission shall not be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The Commission's opinions shall be public records and may from time to time be published.

In addition, since the process requires formal action by the Commission, if the request is accepted, it normally takes several months after the question is submitted before a formal opinion may issue from the Commission. A formal opinion issued by the Commission provides the requestor with immunity from civil or criminal prosecution under the Political Reform Act so long as the facts presented by the requestor are accurate and the requestor acts within the confines of the opinion. More details about the formal opinion process can be found in Sections 18320 through 18326 of Title 2 of the California Code of Regulations.

(Source: FPPC Website)



CHAPTER 14

LIST OF OFFICIALS

CHAPTER 14

List of Officials

Updated: **December 17, 2024**

City Council Meet 2nd & 4th Tuesday @ 4 p.m.	**Term Expiration**
Larry Agran, Mayor	December, 2026
Melinda Liu, Councilmember (District 1)	December, 2026
William Go, Councilmember (District 2)	December, 2028
James Mai, Councilmember (District 3)	December, 2028
Mike Carroll, Councilmember (District 4)	December, 2028
Vacant, Councilmember (District 5)	December, 2026
Kathleen Treseder, Councilmember (At-Large)	December, 2026

Administration

City Manager	Oliver C. Chi
Assistant City Manager	Pete Carmichael
Assistant City Manager	Michelle Grettenberg
Assistant City Manager	Brian King
Assistant City Manager/Director of Public Works & Sustainability	Sean Crumby
City Attorney	Jeffrey Melching
City Clerk	Carl Petersen
City Treasurer	Don Collins
Director of Administrative Services	Dahle Bulosan
Director of Communications & Engagement	Melissa Haley
Director of Community Development	Stephanie Frady
Director of Community Services	Chris Slama
Director of Health & Wellness	Heather Stratman
Director of Public Safety	Michael Kent

Great Park
Meets 4th Tuesday @ 2 p.m.
949-724-6205

Mike Carroll (Chair)
Larry Agran (Vice Chair)
William Go
Melinda Liu
James Mai
Kathleen Treseder
VACANT

Finance Commission
Meets 1st & 3rd Monday @ 5:30 p.m.
949-724-6255

Don Geller (LA)
Felicia Gopaul (MC)
Logan Jeffs (JM)
Tammy Kim (WG)
Max Wang (KT)
Shareen Young (MC)

Irvine Advisory Commission for Older Adults
Meets 3rd Thursday @ 9 a.m.
949-724-6900

Mike Chen (ML)
Michele Jacknik (At-Large)
Greta Jacobs (LA)
Rachel Owens (JM)
Dr. Zainab Saadi (KT)
Bill Sandlin (MC)
Preeti Singh (At-Large)

Transportation Commission
Meets 1st and 3rd Tuesday @ 5:30 p.m.
949-724-7365

Mari Fujii (LA)
Rupali Joshi (ML)
Youssef Kaddeche (KT)
Ken Montgomery (WG)
Sidney Wu (MC)

Community Services Commission
Meets 1st & 3rd Wednesday @ 5:30 p.m.
949-724-6682

Tom Chomyn (LA)
Mark Deppe (WG)
Doug Elliott (TK)
Naz Hamid (ML)
Dick Owens (JM)
Kevin Trussell (MC)

Planning Commission
Meets 1st & 3rd Thursday @ 5:30 p.m.
949-724-6401

Raj Bhatia (LA)
Arnis Dela Cusack (WG)
Seth Grossman (ML)
Jeff Pierson (MK)
Jeff Starke (KT)

Sustainability Commission
Meets 2nd Wednesday @ 4 p.m.
949-724-5446

Kev Abazajian (LA)
Steve Allison (TK)
Christine Knowland (MC)
Alex Mohajer (WG)
Ron Scolesdang (JM)

NOTE: Each Councilmember appoints a member to each Commission



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Appendix M	Orange County Registrar of Voter's 2018 Election Security Playbook

APPENDIX A

FPPC Campaign Disclosure Manual 2 (Local Candidates)



Local Candidates, Superior Court Judges, Their Controlled Committees, and Primarily Formed Committees for Local Candidates

Campaign Disclosure **Manual 2**

California Fair Political Practices Commission
advice@fppc.ca.gov
1 (866) ASK-FPPC / www.fppc.ca.gov
August 2023

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INTRODUCTION

The purpose of California's Political Reform Act (Act) is to ensure that disclosure of political payments is accurate, timely, and made in a transparent manner. Clear and accurate disclosure is essential for making voters aware of who is paying for political messages so they may evaluate the content and make informed decisions when voting.

In California, the true source of a contribution must be disclosed. This manual sets out the campaign reporting requirements for:

- Local candidates
- Superior and Appellate Court judges and candidates for Superior and Appellate Court
- Local candidate controlled committees
- Committees primarily formed to support or oppose a local candidate(s)

Since the Act was approved by California voters in 1974, there have been more than 200 amendments to the Act's campaign disclosure provisions. This manual has been prepared to assist local candidates and committees in complying with the Act's numerous and often detailed rules. The manual is written in a "user friendly" format so that candidates and committees have a resource guide. At the end of each chapter, a list of statutes and regulations that provide authority for the information in that chapter is provided. The statutes and regulations may be accessed on the FPPC website.

This manual describes the state campaign finance and disclosure laws under the Act that apply to local candidates and committees. Many cities and counties have adopted local campaign ordinances that contain additional restrictions and requirements. Local candidates and committees should check with their local elections office or ethics agency to determine if there are additional local requirements and restrictions, such as contribution limits. Effective January 1, 2021 a default state campaign contribution limit applies to city and

county candidates when the city or county has not already enacted a contribution limit on such candidates per AB 571 (2019). Special rules apply to AB 571 candidate committees. Please see the FPPC's AB 571 fact sheet available on the FPPC website for additional rules applicable only to AB 571 candidates.

In addition, federal and state tax laws and other rules may also apply. The Appendix contains telephone numbers and website addresses for the Federal Election Commission, the Internal Revenue Service, the California Franchise Tax Board, and the Federal Communications Commission.

State candidates and officeholders, their controlled committees, and committees primarily formed to support or oppose a state candidate(s) should refer to FPPC's Campaign Disclosure Manual 1.

Controlling Law

This manual summarizes key campaign disclosure laws and regulations and draws from years of FPPC staff advice on complying with the Act's campaign disclosure laws. Each committee's activity is different, however, and may raise issues not discussed in this manual. If there are any discrepancies between the manual and the Act or its corresponding regulations, the Act and its regulations will control.

Need Help?

If you need assistance, the Fair Political Practices Commission (FPPC) provides advice by email and through a toll-free telephone advice line. The FPPC does not provide third party advice or advice on past conduct. The FPPC website (www.fppc.ca.gov) contains forms, manuals, and a wealth of other helpful information.

Email Advice	Telephone Advice
advice@fppc.ca.gov	1-866-ASK FPPC (1-866-275-3772)

CHAPTER 1

Local City and County Contribution Rules (AB 571)

This chapter contains information on contribution rules for candidates and officeholders seeking a city or county elective office in a city or county that has not already enacted a contribution limit pursuant to AB 571. (Please see Stats. 2019, Ch. 556 AB 571 Mullin). Along with the new campaign contribution limit, there are also other related provisions that formerly applied only to state level candidates that now apply to city and county candidates. Please note that none of the provisions of AB 571 discussed in this chapter apply to candidates in cities or counties for which the city or county has enacted contribution limits. You can search the FPPC's website to see if the city or county has enacted a contribution limit.

This chapter reviews:

- Contribution Limits
- Transfers
- Post-Election Fundraising
- Officeholder Committees
- Legal Defense Committees
- Recall Committees

For information about ballot measure committees controlled by a local candidate or officeholder, see FPPC Campaign Disclosure Manual 3.

A. City and County Candidate Contribution Limits (AB 571)

A candidate seeking election to a city or county office in a city or county that has not already enacted a contribution limit is subject to contribution limits from a single source per election. For purposes of contribution limits, the primary, general, special, and special runoff elections are separate elections. The chart below shows the limits per contributor for the type of office sought. Contribution limits may increase or decrease every two years based on changes in the Consumer Price Index. Regulations that set forth the amounts are adopted by the Commission.

Per Election Limits on Contributions to City and County Candidates

(For Elections Occurring from January 1, 2023 – December 31, 2024)

The chart below shows the campaign contribution limits per contributor, per election, for city and county candidates in cities and counites that have not enacted campaign contribution limits.

2023-2024 Contribution Limits for City and County Candidates in Cities and Counties That Have Not Enacted Limits		
Person (individual, business entity, committee/PAC)	Small Contributor Committee	Political Party
$5,500	$5,500	$5,500

Timing

There are no restrictions on when a candidate may begin to fundraise for a city or county office, and contributions for a general or special election may be raised during or prior to a primary or special primary election for the same office. However, a candidate must file a Form 501 (Candidate Intention Statement) prior to soliciting or receiving contributions or making expenditures from personal funds. (Please see Chapter 2 for more information).

A city or county candidate in a city or county that has not enacted a campaign contribution limit who is defeated in the primary or special primary election, or who withdraws from the general or special general election, must return contributions received for the general or special general election to the contributors. The contributions are returned on a pro rata basis, less the cost of raising or administering the funds and expenses attributable to the general election paid prior to the primary election (e.g., media purchases).

Loans

For city and county candidates in a city or county that has not enacted a campaign contribution limit, loans from third parties are contributions subject to limits. However, if a loan has been repaid, the lender, guarantor, endorser, or cosigner may make additional contributions to the same committee up to the limit. Please see Candidate Personal Funds below for more information on candidate loans to their own committee.

Candidate's Personal Funds

Contribution limits do not apply to a candidate's personal funds contributed to their own campaign. However, a city or county candidate in a city or county that has not already enacted a contribution limit, may not have loans to their campaign with an outstanding balance of more than $100,000 at any time. A candidate may not charge interest on a loan they make to the campaign. The $100,000 limit on personal loans applies to loans from the candidate's personal funds as well as loans from a commercial lending institution which the candidate lends to their campaign. "Campaign" includes both the primary and general, or special and special runoff, elections. However, a candidate may loan each committee for a different office or term of office up to $100,000.

Extensions of Credit

When there is an agreement with the provider of goods or services that a city or county candidate in a city or county that has not already enacted contribution limits or committee will pay for the goods or services at a later date, the value of the goods or services may become a contribution to the candidate and be subject to contribution limits if the payment is not made within 45 days. (See Regulation 18530.7.)

Contributions to Other City or County Candidate Committees

A candidate may not make a contribution over the default state contribution limit to another candidate in jurisdictions subject to the default state contribution limit with limited exceptions related to recall elections, legal defense funds, and candidate-controlled ballot measure committees. The limit is the same contribution limit imposed on legislative candidates. This contribution limit applies to the aggregate total of contributions made from the personal funds or assets of the candidate and contributions made by all committees controlled by that candidate.

Contributions Over the Limit

Committees are not in violation of the Act's contribution limit if an “over the limit” contribution is returned to the contributor or the contribution is attributed to another election either: (1) within 14 days of receipt before deposit so long as the committee did not make use of the contribution prior to returning it, or (2) within 14 days of receipt even after deposit, so long as there was **no actual knowledge** the contribution was over the limit when deposited and the committee did not make use of the contribution prior to returning it. If a contribution is returned after it has been deposited it must be reported. A contribution must be reported even if not deposited if it is not returned to the contributor by the close of the reporting period. An over the limit nonmonetary contribution must be returned to the contributor within 14 days of receiving the contribution either in its original form, or in a monetary equivalent greater than or equal to the amount by which its value exceeds an applicable contribution limit.

A committee that receives a monetary contribution with **actual knowledge** that the contribution is over the applicable contribution limit in the Act may accept the contribution and return or attribute the portion in excess within 72 hours of receipt or before the date of the election, whichever is sooner without being in violation of the contribution limit. However, a committee is prohibited from making use of the excessive contribution prior to returning or attributing it and the amount of a contribution that may be accepted is capped at twice the applicable contribution limit.

A committee may request that the contributor attribute in writing a contribution to a different election. A committee may automatically attribute a portion of a contribution that is in excess of the applicable limit between the primary and general elections. A committee attributes a contribution when the committee designates the portion of the contribution in excess of the applicable limit to another election.

A committee that receives an excessive contribution **with or without actual knowledge** that the contribution was over the limit must inform the contributor:

- that their contribution was in excess of the applicable limit, and
- if the contribution was automatically attributed to the connected primary or general election, that the contribution was attributed and the contributor may request a refund.

Recurring Contributions

A “recurring contribution” is a contribution from a person to a candidate or committee that is automatically charged to the person’s bank account, credit card, or other payment account on a repeated basis, such as weekly or monthly, without approval or any other affirmative consent by the person after their initial contribution to the candidate or committee.

A committee must obtain affirmative consent from a person making a recurring contribution at the time of the initial contribution. Any solicitation for a recurring contribution must be in a form that requires affirmative consent from the person making the contribution. Passive action by the contributor, such as failing to uncheck a pre-checked box authorizing a recurring contribution, does not meet the requirement of affirmative consent. A committee that accepts a recurring contribution is required to provide a receipt for each contribution, provide information necessary to cancel the recurring contribution, and immediately cancel a recurring contribution upon request.

A recurring contribution accepted in response to a solicitation that did not require affirmative consent must be returned to the contributor within 14 days of the earlier of the following:

- receipt of a request from the contributor to return the contribution, or

- the date on which the candidate or committee becomes aware that the solicitation of the recurring contribution was in violation of the Act.

A contribution accepted after a contributor requested to cancel a recurring contribution must be returned to the contributor within 14 days of the request to cancel the recurring contribution.

B. Transfers Between a Candidate's Controlled Committees (AB 571)

A city or county candidate in a jurisdiction that has not already enacted contribution limits that has a qualified committee must establish a separate controlled committee and campaign bank account for each specific office. Candidates may not redesignate a committee for one election for another election.

A city or county candidate in a city or county that has not already enacted a contribution limit may transfer funds from their controlled elections committee to another committee. Except as discussed below, funds transferred from one of a city or county candidate's controlled election committees to another are subject to contribution limits. The transferred funds must be attributed to specific contributors of the committee making the transfer and count toward the amount those contributors may give to the committee receiving the transfer.

The committee making the transfer must choose between two attribution methods. The first is "LIFO" (last in, first out). This means that the amount to be transferred will be attributed to the most recent contributors to the transferring committee. The other method is "FIFO" (first in, first out), which means transferred funds will be attributed to the earliest contributors. Once the transferring committee has chosen LIFO or FIFO, it may not change the method of attribution.

Example:

A city council member is running for county supervisor in 2024. The candidate uses the LIFO accounting method to transfer funds from the city council committee to their county supervisor committee as outlined in the table below. Because the 2022 contribution limit is $4,900, only $4,900 of Z Corporations original $5,000 contribution to the city council committee may be transferred to the county supervisor committee. Riley Thomas has already contributed has already contributed $4,000 to the county supervisor committee, so only $900 of their original $1,000 contribution to the city council committee may be transferred to the county supervisor committee.

Donor	Date of Original Contribution	Amount of Original Contribution	Funds Attributed to Contributor
Taylor Smith	09/25/2020	$1,000	$1,000
Z Corp.	11/02/2020	$5,000	$4,900
Riley Thomas	12/10/2020	$1,000	$900

The committee making the transfer must report the transfer as an expenditure on Schedule E of the Recipient Committee Campaign Statement (Form 460). The committee receiving the transfer must report the transfer on Schedule A as follows:

- The date of the transfer and the name, address, and identification number of the committee making the transfer;
- The name, address and, if applicable, the occupation and employer or committee identification number of the contributor to whom the transferred funds are being attributed (as disclosed on the campaign statement filed when the contributions were originally received or as contained in the committee's records at the time of the transfer);
- The original date of the transferred contribution; and
- The amount of the transferred contribution, including the cumulative amount received from the contributor in the calendar year and the amount attributed to the contributor per election.

Some electronic filing formats may be different.

Schedule A
Monetary Contributions Received

Amounts may be rounded to whole dollars.

SCHEDULE A

Statement covers period
from x/x/20xx
through x/x/20xx

CALIFORNIA FORM 460

Page x of xx

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER
Committee to Elect Gerard for County Supervisor 2024

I.D. NUMBER

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
10/xx/20xx	Gerard for City Council 20xx (Transfer, see below) 49 J Street, Sacramento, CA 95814 (ID 1914287)	☐ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC				
09/25/20xx	Taylor Smith 7239 Hemingway Blvd. Rancho Palos Verdes CA 90274	☑ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC	Orthodontist, Smith Smiles	$1,000	$1,000	P20xx: $1,000
11/03/20xx	Z Corporation 2500 7th Avenue Los Angeles, CA 90013	☐ IND ☐ COM ☑ OTH ☐ PTY ☐ SCC		$4,900	$4,900	P20xx: $4,900
12/10/20xx	Riley Thomas 1095 Euclid Street La Habra Heights, CA 90631	☑ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC	Dispatcher, La Habra Heights Police Department	$900	$4,900	P20xx: $4,900

The committee making the transfer must maintain records that identify the specific contributors to whom any transferred contributions have been attributed. If the transferring committee is no longer required to maintain detailed records, the receiving committee shall maintain either:

- The full name of the contributor;
- The date and amount being transferred for each contributor, and if the contribution is a loan, the interest rate for the loan; and
- The cumulative amount of contributions transferred attributed to that contributor.

OR

- Copies of the transferring committee's original verified and filed campaign reports that show the original contribution received from each contributor to whom a transferred contribution is attributed.

Exceptions:

- **Surplus Funds:** Campaign funds that are "surplus funds" may not be transferred to a future election committee. A defeated candidate's campaign committee funds become surplus 90 days after the post-election reporting period (either June 30 or December 31) following the election. An officeholder's campaign committee funds become surplus 90 days after leaving office for which the funds were raised. For specific guidance, refer to Regulation 18951.

- **Carryover:** A city or county candidate in a city or county that has not already enacted a contribution limit may carry over campaign funds from the primary election to the subsequent general election for the same elective office without attribution. Non-surplus campaign funds may be carried over from one city or county election to the next election for the same office without attribution.

To carry over funds from one city or county election to the next election for the same office (e.g., from a 2020 city council election to the 2024 city council election), the funds must be transferred to a new campaign bank account and committee established for the next election, and the transfer must occur after the date of the election for which the funds were raised.

The transferring committee reports the transfer as an expenditure on Schedule E and the committee receiving the funds reports the transfer as an increase to cash on Schedule I.

A candidate that formed a campaign committee for a specific election and chooses not to seek the office and is not listed on the ballot may not "carryover" the funds, but may transfer the funds with attribution to another future election committee.

QUICK TIP: City and county candidates in a city or county that has not already enacted a contribution limit may raise funds after an election only to pay net debts outstanding. Campaign funds may not be carried over to a future election committee if the existing committee has net debt from the prior election.

- **Transferring Assets:** It is not necessary to value and attribute a committee's usual assets (such as supplies, furnishings, and office equipment) that are being transferred from one controlled committee to another of the candidate's controlled committees. A committee must report the purchase or sale of these assets, but need not report the transfer.

Detailed reports must be maintained on transfers.

C. Post-Election Fundraising: Net Debts Outstanding (AB 571)

City and county candidates in cities and counties that have not already enacted a contribution limit may receive contributions after an election only to pay net debts outstanding from the election. The primary and general elections are separate elections for the purposes of calculating net debt. In addition, the contribution limits applicable to the election apply to any new contributions received to pay net debt.

To calculate net debts outstanding, the following are added together:

- The total amount of unpaid debts, loans, and accrued expenditures incurred with respect to the election;

- An amount necessary to cover the cost of raising funds to pay outstanding debts;

- Costs related to complying with post-election requirements, such as filing campaign statements, and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries, and office supplies; and

- Legal fees and expenses incurred in connection with monitoring a ballot recount or the counting of absentee or provisional ballots.

That amount is reduced by:

- The total cash on hand available to pay those debts and obligations, including: currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasurer bills; and any other committee investments valued at fair market value; and

- The total amounts owed to the candidate controlled committee in the form of credits, refunds of deposits, returns, or receivables, or a commercially reasonable amount based on the collectability of those credits, refunds, returns, or receivables.

As new funds are received, the amount of the net debts outstanding is reduced. The amount of new contributions may not exceed the amount of net debts outstanding on the date the contribution is received. Any contribution that exceeds the amount of net debts outstanding must be returned to the contributor within 14 days.

Ex 1.1 - Tom ran for district attorney in 2022. After the general election, Tom had $45,000 in cash left and owed only $20,000 in accrued expenses from the primary election and none from the general election. Tom may not raise additional funds into the 2022 committee.

Ex 1.2 - Jane ran for county supervisor in 2022. After the primary election, Jane had $30,000 in cash left and owed $50,000 in unpaid loans and accrued expenses. Jane may raise $20,000 to pay this debt, plus an amount needed to cover the fundraising expenses and other administrative costs. All contributions received are subject to the contribution limits that were in effect for the 2020 election.

D. Officeholder Committees (AB 571)

Officeholder committees are not permitted for city and county candidates subject to the default state contribution limit. However, a candidate may use a committee for the officeholder's future election for officeholder expenses. A candidate may also use existing funds in the election committee for current office for officeholder expenses.

E. Other Committees (AB 571)

Legal Defense Committees

City and county candidates and officeholders may establish a legal defense fund to defray attorney's fees and other related legal costs incurred for the candidate's or officeholder's legal defense if the candidate or officeholder is subject to a civil or criminal proceeding, or an administrative proceeding arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officeholder's governmental activities and duties.

A separate bank account and committee must be established. The legal defense committee will file campaign statements at the same times and in the same place as the candidate's election committee.

Contributions raised for a legal defense fund are not subject to contribution limits.

> **QUICK TIP:** The Form 410 must specify the legal dispute or disputes for which the legal defense fund was established.

Legal defense funds may only be raised in an amount reasonably calculated to pay attorney's fees and other legal costs related to the defense of the candidate or officeholder, as well as administrative costs directly related to compliance with recordkeeping and reporting requirements. Legal defense funds may not be used for fundraising, media or political consulting fees, mass mailings or other advertising, or for paying fines, penalties, judgements or settlements, or to return contributions. (Please refer to Regulation 18530.45.)

Recall Election Committees

All candidates and committees that raise and spend funds in connection with a recall election have full reporting and disclosure obligations. The FPPC publishes filing schedules for these elections.

Target Officeholder: A city or county officeholder who is the target of a recall may form a separate committee to oppose the qualification of the recall measure and, if the recall petition qualifies, the recall election. The officeholder has the option of using their existing committee or committee formed for a future election instead.

If a separate committee is formed, the following rules apply:

- The committee may be established only after the officeholder receives a notice of intent to recall under Elections Code Section 11021.
- A Statement of Organization (Form 410) must be filed and a separate bank account must be established.
- The committee name must include the word “recall” and the target officer’s name.
- Contributions to the committee are not subject to limits.
- After the recall election, or if the recall petition fails, funds left over become restricted “surplus funds” and must be spent within 30 days (See Chapter 6.)

Replacement Candidate: A candidate running to replace an officeholder who is the target of a recall is subject to the contribution limits. A replacement candidate must file campaign forms (e.g., Form 501, Form 410, Form 497, Form 460) in the same manner as a candidate seeking a regular election.

Committee Primarily Formed to Support or Oppose a Recall: A committee formed to support or oppose a recall is considered to be a ballot measure committee. Refer to FPPC Campaign Disclosure Manual 3 for guidance.

Answering Your Questions

A. If a city or county does not currently have contribution limits set within their ordinance would the state contribution limit be the default?

Yes. The state contribution limit would be the default contribution limit if the city or county ordinance is silent on whether there are contribution limits within that jurisdiction or if there is no city or county ordinance in place.

B. If a city or county has voluntary contribution limits, but no mandatory contribution limits will the state limit be applicable?

Yes. A city or county must enact mandatory contribution limits to avoid the state limit applying to elective city and county offices.

C. Does the default contribution limit also include judicial candidates?

No. Elective city and county offices do not include judicial offices.

D. Can a city or county ordinance be less restrictive than the AB 571 limit (e.g., the city or county limit is set higher than the state limit)?

Yes. A city or county can set contribution limits higher than the default state limit.

E. If a city or county imposes contribution limits, is the Commission responsible for enforcing those limits?

No. The Commission will not regulate the administration or enforcement of the penalties. Cities or counties with existing limits or that adopt their own limits are not subject to the state limit and may impose their own penalties for violations.

F. If a city or county has imposed contribution limits for particular city or county offices (e.g., Board of Supervisors), do those limits also apply to other positions such as the District Attorney or would the default state limit apply if a particular position is not specifically addressed by the city or county?

The default state contribution limit would apply to other positions which the city or county has not set contribution limits. A city or county ordinance must explicitly state the city or county contribution limits and for which elective offices those limits will apply. A city or county may adopt a general provision implementing a contribution limit for all elective city and county offices in that jurisdiction.

G. Does AB 571 apply to special district or school district elections?

No. AB 571 applies only to city and county elections for offices that a city or county has not implemented its own contribution limit.

H. Does AB 571 apply to County Superintendent of Schools or the office of County Board of Education?

AB 571 does apply to the office of County Superintendent of Schools because it is considered a “county” office. However, the office of County Board of Education is not subject to AB 571 because it is not considered a “county” position.

I. Can candidates that are subject to the AB 571 contribution limit open an officeholder committee?

No. Officeholder committees are not permitted for candidates subject to the AB 571 contribution limit. However, a candidate may use a committee for the officeholder's future election for officeholder expenses. A candidate may also use existing funds in the election committee for current office for officeholder expenses.

J. If a contribution was received for an election occurring after January 1, 2021, prior to the January 1, 2021, does this contribution count towards the AB 571 contribution limit after January 1, 2021?

No. The Commission adopted a formal opinion on April 15, 2021 that states contributions made prior to the effective date of AB 571 are not aggregated with contributions made on or after the effective date of AB 571 for purposes of the new contribution limit. Therefore, if someone contributed up to or above the current limit to an AB 571 committee prior to January 1, 2021 the same person can give additional contributions to the same committee up to the AB 571 contribution limit on or after January 1, 2021.

K. If a contributor gave $10,000 in 2020 (prior to the AB 571 limit going into effect) to a committee for a 2022 primary election, what happens?

The AB 571 contribution limit does not apply to contributions made prior to January 1, 2021 so a contribution of this amount is permissible.

L. Does the AB 571 contribution limit apply to county central committee candidates?

No. AB 571 imposes a contribution limit on city and county elective offices when a local jurisdiction has not already done so. Local jurisdictions are prohibited from placing contribution limits on county central committee candidates; therefore AB 571 is not applicable to these offices.

M. An AB 571 candidate for city council would like to send out a request for contributions to their constituents. Do they need to include anything specific in the request?

Yes. A candidate that is subject to AB 571 must have the following information in the solicitation: the name of the controlled committee soliciting contributions, and the specific office for which those contributions will be used.

N. If an AB 571 candidate is the subject of a recall, is their committee to oppose the recall subject to contribution limits?

No. There are no contribution limits for a committee controlled by a candidate that is the subject of a recall that is formed to oppose the recall.

O. An AB 571 candidate has debts for an election held after January 1, 2021, may the candidate terminate their committee?

No. If a candidate-controlled committee has outstanding debts for an election held after January 1, 2021, they may not terminate without resolving or paying off the debt. When the committee has no net debts outstanding, the committee must be terminated within 24 months after the earliest of the date the candidate is defeated, leaves office, or the term of office for which the committee was formed ends, or, for withdrawn candidates no later than 24 months after the election from which the candidate withdrew. Please see Regulation 18404.1 for more on termination requirements.

P. If a local jurisdiction, which is subject to AB 571 passes a local campaign contribution ordinance, are the candidates still subject to AB 571?

No. They would no longer be subject to AB 571.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

82015	Contribution.
82015.5	Contribution; Aggregation.
82022.5	Election-Related Activities.
82025	Expenditure.
82047	Person.
85204.5	Special Election Cycle and Special Runoff Election Cycle.
85301	Limits on Contributions from Persons.
85303	Limits on Contributions to Committees and Political Parties.
85304.5	Legal Defense Fund; Local Candidates and Elected Officeholders.
85305	Restrictions on Contributions by Candidates.
85306	Transfers Between a Candidate's Own Committees; Use of Funds Raised Prior to Effective Date.
85307	Loans.
85314	Special Elections and Special Runoff Elections as Separate Elections.
85315	Elected City and County Officer Recall Committees.
85316	Post-Election Fundraising Restrictions; City and County Officeholder Accounts.
85317	Carry Over of Contributions.
85318	Contributions Received for Primary and General Elections.
85319.5	Attribution of Contributions.
85701.5	Recurring Contributions.
85702.5	Default Contribution Limits for City and County Jurisdictions.
89519	Use of Surplus Campaign Funds.

Title 2 Regulations

18215	Contribution.
18404.1	Termination and Reopening of Committees.
18421.1	Disclosure of the Making and Receipt of Contributions.
18421.4	Reporting Cumulative Amounts for Elections and Recipient Committees.
18421.8	Reporting an Expenditure by a Candidate
18521	Establishment of Separate Controlled Committee for Each Campaign Account.
18521.5	Ballot Measure Committees Controlled by Candidates for Elective State, City, or County Office
18523.1	Written Solicitation for Contributions.
18530.2	Transfer of Funds Raised Prior to Proposition 34 Limits.
18530.7	Extensions of Credit.
18530.8	Personal Loans.
18531	Return of Excessive Contributions.
18531.2	Refunding General Election Contributions.
18531.5	Recall Elections.
18531.61	Treatment of Debts Outstanding After an Election
18531.63	Treatment of Debts Outstanding After a City or County Election for Offices Subject to AB 571.
18531.64	Treatments of Debts Outstanding After a City or County Election.
18535	Restrictions on Contributions Between State, City and County Candidates.
18536	Transfer and Attribution of Contributions.
18537	Contribution Limits and Application to Repaid Loans.
18537.1	Carry Over of Contributions.
18545	Contribution Limit and Voluntary Expenditure COLA Formula.
18951	Surplus Funds.

Getting Started

This chapter outlines the requirements for candidates and committees primarily formed to support or oppose a candidate(s) to start their campaigns. In the Political Reform Act (Act) and this manual, "candidates" includes non-incumbent candidates, officeholders, officeholders running for reelection, and officeholders running for election to another office.

> **QUICK TIP:** Elected officials are included as "candidates" under the Act until they have left elective office and terminated any committees.

Before raising or spending money in connection with an election, candidates and committee treasurers should become familiar with the various campaign disclosure forms applicable to the type of campaign or committee involved.

The chapter is broken down by candidates who will raise and spend less than $2,000, candidates who will raise and spend more than $2,000, and committees primarily formed to support or oppose a candidate(s) that are not controlled by the candidate(s) being supported.

> **QUICK TIP:** The FPPC's website includes a comprehensive and user- friendly toolkit for new candidates.

In addition to filing the **campaign statements** described in this chapter, most candidates must also file a **Statement of Economic Interests** (Form 700). The Form 700 is used to disclose an individual's personal financial interests that could potentially be affected by the individual's decision making. Candidates must disclose investments and interests in real property held on the day the declaration of candidacy is due, as well as income received during the 12 months prior to the date of filing the declaration of candidacy. The Form 700 candidate statement is due no later than the final filing date for the

declaration of candidacy and is filed with the city clerk or county elections office where the declaration of candidacy is filed. The FPPC's website contains additional information about the Form 700.

> **QUICK TIP:** Campaign reports and statements filed in paper format with a local government agency will have a redacted copy available online on the agency's website within 72 hours after the filing deadline of the report or statement.

A. Candidates Raising and Spending Less than $2,000

A candidate who does not plan to raise or spend $2,000 or more in a calendar year, including the candidate's personal funds, must file one or both of the following campaign statements.

- **Form 501 (Candidate Intention Statement).** The Form 501 must be filed only if the candidate plans to raise or spend any money, including the candidate's personal funds.
- **Form 470 (Officeholder and Candidate Campaign Statement—Short Form).** The Form 470 may be filed by a candidate or officeholder who does not anticipate raising or spending $2,000 or more in a calendar year.

Personal funds used to pay filing or ballot statement fees are not counted toward the $2,000 committee qualification threshold. If a candidate does not raise any money and personal funds are used only to pay filing or ballot statement fees, the candidate is not required to file the Form 501.

If *any* monetary contributions will be received from others, a separate campaign bank account must be established.

If a candidate files the Form 470 covering a calendar year and later in that calendar year receives contributions totaling $2,000 or more, the candidate must file a Form 470 Supplement. The candidate must also file the Form 410 (Statement of Organization) and begin filing the Form 460 (Recipient Committee Campaign Statement). If a bank account has not already been established, the candidate must also establish a campaign bank account.

QUICK TIP: Personal funds used to pay filing or ballot statement fees are not counted toward the $2,000 threshold.

Exception: County Central Committee Candidates

- A candidate for a county central committee of a qualified political party is a local candidate. If a candidate for county central committee receives contributions of less than $2,000 and makes expenditures of less than $2,000, the candidate is not required to file any campaign reports or statements, including the Form 410, 501, 460, and/or Form 470 unless the candidate has one or more open committees for other races. A county central committee candidate who has not raised or spent $2,000 or more for the county central committee race, but who has an open committee for another seat or past election, may have cross-filing obligations. For example, if a county central committee candidate has not raised or spent $2,000 or more in connection with the county central committee race, but has an open committee for a different office in another jurisdiction the central committee candidate will need to cross-file in both jurisdictions for the open committee on dates that semi-annual or preelection reports are triggered by the open committee. (For more information on cross-filing please see Regulation 18405 and Chapter 9 of this manual.)

  County central committee candidates who raise or spend $2,000 or more in a calendar year are subject to the Act's campaign reporting requirements, and must file campaign reports and statements including a Form 501, 410, and 460.

  County central committee candidates never file a Form 700, no matter how much they raise or spend.

B. Candidates Raising and Spending $2,000 or More

A candidate who plans to raise or spend $2,000 or more in a calendar year, including the candidate's personal funds, must:

- File the **Form 501 (Candidate Intention Statement)**.
- Establish a campaign **bank account.**
- File the **Form 410 (Statement of Organization)**.

A candidate or officeholder who would like to use leftover campaign funds from a previous election must redesignate or transfer the funds before they become "surplus funds." (See Chapters 5 and 11.)

As discussed in detail later in the manual, once a candidate controlled committee has raised or spent $2,000 or more, the following reports must also be filed:

- **Form 497 (24-Hour/10-Day Contribution Report)**. Within 90 days before the election, including the date of the election, if a committee receives a contribution(s) of $1,000 or more from a single source, the Form 497 must be filed within 24 hours.
- **Form 460 (Recipient Committee Campaign Statement)**. The Form 460 contains an overview of the committee's activity during a specified period. It is used to file semi-annual and preelection statements.

Committees Controlled by Two or More Candidates

If two or more candidates form one committee to support their candidacies for elective office, such as a slate of candidates running for school board or city council, they must:

- Each file the **Form 501 (Candidate Intention Statement)**.
- Establish **one bank account** for the committee (each candidate must deposit all contributions and make all expenditures from this bank account).
- File one **Form 410 (Statement of Organization)**.

Committees controlled by two or more candidates file only one **Form 460 (Recipient Committee Campaign Statement)** to disclose the committee's activity each time the statement is due.

C. Candidate Controlled Committees – One Bank Account Rule

Under the Act, a candidate or officeholder must establish one controlled committee with one bank account for each election. All contributions must be deposited in and all expenditures must be made from the campaign bank account. The Act's one committee/one bank account rule for candidates and elected officeholders gives clear disclosure of the candidate or elected officeholder's campaign finances and ensures compliance with applicable local and state contribution limits. A committee set up by the candidate or officeholder for their election is the candidate's controlled committee.

> **QUICK TIP:** A candidate or officeholder may only have one bank account per committee.

A candidate controls a committee if they have a significant influence on the actions or decisions of the committee or acts jointly with the committee in connection with its expenditures. Under the one committee/one bank account provisions of the Act, a candidate or officeholder who controls a committee for their election may not at the same time control a general purpose committee, such as an "Improve River City" committee. In limited circumstances, exceptions to the one committee/one bank account rule exist to permit a local candidate or officeholder to control a ballot measure committee, legal defense fund, or officeholder expense committee (if provided by local ordinance).

D. Committees Primarily Formed to Support or Oppose a Candidate

A "primarily formed committee" is formed to support or oppose a single candidate or a group of candidates all being voted on in the same election but is not controlled by the candidate(s) who is being supported. Primarily formed committees:

- Must file **Form 410 (Statement of Organization)**.
- Should establish a campaign **bank account**.

> **QUICK TIP:** A "primarily formed candidate committee" is a committee not controlled by a candidate and whose main activity is making independent expenditures for the candidate or against their opponent.

> **QUICK TIP:** A candidate's own committee for election is not a "primarily formed" committee although it supports one candidate – it is a "candidate controlled" committee.

As discussed in detail later in the manual, once a committee has raised or spent $2,000 or more, the following reports must also be filed:

- **Form 497 (24-Hour/10-Day Contribution Report).** Within 90 days before the election, including the date of the election, if a primarily formed committee makes a contribution(s) of $1,000 or more to a candidate or ballot measure committee or receives a contribution(s) of $1,000 or more from a single source, the Form 497 must be filed within 24 hours.
- **Form 496 (24-Hour/10-Day Independent Expenditure Report).** Within 90 days before the election, including the date of the election, if a primarily formed committee makes an independent expenditure of $1,000 or more, the Form 496 must be filed within 24 hours. The **Form 462 (Verification of Independent Expenditures)** must also be filed. See Chapter 10 for additional information on the Form 462.

- **Form 460 (Recipient Committee Campaign Statement).** The Form 460 contains an overview of the committee's activity during a specified period. It is used to file semi-annual and preelection statements.

A primarily formed committee is not required to file the Form 501. A primarily formed committee with little or no activity may be eligible to file the Form 450 or Form 425 instead of the Form 460. (See Chapter 8.)

E. Establishing a Campaign Bank Account

Candidates who anticipate soliciting or receiving contributions from others, or who anticipate spending $2,000 or more of their personal funds in connection with their election, must open a campaign bank account. The account may be established at any financial institution (i.e, bank, credit union) located in California. A candidate's personal funds used to pay the filing fee or the ballot statement fee do not count toward the $2,000 committee qualification threshold.

Under the Act's one bank account provisions discussed above, a candidate or officeholder may only have one controlled committee with one bank account per election. Candidates running for one office while holding another may establish a separate campaign bank account for each office, but may not have more than one bank account per office per election.

Although primarily formed committees are not required to establish a campaign bank account, it is recommended that they do so. Pre-numbered and pre-printed checks with the committee's name are useful in meeting the recordkeeping requirements described in Chapter 2.

QUICK TIP: The Political Reform Act does not require a federal tax ID number. However, most banks will require one in order to open a campaign bank account. A tax ID number may be obtained on the IRS website, www.irs.gov.

Campaign contributions may not be commingled with any individual's personal funds. All contributions must be deposited in, and expenditures must be made from, the campaign bank account. Except as noted below, candidates must first deposit personal funds to be used for the campaign in the campaign bank account before making campaign expenditures, even if the candidate does not expect to be reimbursed.

QUICK TIP: Campaign funds must be kept separate from personal funds.

Exceptions:

- Candidates may use their personal funds to pay a filing fee, a ballot statement fee, or the $50 Secretary of State fee, without first depositing the funds into the campaign bank account.
- An officeholder may use personal funds to pay officeholder expenses.
- A candidate may contract with a vendor or collecting agent to collect contributions prior to promptly transferring the funds to the candidate's campaign bank account without violating the requirement that the candidate have no more than one bank account. Fees deducted by the vendor are considered expenditures from the campaign bank account at the time they are deducted.

F. Form 501 – Candidate Intention Statement

Before soliciting or receiving any contributions or making expenditures from personal funds, a candidate must file the Form 501 with the filing officer who will receive the candidate's original campaign statements (i.e., city clerk or county elections). Judicial candidates file the Form 501 with the Secretary of State. A new Form 501 must be filed for each election for a specific office. Please note that a new Form 501 is required when seeking reelection to the same office. However, a new Form 501 is not required for the general election or special general election if the candidate filed a Form 501 for the connected primary or

special primary election for the same office sought. The Form 501 is considered filed on the date it is postmarked or hand-delivered.

Example: Todd Smith filed a Form 501 for the June 2022 primary election as a candidate for county supervisor. Todd Smith was a successful candidate in the June 2022 primary election and advanced to the November 2022 general election ballot. Todd Smith is not required to file a new Form 501 for the connected November 2022 general election since Todd filed a Form 501 prior to the June 2022 primary election for the same office sought.

Candidate Intention Statement

Date Stamp

CALIFORNIA FORM **501**

For Official Use Only

A

Check One: ☒ Initial ☐ Amendment (Explain) _____

1 Candidate Information:

NAME OF CANDIDATE (Last, First Middle Initial)	DAYTIME TELEPHONE NUMBER	FAX NUMBER (optional)	EMAIL (optional)
Cole, Rayna	(707) 555-1234	(707) 555-1235	rcole@gmail.com

STREET ADDRESS	CITY	STATE	ZIP CODE
1212 Fourth Avenue	Oakmont	CA	95443

OFFICE SOUGHT (POSITION TITLE)	AGENCY NAME	DISTRICT NUMBER, if applicable.	☒ NON-PARTISAN OFFICE
City Council	City of Oakmont	1	PARTY PREFERENCE:

OFFICE JURISDICTION

☐ State (Complete Part 2.)

☒ City ☐ County ☐ Multi-County: _____ (Name of Multi-County Jurisdiction)

20XX (Year of Election)

(Check one box, if applicable.)

☐ PRIMARY / GENERAL

☐ SPECIAL / RUNOFF

2 State Candidate Expenditure Limit Statement:

(CalPERS and CalSTRS candidates, judges, judicial candidates, and candidates for local offices do not complete Part 2.)

(Check one box)

☐ **I accept** the voluntary expenditure ceiling for the election stated above.

☐ **I do not accept** the voluntary expenditure ceiling for the election stated above.

Amendment:

○ I did not exceed the expenditure ceiling in the primary or special election held on: ____/____/____ and I accept the voluntary expenditure ceiling for the general or special run-off election.

(Mark if applicable)

☐ On ____/____/____, I contributed personal funds in excess of the expenditure ceiling for the election stated above.

State candidates only

3 Verification:

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on [Date Required] *(month, day, year)* Signature [Signature Required] *(Candidate)*

Completing the Form 501

A Type of Statement

Check the appropriate box to indicate the type of statement being filed:

- Initial: If this is the first Form 501 being filed for the election.
- Amendment: If any changes occur on a previously filed Form 501 (e.g., a change of address). Provide a brief explanation of the change(s).

1 Candidate Information

Provide the candidate's full name, street address (a business address may be used), and a daytime telephone number. A fax number and email address may also be provided.

Office Sought

Enter the title of the office sought (e.g., County Supervisor).

Agency Name

Enter the name of the agency (e.g., County of Riverside).

District Number

Enter the district number or letter, if applicable.

Office Jurisdiction

Check the appropriate box to indicate the jurisdiction of the office being sought:

- Multi-County: Candidates seeking an elective office where the jurisdiction of the agency contains parts of two or more counties (e.g., water district). Enter the name of the multi-county jurisdiction.
- County: Candidates seeking an elective county office (including Superior Court judge and most school board members).
- City: Candidates seeking an elective city office.

Year of Election

Enter the year of the election for the office being sought. Month and day are not required.

2 State Candidate Expenditure Limit Statement

This section does not apply to local candidates. It applies only to candidates for State Senate and Assembly and candidates seeking a state office.

3 Verification

The Form 501 must be signed by the candidate. It is not considered filed if it is not signed.

Answering Your Questions

A. When may I begin to solicit and receive contributions for my election?

You may solicit and receive contributions once you have mailed or hand-delivered the Form 501.

B. I am only going to pay the required county election fees to get my name on the ballot. No additional money will be raised or spent. Must I file the Form 501?

No. As long as your only expenditures are for the ballot qualification fees and no money will be raised, the Form 501 is not required.

C. Am I required to file the Form 501 when I run for reelection to the same office?

Yes. If you seek reelection to the same office, you are required to file an “Initial” Form 501 prior to raising or spending any money for the new election.

D. Am I required to file a document to withdraw as a candidate?

The FPPC does not administer the laws that govern what candidates must do to appear on a ballot or to remove their names from a ballot. Contact your local filing officer.

E. Am I required to file the Form 501 if I will set up a committee to fight my recall?

No. An officeholder who is the target of a recall is not required to file the Form 501.

F. Am I required to file the Form 501 if I am a replacement candidate in a recall election?

Yes. Replacement candidates must file the Form 501.

G. Are candidates who are seeking election to a particular district or seat (e.g., city council or community college board of trustees) required to specify the district/seat on the Form 501?

Yes. Each district/seat on the city council or the community college board of trustees is considered a specific office. Note: The “district number” is not required for candidates running for mayor or city council at large.

H. I have completed the process to be an official write-in candidate. Do I have any reporting obligations?

Yes. You have the same reporting obligations as any other candidate.

I. I am a candidate for a county central committee and would like to create a mailer for myself and a few other central committee candidates. May we create a mailing together and are there any reporting requirements?

Yes, you may. If each candidate's total spending on all of their campaign activity (including the mailer) remains below $2,000 in a calendar year, there are no reporting requirements. If a candidate spends $2,000 or more for their share of the mailer, or $2,000 or more on total campaign activity, there are reporting requirements.

G. Form 470 – Officeholder and Candidate Campaign Statement – Short Form

The Form 470 must be filed by a candidate or officeholder who does not anticipate raising or spending $2,000 or more in a calendar year. Payments from the candidate's personal funds used to pay filing or ballot statement fees do not count toward the $2,000 committee qualification threshold.

QUICK TIP: If the Form 470 is filed and the candidate then raises or spends $2,000 or more in that calendar year, the candidate must file the Form 470 Supplement, the Form 410, and begin filing the Form 460.

The Form 470 may not be used if the candidate or officeholder has an existing controlled committee established for a past election, future election, or ballot measure (including recalls).

There are special exceptions, discussed below, that apply to judges and unpaid elected officeholders (officeholders who receive salaries of less than $200 per month).

When to File the Form 470 in Connection With an Election

Non-Incumbent Candidates

Candidates on ballot in first six months of the calendar year. The Form 470 may be filed with the declaration of candidacy but must be filed no later than the deadline for the first preelection statement.

> **Ex 2.1 -** Non-incumbent judicial candidate Janice Chambers is listed on the November ballot. Janice does not intend to raise or spend $2,000 in connection with the election. By June 30, Janice had received no contributions and Janice's only expenditures were for the filing and ballot statement fees paid for with personal funds. Janice is required to file Form 470 by the first preelection filing deadline.

Candidates on ballot in last six months of the calendar year. If the candidate receives contributions or makes expenditures:

- Before June 30: Form 470 must be filed by July 31.
- After June 30: Form 470 may be filed with the declaration of candidacy but must be filed no later than the deadline for the first preelection statement.

Candidates running in an election in the first three months of the year may be required to file the Form 470 in October, November, or December of the previous non-election year, as well as in the election year. Candidates should review the applicable filing schedule.

Officeholders on the Ballot

If an officeholder will be listed on a ballot during the first six months of the calendar year, the Form 470 (covering the year of the election) may be filed with the declaration of candidacy but must be filed no later than the filing deadline for the first preelection statement required in connection with the election. If the election will be held during the last six months of the calendar year, the Form 470 must be filed no later than July 31.

Ex 2.2 - A city council election will be held in February. The first preelection statement for this election is due in December of the previous year. A candidate that does not meet the $2,000 committee threshold must file the Form 470 by the first preelection statement due date. The second preelection statement is due in January. If the candidate will not raise or spend $2,000 or more during the year of the election, another Form 470 covering the entire calendar year of the election must be filed by the second preelection statement deadline since the Form 470 filed in December of the previous year covered the period ending December 31 of that calendar year.

Judges and Unpaid Elected Officeholders on the Ballot

During an election year, the deadline for filing the Form 470 will depend on the date of the election. Judges and unpaid officeholders running in an election during the first six months of the year may file the Form 470 (covering the year of the election) with the declaration of candidacy but must be filed no later than the filing deadline for the first preelection statement required in connection with the election.

If the election will be held during the last six months of the year, the Form 470 must be filed by July 31 if any funds were raised or spent (other than the candidate's personal funds for a filing or ballot statement fee) between January 1 and June 30. If no contributions were received or expenditures made by June 30, the Form 470 may be filed with the declaration of candidacy but must be filed no later than the filing deadline for the first preelection statement required in connection with the election.

Officeholders and Judges Not on a Ballot

See Chapter 9 for the reporting obligations of officeholders and judges who are not listed on the ballot.

> **Ex 2.3 -** A city council election will be held in February. The first preelection statement for this election is due in December of the previous year. A candidate that does not meet the $2,000 committee threshold must file the Form 470 by the first preelection statement due date. The second preelection statement is due in January. If the candidate will not raise or spend $2,000 or more during the year of the election, another Form 470 covering the entire calendar year of the election must be filed by the second preelection statement deadline since the Form 470 filed in December of the previous year covered the period ending December 31 of that calendar year.

Where to File Form 470

Candidate/Officeholder	Where to File	What to File
Judges	Secretary of State County of Domicile	Original and one copy* One copy
Multi-County Offices (Local agencies with jurisdiction in more than one county)	County with largest number of registered voters County of Domicile, if different	Original and one copy One copy
County offices	County Elections Office	Original and one copy
City offices	City Clerk	Original and one copy

*Effective, January 1, 2023, filers required to file a report or statement by paper **with the Secretary of State** may instead file the paper report or statement by email. All statements must be signed using a verified digital signature. Please access the Secretary of State's website for more information on how to file with a digital signature.

Officeholder and Candidate Campaign Statement – Short Form

A **Date of election if applicable:** (Month, Day, Year) 6/6/XX

☐ **Amendment** (Explain Below)

Date Stamp

CALIFORNIA FORM 470

For Official Use Only

1 **Statement Covers Calendar Year 20** XX .

2 **Officeholder or Candidate Information**

NAME OF OFFICEHOLDER OR CANDIDATE: Rayna Cole

STREET ADDRESS: 1212 Fourth Avenue

CITY: Oakmont | STATE: CA | ZIP CODE: 95443

AREA CODE/DAYTIME PHONE NUMBER: 707-555-1234 | EMAIL ADDRESS: rcole@gmail.com

OPTIONAL: FAX: 707-555-1235

3 **Office Sought or Held**

OFFICE SOUGHT OR HELD: City Council

JURISDICTION (LOCATION): City of Oakmont | DISTRICT NUMBER (IF APPLICABLE): 1

4 **Committee Information**

List all committees of which you have knowledge that are primarily formed to receive contributions or to make expenditures on behalf of your candidacy.

COMMITTEE NAME AND I.D. NUMBER	COMMITTEE ADDRESS	NAME OF TREASURER
Friends Supporting Rayna Cole for City Council 20XX ID Number 1533XX	1618 C Street Oakmont, CA 95443	Gabriel Stoll

5 **Verification**

I anticipate that I will receive less than $2,000 and that I will spend less than $2,000 during the calendar year. I have used all reasonable diligence in preparing this Statement. I have reviewed this Statement and, to the best of my knowledge, the information contained in it is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on [Date Required] (DATE)

By [Signature Required] (SIGNATURE OF OFFICEHOLDER OR CANDIDATE)

Completing the Form 470

A Date of Election

If the candidate or officeholder is running in an election during the calendar year, indicate the month, day, and year of the election.

1 Period Covered

The period covered is always the calendar year.

2 Officeholder or Candidate Information

Provide the candidate/officeholder's full name, street address (a business address may be used), and a daytime telephone number. A fax number and email address may also be provided.

3 Office Sought or Held

Indicate the office being sought or held and provide the location and district number of the office, if applicable.

4 Committee Information

A candidate or officeholder who is aware of a primarily formed committee that is receiving contributions and making expenditures on behalf of their candidacy must disclose the primarily formed committee's name, identification number, address, and the name of the treasurer.

> **Ex 2.4 -** Rayna Cole's neighbors formed the Friends Supporting Rayna Cole for City Council 20XX committee. Rayna is aware of the committee but has no involvement with its day-to-day activities. Rayna Cole must disclose the committee's information on Rayna's Form 470.

5 Verification

The Form 470 must be signed by the candidate/officeholder. It is not considered filed if it is not signed.

Answering Your Form 470 Questions

A. What reporting period does the Form 470 cover?

The Form 470 is filed once each calendar year and covers the entire calendar year. When you file the Form 470 covering the year of the election with your declaration of candidacy, or on or before the deadline for filing your first preelection statement, you do not need to file any additional campaign statements as long as you do not raise or spend $2,000 or more during the calendar year.

B. If I am a non-incumbent candidate, am I required to file the Form 470 in connection with my election if I am running unopposed, my name does not appear on the ballot, and the only expenditure I make is from personal funds for a filing or ballot statement fee?

No. A Form 470 is not required. However, once you assume office, a Form 470 may be required.

C. If I am in a January election and will not raise or spend $2,000 in connection with that election, when am I required to file Form 470?

You must file Form 470 in November of the preceding year (the deadline for filing your first preelection statement in connection with the January election). In addition, if your second preelection statement is due in January, another Form 470 must be filed because a Form 470 is required for each calendar year. The first Form 470 covers the calendar year preceding the election, and the second Form 470 covers the calendar year in which the election takes place.

D. I am running as a non-incumbent candidate for city council in November. I filed a Candidate Intention Statement (Form 501) and Statement of Organization (Form 410) to form a committee on May 1, but I did not qualify as a committee by June 30th. Should I file the Form 470 or the Form 460 by the July 31 semi-annual due date?

Because you intend to raise $2,000 or more in the calendar year, you should file the Form 460. This allows you to avoid the requirement to file the Form 470 Supplement within 48 hours of raising or spending $2,000 or more. But, it is permissible to file the Form 470 since the committee qualification threshold was not met by June 30th.

E. I am a city council member and I closed my campaign committee in March. May I file the Form 470 for the statement due July 31?

No. You may not file the Form 470 if you had an open committee at any time during the calendar year or intend to have one later in the year. You must continue filing the Form 460 as an officeholder for the remainder of the calendar year. The Form 470 may be filed the following calendar year if you do not have, nor intend to have, a committee for that entire calendar year.

F. I am in a June election this year and filed a Form 470 for last year because I started raising money in December. Am I required to file a 470 Supplement if I receive contributions totaling more than $2,000 in January?

No. The Form 470 Supplement is only required if you file the Form 470 and subsequently raise or spend $2,000 in the same calendar year. Since you filed the Form 470 last year, but did not meet the $2,000 committee qualification threshold until the following calendar year, you are not required to file the Form 470 Supplement. You must file the Form 410 (Statement of Organization) and begin filing the other applicable campaign reports (e.g., Form 460, Form 497).

Form 470 Supplement

If a candidate files a Form 470 covering a calendar year in which the candidate is running in an election (i.e., with the declaration of candidacy, in lieu of a first preelection statement, or for the June 30 semi-annual filing) and later receives contributions totaling $2,000 or more, or makes expenditures totaling $2,000 or more, the candidate must file a Form 470 Supplement.

When and Where to File the Form 470 Supplement

The Form 470 Supplement must be filed within 48 hours of receiving or spending $2,000 or more.

The notification is sent to:

- Secretary of State's Office;
- Each candidate seeking the same office; and
- City or county clerk, or county registrar of voters, if the candidate is running for a city or county office.

The notification must be sent by guaranteed overnight delivery, personal delivery, fax, or email.

The candidate must also file a Statement of Organization (Form 410) and begin filing the Recipient Committee Campaign Statement (Form 460). The 24-Hour/10-Day Contribution Report (Form 497) may also be required.

Campaign Statement
Form 470 Supplement

SEE INSTRUCTIONS ON REVERSE

☐ **Amendment** (Explain Below)

Date Stamp

CALIFORNIA FORM 470 SUPPLEMENT

For Official Use Only

This form is written notification that the officeholder/candidate listed below has received contributions totaling $2,000 or more or has made expenditures of $2,000 or more during the calendar year.

1 Officeholder or Candidate Information

NAME OF OFFICEHOLDER OR CANDIDATE
Rayna Cole

STREET ADDRESS
1212 Fourth Avenue

CITY	STATE	ZIP CODE	EMAIL ADDRESS
Oakmont	CA	95443	rcole@gmail.com

AREA CODE/DAYTIME PHONE NUMBER	OPTIONAL: FAX
707-555-1234	707-555-1235

2 Office Sought

OFFICE SOUGHT	DISTRICT NUMBER (IF APPLICABLE)
Oakmont City Council	1

DATE OF ELECTION (MONTH, DAY, YEAR)
6/6/XX

3 Date Contributions Totaling $2,000 or More Were Received or Date Expenditures of $2,000 or More Were Made

4/1/XX
(MONTH, DAY, YEAR)

Completing the Form 470 Supplement

1 Officeholder or Candidate Information

Provide the candidate/officeholder's full name, street address (a business address may be used), and a daytime telephone number. A fax number and email address may also be provided.

2 Office Sought

Indicate the office being sought, the date of the election, and the district number, if applicable.

3 Date $2,000 Threshold Was Met

Provide the date contributions totaling $2,000 or more were received or the date expenditures of $2,000 or more were made.

H. Form 410 – Statement of Organization

A candidate controlled committee or a committee primarily formed to support or oppose a candidate (or group of candidates in the same election) that raises or spends $2,000 or more in a calendar year qualifies as a recipient committee and must file Form 410. The Form 410 identifies the name of the committee and provides the public with information regarding the committee's purpose and its officers.

Annual Committee Fees

All committees that file a Form 410 must pay a $50 fee to the Secretary of State no later than 15 days after the Form 410 is filed. Committees must pay the fee annually by January 15 until the committee terminates. If the annual fee is not paid by the January 15 deadline, the law imposes a $150 penalty, which will require the committee to pay a total of $200 (the $50 annual fee plus the $150 late penalty). Failure to pay the fine will result in a referral to the FPPC's Enforcement Division.

Note: Committees that are created and pay the initial $50 fee in October, November, or December of a calendar year are not subject to the annual fee in the subsequent year.

If the committee is going to terminate, in order to avoid the fee for the subsequent year, a committee must cease activity by December 31 of the current year and file the terminating Form 410 with the Secretary of State on or before January 31 of the next year. There is no provision for extension of the deadline and fee payment.

When and Where to File the Form 410

File the original Form 410 with the Secretary of State within 10 days of raising or spending $2,000 or more.

> **Ex 2.5 -** On February 15, a candidate for mayor opened a campaign bank account with a personal loan of $2,500. By February 25, the Form 410 must be sent to the Secretary of State and a copy to the city clerk.

Send the paper Form 410 to:

Secretary of State
Political Reform Division
1500 11th Street, Suite 495
Sacramento, CA 95814

Effective, January 1, 2023, filers required to file a report or statement by paper **with the Secretary of State** may instead file the paper report or statement by email. All statements must be signed using a verified digital signature. Please access the Secretary of State's website for more information on how to file with a digital signature.

In addition, candidates for local office and committees primarily formed to support or oppose local candidates must file a copy of the Form 410 with the local filing officer (i.e., city clerk or county elections) with whom the committee will file its original campaign statements.

The Form 410 may be filed prior to raising or spending $2,000, but then must be amended within 10 days of reaching the $2,000 threshold to disclose the date the committee qualified.

> **Ex 2.6 -** Joe is seeking reelection to the city council. Joe wishes to use the same committee and bank account. In order to do so, Joe files a Form 410, checking the amendment box and indicating the year of the election. After filing the Form 501 for the new election, Joe is free to raise and deposit campaign contributions into the bank account.

24-Hour/10-Day Deadline for the Form 410

A committee that qualifies during the last 16 days before the election must file Form 410 within 24 hours of qualifying. The Form 410 must be provided to the filing officer with whom the committee will file its original campaign disclosure statements (e.g., Form 460) by fax, guaranteed overnight delivery, or personal delivery. Outside of the 16 days prior to an election, an original Form 410 must be filed with the Secretary of State within 10 days of qualifying as a committee (regular mail may be used). Effective, January 1, 2023, filers required to file a report or statement by paper **with the Secretary of State** may instead file the paper report or statement by email. All statements must be signed using a verified digital signature. Please access the Secretary of State's website for more information on how to file with a digital signature.

Ex 2.7 - A group of neighbors joined forces to help elect a candidate for mayor. On March 1, fourteen days before the election, the group received 10 checks of $200 each. Because they qualified as a committee on that date, they must mail or personally deliver a Form 410 to the Secretary of State and a copy to the city clerk no later than March 11.

Ex 2.8 - Fourteen days before a local election, a candidate who had previously filed a Form 470 received a contribution of $1,250, bringing the cumulative contributions received to date to $2,150. Because the candidate has now exceeded the $2,000 committee qualification threshold, the candidate must file the Form 410 with the local elections official within 24 hours. The Form 410 must also be filed within 10 days with the Secretary of State. The Form 470 Supplement must be filed within 48 hours as described in this chapter.

Committee ID Number

Upon receipt of the Form 410, the Secretary of State's office will assign the committee an identification number. This number is used on all reporting forms. After filing the Form 410, committees may go to the Cal-Access section of the Secretary of State's website to obtain the committee identification number. Contact the Secretary of State's office at (916) 653-6224 with any other questions about obtaining a committee identification number.

Amending the Form 410

When any information on the Form 410 changes, an amendment must be filed within 10 days of the change. This is especially important if the committee has a new treasurer or principal officer(s) since the individuals listed on the most recently filed Form 410 are liable for the committee's activity.

24-Hour/10-Day Deadline for Amendments to the Form 410

Changes to important information in the last 16 days before the election require a committee to file an amendment within 24 hours. If, during the last 16 days before the election, any of the following changes occur, the committee must file an amended Form 410 within 24 hours with the filing officer with whom the committee files its original campaign statements:

- The name of the committee.
- The treasurer or other principal officers.
- Any candidate who controls the committee.
- Any committee with which the committee acts jointly.

The amendment provided to the filing officer with whom the committee files its original campaign statements must be delivered by personal delivery, guaranteed overnight delivery, fax, or online transmission (if online filing is available). The originally signed Form 410 amendment must be filed with Secretary of State within 10 days (regular mail may be used). Effective, January 1, 2023, filers required to file a report or statement by paper **with the Secretary of State** may instead file the paper report or statement by email. All statements must be signed using a verified digital signature. Please access the Secretary of State's website for more information on how to file with a digital signature.

Statement of Organization
Recipient Committee

Date Stamp

CALIFORNIA FORM 410

For Official Use Only

Statement Type

A

☑ **Initial**
○ Not yet qualified
or
● Date qualification threshold met
09 / 04 / 20XX

☐ **Amendment**
Date qualification threshold met
_____/_____/_____

☐ **Termination – See Part 5**
Date of termination
_____/_____/_____

1 Committee Information

I.D. Number *(if applicable)*

NAME OF COMMITTEE
Manuel Alvarez for Mayor 20XX

STREET ADDRESS (NO P.O. BOX)
225 Presley Street

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakmont	CA	95443	(707)555-6868

FULL MAILING ADDRESS (IF DIFFERENT)
P.O. Box 1744, Oakmont, CA 95434

E-MAIL ADDRESS (REQUIRED) / FAX (OPTIONAL)
707-555-6869 / mrichards@oakmontmail.com

COUNTY OF DOMICILE	JURISDICTION WHERE COMMITTEE IS ACTIVE
San Marino	Oakmont

Attach additional information on appropriately labeled continuation sheets.

2 Treasurer and Other Principal Officers

NAME OF TREASURER
Madeline Richards

STREET ADDRESS (NO P.O. BOX)
225 Presley Street

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakmont	CA	95443	(707)555-6868

NAME OF ASSISTANT TREASURER, IF ANY
Manuel Alvarez

STREET ADDRESS (NO P.O. BOX)
225 Presley Street

CITY	STATE	ZIP CODE	AREA CODE/PHONE
Oakmont	CA	95443	(707)555-6868

NAME OF PRINCIPAL OFFICER(S)
N/A

STREET ADDRESS (NO P.O. BOX)

CITY	STATE	ZIP CODE	AREA CODE/PHONE

3 Verification

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on [Date Required] (DATE) By _____ (SIGNATURE OF TREASURER OR ASSISTANT TREASURER)

Executed on [Date Required] (DATE) By _____ (SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT)

Executed on _____ (DATE) By _____ (SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT)

Executed on _____ (DATE) By _____ (SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT)

FPPC Form 410 (August/2018

Completing the Form 410

A Statement Type

Check the “Initial” box if this is the first filing and indicate the date on which the committee met the $2,000 threshold or check the “Not Yet Qualified” box. If the “Not Yet Qualified” box is checked, an amended Form 410 must be filed within 10 days of reaching or exceeding the $2,000 threshold to provide the date the committee qualified.

Check the “Amendment” box to amend information on an existing Form 410 (e.g., to report the date the committee qualified as a committee).

1 Committee Information

Provide the full name of the committee.

Candidate Controlled Committees. A committee controlled by a candidate must include in its name the last name of the candidate, the office sought, and the year of the election.

Committees established by an officeholder to defend against a recall attempt must include the term “recall” in the committee name.

Primarily Formed Committees. A committee primarily formed to support or oppose a candidate(s) must include the last name of each candidate, the office sought, the year of the election, and must state whether the committee supports or opposes the candidate(s) (e.g., Committee to Support Sanchez for Kern County Supervisor 20XX).

If a primarily formed committee is sponsored by a business entity, organization, or association, the name of the sponsor must also be included in the name of the committee.

Committee Address

Provide the committee’s street address and mailing address. A post office box may be used as a mailing address. The committee may have more than one mailing address.

Committee Fax/Email Address

Provide the committee's fax number and email address. The email address is required.

> **QUICK TIP:** The Secretary of State's office must reject the filing of a Form 410 if the committee's email address is not included.

County of Domicile and Jurisdiction Where Committee is Active

Indicate the county in which the committee is located and the jurisdiction in which the committee is active. These may be different.

2 Treasurer and Other Principal Officers

The committee must have a treasurer and may have an assistant treasurer. Provide the name, street address, and telephone number of the treasurer and assistant treasurer. If a candidate chooses to be their own treasurer, list the name, street address, and telephone number of the candidate.

A primarily formed committee must also list the name of the principal officer(s) and the principal officer's street address. If no individual other than the treasurer is a principal officer, the treasurer must be identified as both the treasurer and the principal officer. A principal officer is an individual that is responsible for the following types of activities:

- Authorizing the content of committee communications.
- Authorizing expenditures.
- Determining the committee's campaign strategy.

A committee may have several principal officers. If there are more than three, a committee need only identify on the Form 410 three individuals serving as principal officers.

QUICK TIP: See Chapter 2 for information about the responsibilities of a committee treasurer. The FPPC's website includes a list of committee treasurers that have been fined by the FPPC two or more times.

3 Verification

The treasurer or assistant treasurer (if there is one) must complete the verification. If the committee is controlled by a candidate, the candidate must also sign the verification. The Form 410 is not considered filed if it is not signed by both the treasurer or assistant treasurer (if there is one), and the candidate. If a candidate is their own treasurer, the candidate must sign on both lines.

When two or three candidates control a committee, each candidate must sign the verification. If more than three candidates control the committee, one of the candidates may sign on behalf of all controlling candidates.

Bank Account

Report the name and address of the financial institution where the committee's campaign bank account is located, as well as the campaign bank account number. If a bank account has not been opened at the time of filing an "Initial" Form 410, amend the Form 410 within ten days of opening the bank account to provide this information.

4

4. Type of Committee Complete the applicable sections.

Controlled Committee

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "nonpartisan." Stating "No party preference" is acceptable.
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROPONENT	ELECTIVE OFFICE SOUGHT OR HELD (INCLUDE DISTRICT NUMBER IF APPLICABLE)	YEAR OF ELECTION	PARTY CHECK ONE		
			Nonpartisan	Partisan	(list political party below)
Manuel Alvarez	Oakmont City Council, District 1	20XX	☑	☐	
			☐	☐	

4 Type of Committee

Controlled Committee

Candidate controlled committees must complete this section. A candidate or officeholder's own committee for election to office is their "controlled committee." Provide the name of the candidate, office sought (include district number, if applicable), year of the election and, since all local elections in California are non-partisan, check the "Non-Partisan" box in the "Party" column. If two or more candidates form one committee to support their candidacies for elective office, this information must be completed for each candidate.

Primarily Formed Committee

Complete this section for a committee that is not controlled by a candidate or officeholder whose principal activity is raising or spending money to make independent expenditures supporting or opposing a specific candidate or a group of specific candidates all being voted upon in the same election on the same date.

Sponsored Committee

If the committee is sponsored by an entity, provide the name and address of the sponsor. In addition, indicate the industry group or affiliation of the sponsor. Individuals do not sponsor committees.

An entity sponsors a committee if any of the following criteria apply:

- The committee receives 80% or more of its contributions from the entity or its members, officers, employees, or shareholders in the preceding 24 months. A committee must make this determination at the time of filing each campaign statement based on activity occurring through the end of the statement period, and, if the committee is required to file a pre-election statement, upon receiving a contribution during the period between the second pre-election campaign statement period and the election.

- The entity collects contributions for the committee through payroll deductions or dues from its members, officers, or employees.

- The entity, alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

- The entity, alone or in combination with other organizations, sets the policies for contribution solicitation or payment of expenditures from committee funds.

Answering Your Questions

A. Must we wait until $2,000 or more is received to file a Form 410?

No. You may file a Form 410 prior to committee qualification. Check the "Not Yet Qualified" box. Once you have reached the $2,000 threshold, file an amendment to report the date the committee qualified.

B. May our committee use a mail receiving and forwarding service as the committee's street address on the Form 410?

No. Either the committee's street address or the treasurer's street address (home or business) must be provided. A post office box may be used as a mailing address.

C. As a candidate, may I be the designated treasurer on the Form 410?

Yes. You may be the treasurer or assistant treasurer.

D. May more than one candidate control a single committee to run for office?

Yes. Each candidate should file a Form 501 prior to raising or spending any money. For both the Form 410 and Form 460, each candidate must sign the verification, in addition to the treasurer or assistant treasurer. If the committee is controlled by more than three candidates, one candidate may sign on behalf of the other candidates.

E. I am a school board candidate. Prior to attending an FPPC webinar and learning that it was not permitted, I used personal funds to pay for some of my start-up campaign expenses. How is this reported on the Form 460?

So that the activity is properly disclosed, the amount of personal funds used should be reported on Schedule A as monetary contributions and on Schedule E (itemize purchases of $100 or more). This provides clear disclosure to the public about where the funds were spent. If you wish to be reimbursed by the committee, you should report the amount on Schedule F as an accrued expense. If you have already been reimbursed by the committee, the amount will be reported on Schedule E as an expenditure. Non-disclosure of the payments is a violation of the Act. All future payments must be made from the campaign bank account; personal funds must be deposited into the account before making expenditures.

F. I am an officeholder and the target of a recall election. I have formed a separate committee to oppose the recall. On the Form 410, what sections do I complete under Part 4 — Type of Committee?

You should complete both the Controlled Committee and Primarily Formed Ballot Measure Committee sections. Be sure to include the word “recall” in the name of the committee.

G. I am running as a replacement candidate on a recall ballot. On the Form 410, what sections do I complete under Part 4—Type of Committee?

You should complete the Controlled Committee section.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

81004	Reports and Statements; Perjury; Verification.
81004.5	Reports and Statements; Amendments.
81007	Mailing of Report or Statement.
82007	Candidate.
82013	Committee.
82016	Controlled Committee.
82025	Expenditure.
82044	Payment.
82047.5	Primarily Formed Committee.
82048.7	Sponsored Committee.
84101	Statement of Organization; Filing.
84102	Statement of Organization; Contents.
84103	Statement of Organization; Amendments.
84106	Sponsored Committee; Identification.
84206	Candidates Who Receive or Spend Less than $2,000.
84207	County Central Committee Candidates Who Receive or Spend Less Than $2,000.
84215	Campaign Reports and Statements; Where to File.
84616	Electronic Retention for Local Government Agency Filings.
85200	Statement of Intention to be a Candidate.
85201	Campaign Bank Account.
87201	Candidates (Statement of Economic Interests).

Title 2 Regulations

18247.5	Primarily Formed Committees.
18250	Street Address.
18402	Committee Names.
18406	Short Form for Candidates or Officeholders Who Receive and Spend Less than $2,000 in a Calendar Year.
18419	Sponsored Committees.
18430	Committees Controlled by More Than One Candidate.
18520	Statement of Intention to Be a Candidate.
18521	Establishment of Separate Controlled Committee for Each Campaign Account.
18531.5	Recall Elections.

CHAPTER 3

FINANCES/RECORDKEEPING

One of the fundamental purposes of the Political Reform Act (Act), an initiative passed by the voters, is to ensure that receipts and expenditures in election campaigns are truthfully and fully disclosed. In order to do so, an individual that chooses to act as a committee treasurer, assistant treasurer, or principal officer must know and practice the finance and recordkeeping requirements and responsibilities discussed in this chapter.

A. Committee Treasurer and Principal Officer

Every committee must have a treasurer before the committee may accept contributions or make expenditures. An individual must be at a minimum 18 years of age to serve as a treasurer, assistant treasurer, responsible officer, or principal officer. In order to adequately perform the duties, the treasurer must understand the campaign finance laws and their responsibilities under the Act. The candidate controlling the committee may be the treasurer or assistant treasurer for their own committee. **No individual should accept the position of a committee treasurer as a mere figurehead.**

Contributions may not be accepted and expenditures may not be made if the treasurer's post is vacant at any time, even if the committee has an assistant treasurer. If the treasurer is unavailable to carry out their duties, a new treasurer must be designated and the committee's Statement of Organization (Form 410) amended. The individual listed on the most recent Form 410 filed with the Secretary of State continues to be liable until an amendment is filed to designate a new treasurer.

The committee treasurer or assistant treasurer must sign and verify all reports and statements filed. The verification is signed under penalty of perjury and indicates that:

- The signer has used all reasonable diligence in preparing the statement; and

- To the best of their knowledge, the statement is both true and complete.

The signer is legally responsible for the accuracy and completeness of the document, even if it is prepared by a third party, including a professional accountant. An unsigned statement is considered "not filed" and is subject to late fines.

Treasurer Responsibilities

A committee treasurer is required to:

- Establish a system of recordkeeping sufficient to ensure that contributions and expenditures are recorded promptly and accurately in compliance with the Act's recordkeeping and disclosure requirements. (Following the recordkeeping guidelines in this manual ordinarily constitutes compliance with this requirement.)

- Maintain campaign records personally or monitor records kept by others.

- Take steps to ensure all of the Act's requirements are met regarding receipt, expenditure, and reporting of campaign funds.

- Prepare campaign statements personally or carefully review the statements and underlying records prepared by others.

- Correct any inaccuracies or omissions, and inquire about any information that would cause a person of reasonable prudence to question the accuracy of the campaign statements. Among the circumstances that might give rise to an inquiry regarding a contribution are: the size of the contribution; the reported source; the likelihood of that source making a contribution of that size; the manner in which the contribution is recorded in the campaign records; and all other circumstances surrounding receipt of the contribution.

QUICK TIP: Reconciling the committee's bank statement with the committee's records regularly will ensure accuracy and make completing the campaign forms easier.

Assistant Treasurer Responsibilities

An assistant treasurer may be designated on the Statement of Organization (Form 410). In the event that the treasurer is unavailable, the assistant treasurer is required, like the treasurer, to use reasonable diligence in preparing and reviewing any campaign statements that they sign, and must certify to that effect under penalty of perjury. For statements signed by the assistant treasurer, both the treasurer and the assistant treasurer are liable for any violations pertaining to that report.

An individual must be at a minimum 18 years of age to serve as an assistant treasurer, although they should know the reporting obligations, restrictions, and prohibitions provided under the law. For a controlled committee, the candidate may be designated as the assistant treasurer.

Principal Officer(s) Responsibilities

A primarily formed committee must designate a principal officer(s) on the Statement of Organization (Form 410). The principal officer is also responsible for maintaining detailed accounts, records, bills and receipts necessary to prepare campaign statements. If no individual other than the treasurer has the primary responsibility for approving the political activity of the committee as described in this manual, the treasurer must be identified as both the treasurer and the principal officer.

B. Candidate/Officeholder Responsibilities

A candidate or officeholder is required to:

- Carefully review the campaign statements prepared for filing by the committee and ensure that the statements are properly filed.
- Correct any inaccuracies and omissions in campaign statements of which the candidate is aware, and check and correct any information on campaign statements which a person of reasonable prudence would question based on all of the surrounding circumstances.
- Make sure that the treasurer is exercising all reasonable diligence in the performance of their duties.
- Take whatever steps are necessary to replace the treasurer or raise the treasurer's performance to required standards if the candidate or officeholder knows, or has reason to know, that the treasurer is not exercising all reasonable diligence in the performance of their duties.
- Perform with due care any other tasks assumed in connection with the raising, spending, or recording of campaign funds insofar as such tasks relate to the accuracy of information entered on campaign statements.

C. Education

The FPPC provides educational workshops and webinars for candidates and treasurers. In addition, there are several instructive materials available on the website. Candidates and treasurers may also seek advice from FPPC staff by calling the toll-free advice line (866-275-3772) or emailing questions to advice@fppc.ca.gov.

D. Committee Audits

Each odd-numbered year, a total of 20 local jurisdictions are randomly selected for mandatory audit. All candidates in the selected jurisdiction are subject to audit if they have raised or spent $2,000 or more. Additionally, 25% of contested Superior Court offices are randomly selected. Candidates who raise or spend $15,000 or more in these selected races are subject to audit. In addition, the FPPC and the Franchise Tax Board are authorized to conduct discretionary audits.

> **QUICK TIP:** The candidate and the treasurer may be fined by the FPPC if reporting and recordkeeping requirements are not met. Violations of the Act are punishable by fines of up to $5,000 per violation.

E. Campaign Bank Accounts

Primarily Formed Committees

A non-candidate controlled "primarily formed committee" is not required to maintain a separate bank account; however, it is recommended that they do so. Pre-numbered and pre-printed checks with the committee's name are helpful in meeting the recordkeeping requirements discussed in this chapter. Committees may not commingle campaign contributions with any individual's personal funds.

Candidate Controlled Committees

Candidates who anticipate soliciting or receiving contributions from others, or who anticipate spending $2,000 or more of their personal funds in connection with their election, **must** open a campaign bank account. A candidate's personal funds used to pay the filing fee or the ballot statement fee do not count toward the $2,000 threshold.

Establishing the Account

The account may be established at any financial institution (i.e., bank, credit union) located in California. Under the Act's one bank account rule discussed in Chapter 1, a candidate or officeholder may only have one controlled committee with one bank account per election. Candidates running for one office while holding another must establish a separate campaign bank account for each office, but may not have more than one bank account per office per election.

All campaign contributions must be deposited into the campaign bank account and all campaign expenditures must be made from the campaign bank account. Candidates must deposit **personal funds** to be used for the campaign in the campaign bank account **before** making campaign expenditures.

Exceptions:

- Candidates may use their personal funds to pay a filing fee, a ballot statement fee, or the $50 Secretary of State fee, without first depositing the funds into the campaign account.

- An officeholder may use personal funds to pay officeholder expenses.

- A candidate may contract with a vendor or collecting agent to collect contributions prior to promptly transferring the funds to the candidate's campaign bank account without violating the requirement that the candidate have no more than one bank account. Fees deducted by the vendor are considered expenditures from the campaign bank account at the time they are deducted.

QUICK TIP: The Political Reform Act does not require a federal tax ID number. However, most banks will require one in order to open a campaign bank account. A tax ID number may be obtained on the IRS website, www.irs.gov.

QUICK TIP: Campaign funds may not be commingled with any individual's personal funds.

Expenditures from Multiple Accounts

A candidate who has more than one campaign committee must make all expenditures in connection with an election from the campaign bank account established for that election, including:

- Campaign strategic planning and fundraising expenses;
- Services and actual expenses of outside political consultants, the campaign treasurer, other staff, pollsters, and other persons who provide services directly in connection with the election;
- Voter registration and get-out-the-vote drives; and
- Payments for mailings, political advertising, yard signs, opinion polls or surveys, and other communications if the payments are either:

1. For a communication that makes reference to the candidate's future election or status as a candidate; or

2. Made three months prior to an election for which the candidate has filed a Candidate Intention Statement (Form 501), a declaration of candidacy, or nomination papers with an elections official, or any other documents necessary to be listed on the ballot for an elective office.

Ex 3.1 - Thien Vu is a city council member and still has an open committee from the city council election. Thien is running for county supervisor in the next election and has opened another bank account and committee for that race. Thien must use the campaign bank account for the county supervisor campaign to pay for the yard signs and all other expenses related to the upcoming county supervisor election.

QUICK TIP: Campaign funds become surplus on the 90th day following the closing date for the postelection reporting period or on the 90th day following the date of leaving office, whichever occurs last. The postelection reporting period for an election held in the first six months of the year is June 30 and the postelection reporting period for an election held in the latter six months of the year is December 31. Once the funds become surplus, they may not be used for a future election. See Chapter 5 for the permissible uses of surplus funds.

Redesignating the Bank Account

Officeholders: An officeholder seeking reelection to the **same office** in a city or county that has enacted its own contribution limits may use the bank account that was established for the prior election. (Note: Candidates for a city or county office in a jurisdiction that has enacted a local contribution limit should check with the local jurisdiction to determine if there is a local ordinance that does not allow a candidate to use the same committee for a future election.) The account may be redesignated at any time prior to receiving contributions in connection with reelection. The officeholder must file a new Form 501 (Candidate Intention Statement) and an amended Form 410 (Statement of Organization).

If the officeholder/candidate is running for the same office in a city or county that has not enacted its own contribution limits, they must establish a separate controlled committee and campaign bank account when running for reelection.

Defeated Candidates: A candidate in a city or county that has enacted its own contribution limits that is defeated in an election may use the same bank account for a future election to seek the same office. The candidate must file a new Form 501 (Candidate Intention Statement) and an amended Form 410 (Statement of Organization). If the candidate is running for the same office in a city or county that has not enacted its own contribution limits, they must establish a separate controlled committee and campaign bank account for their future election to seek that office. (Note: Candidates for a city or county office in a jurisdiction that has enacted a local contribution limit

should check with the local jurisdiction to determine if there is a local ordinance that does not allow a candidate to use the same committee for a future election.)

The funds must be redesignated before they become "surplus funds." Campaign funds become surplus on the 90th day following the closing date for the postelection reporting period.

Note: A campaign bank account may not be redesignated if the officeholder/candidate is seeking election to a **different office** or if the officeholder/candidate is running in a city or county that has not enacted its own contribution limits and is therefore subject to a contribution limit under the Act per AB 571 (2019). See Chapter 11 for the requirements that must be met in order to use leftover campaign funds for a future election to seek a different office.

> **Ex 3.2 -** John Davis lost the city council election in June. The City has enacted its own contribution limit. John has $3,500 remaining in the campaign bank account and is considering seeking another city council position in two years. In order to use the remaining $3,500 for the future election, John must file a new Form 501 (Candidate Intention Statement) and redesignate the bank account to the future election by amending the Form 410 (Statement of Organization) to indicate the new office sought and year of election. This must be done within 90 days following the end of the postelection reporting period for an election held during the first six months of the year.

Investments

Campaign funds may be transferred from a campaign bank account to certificates of deposit, interest-bearing savings accounts, money market funds, or similar accounts. The funds must come from a campaign bank account designated for a specific office and be deposited in investment accounts established only for that office. The funds must be redeposited into the same campaign bank account before being used for campaign expenses.

Credit Cards

One or more credit accounts may be established for each campaign bank account. A single credit card, however, may not be designated for more than one campaign bank account. In addition, payment of charges on a credit account must be made only from the appropriate campaign bank account.

In lieu of establishing a new credit account, a candidate may designate an existing personal credit card with a zero balance as the campaign credit card by listing the card number and date of designation in the campaign records. The candidate must ensure that no personal expenses are charged to this account until after all campaign charges have been paid with funds from the campaign bank account. Once all campaign expenses charged to the account have been paid, the candidate may resume using the card for personal purposes.

Petty Cash

Candidates may use campaign funds to establish a petty cash fund at each campaign office so long as the following conditions are met:

- A petty cash fund may not hold more than $100 at any time.
- No expenditure of $100 or more may be made from the fund.
- The fund may be used only for expenses associated with the election to the specific office or for the expenses of holding the office for which the petty cash fund was established.
- Once the funds are spent, payments made from petty cash must be reported as expenditures.

Legal Defense Fund Committees

The Act permits a local candidate or elected officer to establish a legal defense fund if the candidate or officer is subject to civil, criminal or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental duties. Contributions raised for legal defense **must be held in a separate bank account**. Any funds raised

may only be spent to defray attorney's fees and other related legal costs, as defined in the Act. (See Regulation 18530.45 for additional information.)

A candidate or officeholder may not use any funds to pay or be reimbursed for a penalty, judgement or settlement related to a claim of sexual assault, sexual abuse or sexual harassment filed against the candidate or officeholder in any civil, criminal or administrative proceeding.

A candidate or officeholder may use legal defense committee funds for *other* legal costs and expenses related to claims of sexual assault, sexual abuse or sexual harassment, but if the candidate or officeholder is held liable, the candidate or elected officer must reimburse the legal defense fund for all funds used in connection with those other legal costs and expenses.

"Sexual assault" and "sexual abuse" have the same meaning as provided in Penal Code Section 11165.1. "Sexual harassment" has the same meaning as found in Government Code Section 12940(j).

The candidate and the treasurer of the legal defense fund committee are subject to the recordkeeping requirements discussed in this chapter. In addition, separate detailed accounts, records, bills, and receipts, for each legal proceeding, including documentation to support the basis and timing for raising legal defense funds, must be kept.

Recall Elections

An officeholder who is the subject of a recall may use an existing committee (set up for the office they currently hold) to receive contributions and make expenditures to oppose the qualification of the recall measure, and if the recall petition qualifies, the recall election.

The officeholder may instead choose to set up a separate committee with a separate bank account. The officeholder and committee treasurer are subject to the recordkeeping requirements discussed in this chapter. See Chapter 11 for additional information about recall elections.

F. Recordkeeping

An accurate and organized record must be kept of all campaign contributions and expenditures. All individuals who handle contributions and make expenditures must be aware of and practice the recordkeeping procedures required by the Act and FPPC regulations outlined in this manual. While others may be involved, the candidate, treasurer, and principal officer(s) as listed on the committee's Statement of Organization (Form 410), remain legally responsible for the accuracy of the records.

Record Retention

Candidates and committees must keep all records, including original source documentation such as bank statements and other records reflecting account activity, and copies of completed campaign statements, for a period of four years from the date the campaign statement relating to the records was filed.

> **Ex 3.3 -** Sharon Goldstein, a city council member, filed the first campaign statement on January 31, 2019. The records associated with completing that statement, such as receipts and information about contributors, must be retained until January 31, 2023.

Records of Contributions Received and Other Receipts

Two types of records are required for receipts: a **daily record**, showing how much money was received on any given day; and a **contributor record**, with detailed information on each contributor of $25 or more. The daily record requirement may be met simply with bank statements, copies of checks received, or other documentation that provides the required information listed below.

Date Received

A monetary contribution is received on the date the candidate or committee, or an agent of the candidate or committee, obtains possession or control of the cash, check, or other form of contribution, not the date it is deposited in the bank account. Contributions received by electronic methods such as wire transfer, credit card, or debit account transactions are also received on the date the candidate or committee obtains possession or control of the funds. The following list provides examples:

- A contributor makes a contribution over the telephone. The contribution is “received” by the committee on the date the contributor gives their debit/credit account information to the committee.

- A contributor makes a contribution via the Internet and the committee reviews the online transaction before the contribution is processed. The contribution is “received” by the committee on the date the committee receives the payment information.

- A contributor makes a contribution via the Internet and the contribution is made by direct deposit without review and before transaction reports are produced. The contribution is “received” by the committee when the committee has possession of the funds.

- A contributor makes a contribution by text message. The contribution is “received” by the committee on the date that the mobile fundraising vendor, acting as agent of the committee, obtains possession or control of the contribution.

- A contributor agrees to make contributions via installment payments by authorizing the committee to periodically charge their credit card or withdraw funds from their account. The contribution is “received” when the committee, or an agent of the committee, obtains possession or control of the funds for each installment payment. The contribution reported is only the amount of each installment payment when received. Installment payments scheduled to take place in the future, but not yet received, are not reportable.

Receipts Under $25

A daily lump sum total must be kept for contributions received under $25 and miscellaneous receipts under $25.

Contributor Records

Contributions: $25 to $99.99

For each monetary or nonmonetary contribution or loan of $25 or more, the date received, amount of the contribution, and full name and street address, including zip code, of the contributor must be documented. In addition, the total amount received from the contributor over the course of the current calendar year (the “cumulative amount”) must be recorded.

Contributions: $100 or More

Additional name information must be recorded for contributions from limited liability companies (LLCs). For contributions of $100 or more received from an LLC that has qualified as an independent expenditure committee or major donor, record the name of the LLC and the full legal name of the LLC’s responsible officer as defined in Regulation 18402.2. For contributions of $100 or more received from an LLC that has qualified as a recipient committee, record the name of the committee and its principal officer as defined in Section 82047.6. For an LLC that has not qualified as a committee, record the name of the LLC and the full legal name of the individual primarily responsible for approving the contribution. If more than one individual shares in the primary responsibility of approving a contribution, at least one such individual must be identified and recorded.

If contributions totaling $100 or more are received from an individual, in addition to the information required for contributions of $25 or more as described above, the contributor’s occupation and employer must be recorded. If the contributor is self-employed, that fact also must be noted along with the name of their business. If a check is received from a business entity, generally the contributor is the business entity, not the person who signs the check.

A contribution of $100 or more must be returned if the contributor's name, street address, and, if the contributor is an individual, their occupation and employer are not in the committee's records within 60 days from receipt of the contribution. Additionally, a contribution of $100 or more from an LLC must be returned if, within 60 days, the committee's records do not contain both the name of the LLC and the full legal name of the LLC's responsible officer (for an LLC that has qualified as an independent expenditure committee or major donor); the name of the LLC's principal officer (for an LLC that has qualified as a recipient committee); or, for an LLC that has not qualified as a committee, the full legal name of the individual primarily responsible for approving the contribution. If more than one individual shares in the primary responsibility of approving a contribution, at least one such individual must be identified and recorded.

Such contributions may be deposited in the committee's bank account pending receipt of the information, in which case they must be reported on the next campaign statement required to be filed (including the Form 497, 24-Hour/10-Day Contribution Report).

The Form 460 must be amended within 70 days from its closing date to disclose the missing contributor information unless the contribution is returned to the contributor. The Form 497 need not be amended. The committee also must note in its records the date the contributor information is received, if that date is different than the date the contribution is received.

When a contribution cannot be returned to the contributor within 60 days from the date the contribution was received, the contribution amount must be paid to the general fund of the local jurisdiction in which the committee is based. In the case of a Superior Court judge or a judicial candidate, the contribution must be paid to the Secretary of State for deposit in the State General Fund.

Ex 3.4 - Stanley Hughes, a city clerk candidate, received a contribution of $100 from Martha Andersen on June 1. The only information Stanley received was Martha's name and address as listed on Martha's check. On Stanley's semi-annual statement covering the reporting period through June 30, Stanley reported receiving $100 from Martha, listed Martha's name and address, and indicated that Stanley would amend the statement when Stanley received Martha's occupation and employer information. By July 31 of that same year, even after notifying Martha, Stanley still did not have her occupation and employer information. The committee must return $100 to Martha.

If a contribution is returned to the contributor by check and the check is not cashed by the contributor within 90 days, the contribution amount must be paid within 30 days to the general fund of the local jurisdiction or to the Secretary of State for deposit in the State General Fund.

Intermediaries and Earmarked Funds

For contributions of $25 or more made through an intermediary (see Chapter 3), records with the above information for **both** the intermediary and the contributor are required.

Records must also include the amount of earmarked funds, a notation that the funds have been earmarked, and the specific ballot measure, candidate or committee for which the funds have been earmarked.

A committee making contributions with earmarked funds must maintain documentation showing which earmarked funds were contributed.

Affiliated Entities

Information from affiliated entities (see Chapter 3) that describes the connection of affiliated contributors must be maintained in the records.

Nonmonetary Contributions

If the contribution is nonmonetary and valued at $25 or more, a description and the fair market value of the contribution must be recorded. (See "Valuing Nonmonetary Contributions" in Chapter 3.)

Loans Received

If the contribution is a loan of $25 or more, in addition to the above information for monetary contributions, the following information must be recorded:

- Interest rate of the loan, if any;
- Due date of the loan, if any; and
- Name and street address of any guarantor and the amount guaranteed, if any. The occupation and employer of any individual who guarantees a loan of $100 or more must also be recorded.

If a candidate receives a loan from a commercial lending institution for their campaign, the institution is reported as the source of the loan. The candidate does not have to be reported as the guarantor, even if they are personally liable.

Documentation for Contributions Received and Other Receipts

The committee must keep copies of all documents reflecting deposits made and all records reflecting campaign bank account balances, such as bank statements, check registers, and passbooks.

The following documents produced or received by the committee also must be kept for receipts of $25 or more: copies of contributor checks; contributor cards; letters of transmittal; notices received from contributors; memoranda or other records that describe the method used to determine the fair market value of donated goods or services (nonmonetary contributions); and loan agreements or other documents that reflect indebtedness.

Documentation for electronic transactions must include information collected when debiting the contributor's account, such as itemized transaction reports (including the credit card confirmation number), debit/credit account transaction records, and credit card receipts, or vouchers. Documentation of contributions received over the Internet must include a record of the transaction created and transmitted by the cardholder including the cardholder's name, street address and the last four digits of the card number.

For contributions or other receipts of $100 or more, copies of any letters or other communications sent by the committee to obtain the documents listed above must be kept.

Expenditures Made

Expenditures: Under $25

A daily lump sum total of all expenditures of less than $25 must be kept.

Expenditures: $25 or More

For expenditures of $25 or more to a single payee, or a series of payments for a single product or service that total $25 or more, the following must be recorded:

- Full name and street address, including zip code, of payee;
- Expenditure amount;
- Date each expenditure was made or, in the case of accrued expenses, the date the goods or services were received; and
- Description of the goods or services received.

Contributions to Other Committees and Independent Expenditures

For expenditures that are contributions or independent expenditures, the amount of the expenditure and the cumulative total paid in that calendar year in connection with the candidate, officeholder, committee, or ballot measure must be recorded.

For all such expenditures of $25 or more, the following information is required:

- Date the contribution or independent expenditure was made;
- Whether the expenditure was an independent expenditure;

- Name of the officeholder or candidate and the office and district they hold or for which they seek nomination or election, or the number or letter of the measure and the jurisdiction in which the measure is to be voted on; and

- Cumulative amount spent on behalf of the candidate, measure, or committee.

QUICK TIP: See Chapter 3 for a detailed discussion and examples of when a contribution is made. Chapter 6 describes communications that are considered independent expenditures.

Loans Made to Others

The following additional information must be kept for loans made by the committee: interest rate, if any; due date, if any; and full name and street address of anyone guaranteeing the loan or who is liable directly, indirectly, or contingently for the loan. (For restrictions on loans to others. (See Chapter 5.)

Expenditures for Gifts, Meals and Travel

A candidate controlled committee that makes an expenditure of $100 or more for a gift, meal, or travel, must keep a dated memorandum or some other form of dated written record containing a brief description of the political, legislative, or governmental purpose of the expenditure, as well as the information described below:

- **Gifts:** The date of the expenditure, a description of the gift, and the name of any recipient who received a benefit of $50 or more.

- **Meals:** The date of the meal, the name of each individual who attended the meal, and whether they are a member of the candidate's household or someone who has authority to approve expenditures of campaign funds.

- **Travel:** The dates of travel, the destination, the name of each individual who traveled, and whether they are a member of the candidate's household or someone who has authority to approve expenditures of campaign funds.

Documentation for Expenditures

All bank and credit card records for expenditures must be kept.

For expenditures of $25 or more, canceled checks, bills, invoices, or statements; receipts; credit card charge slips; vouchers; contracts; loan agreements; and other documents produced or received by the committee reflecting additional obligations also must be kept. Copies of canceled checks may be retained if the copies contain a legible image of the front and back of the canceled check and the copies are obtained from the financial institution.

> **QUICK TIP:** Expenditures may be made electronically using a bank account, credit card, debit card, or electronic payment service (e.g., PayPal) so long as detailed records are kept. It is important to note that electronic payment services such as PayPal or Venmo do not meet the one bank account criteria as outlined by the Act. Campaign bank accounts must be established through a bank with a physical location in California. A committee may use electronic payment services (e.g., PayPal) for expenditures, but the electronic payment service cannot serve as the campaign bank account.

If no receipt, voucher, or invoice is available, a voucher should be written as soon as possible with the date and amount of the payment, the name of the payee, and a description of the goods or services received. A voucher is not required for payments under $25.

G. Mass Mailings, Mass Emails, Telephone Calls, and Notices to Contributors of $5,000 or More

The following must be retained for a period of four years following the date the campaign statement relating to the records is filed:

- **Mailers.** A copy of any mass mailing sent by the committee (see Chapters 6 and 7).
- **Mass Emails.** An original sample of each mass email, the date sent and the number of individual emails sent (see Chapter 7).
- **Political Calls.** A script of the call or a copy of the recorded phone message when the committee coordinates on and pays for 500 or more telephone calls to expressly advocate support for a candidate or ballot measure (see Chapter 6).
- **Major Donor Notices**. A copy or record of all notifications to contributors of $5,000 or more (see Chapter 3).

Answering Your Questions

A. May the candidate serve as the committee's treasurer?

Yes. The candidate may serve as the treasurer or assistant treasurer.

B. Are there private firms that provide treasurer or campaign reporting services?

Yes. The FPPC does not endorse or recommend any particular private firm. Candidates may find useful information on the websites of the California Political Attorneys Association and the California Political Treasurers Association.

C. Are there any specific accounting qualifications for someone to be able to serve as treasurer?

No. However, no individual should accept the position as a mere figurehead.

D. What should be done if the treasurer and assistant treasurer, or the candidate, are not able to sign a campaign statement before the deadline?

To ensure that the statement is filed on time, the committee may submit the filing if it is signed by one of the following: the candidate, treasurer, or assistant treasurer. If the candidate's signature is missing, submit an amendment to provide their signature as soon as possible. Likewise, if both the treasurer and assistant treasurer are unavailable, submit an amendment to provide the required signature as soon as possible.

E. I do not intend to raise any funds from others and I will not be spending any personal funds on my campaign other than the payments for the filing fee and ballot statement fee. Do I need to open a campaign bank account?

No.

F. I do not intend to raise any funds from others. I will be spending personal funds on my campaign, but I will not be spending $2,000 or more. Do I need to open a bank account?

No.

G. I do not intend to raise any funds from others. I will, however, be spending $2,000 or more of my personal funds on my campaign, not including the amount I spend on my filing fee. Do I need to open a bank account?

Yes. Since you plan to spend $2,000 or more for your campaign, you must open a campaign bank account.

H. I will be raising money from others for my campaign, but I do not intend to raise or spend $2,000 on my campaign during the calendar year. Do I need to open a bank account?

Yes. Since you are raising funds from others, even though you will not be raising or spending $2,000 or more, you are required to open a campaign bank account. Contributions received and personal funds you will use for your campaign must be deposited in the account.

I. Are committee records and source documentation required to be kept on paper, or may the committee use an electronic recordkeeping system?

Electronic records are permitted, provided that all of the required information is collected and recorded in a timely and uniform manner that ensures the accuracy and reliability of the information. Committees are responsible for ensuring that electronic records can be read and/or printed for auditing purposes during the applicable retention period.

J. May a private service, such as PayPal, be used to collect contributions electronically?

Yes, so long as for each contribution of $100 or more, (a) the service is able to provide the name of the contributor, and (b) the committee reports all the information needed to meet the statutory recordkeeping requirements, including the name, address, occupation, and employer of individual contributors of $100 or more. Even if the company deducts a fee from the amount of the contribution, the entire amount of the contribution must be disclosed. The fees charged by the private service are reported as expenditures.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Codes Sections

82047.6	Principal Officer.
84100	Treasurer.
84104	Recordkeeping.
84105	Notification of Contributors.
84302	Contributions by Intermediary of Agent.
84305	Requirements for Mass Mailing.
84306	Contributions Received by Agents of Candidates or Committees.
84307	Commingling with Personal Funds.
84310	Identification Requirements for Telephone Calls.
84501	Advertisement.
85304.5	Legal Defense Fund; Local Candidates and Elected Officeholders.
85700	Donor Information Requirements; Return of Contributions.
90000	Responsibility.
90001	Mandatory Audits and Investigations.
90002	Audits and Investigations; Time.
90003	Discretionary Audits.
90007	Auditing Guidelines and Standards.

Title 2 Regulations

18250	Street Address.
18400	Treasurer, Assistant Treasurer, Responsible Officer, and Principal Officer Capacity.
18401	Required Recordkeeping for Chapters 4 & 5.
18402.1	Principal Officers.
18402.2	Limited Liability Companies, Responsible Officer.
18421.1	Disclosure of the Making and Receipt of Contributions.
18421.3	Reporting of Contributions and Expenditures Collected by Contract Vendors or Collecting Agents.
18421.31	Text Message Contributions.
18421.7	Reporting an Expenditure for a Gift, a Meal, or Travel.
18421.10	Reporting Contributions from Limited Liability Companies.
18426.1	Assistant Treasurer.
18427	Duties of Treasurers and Candidates with Respect to Campaign Statements.
18427.1	Notification to Contributors of Filing Obligations.
18432.5	Intermediary and Earmarked Funds Disclosure.
18440	Telephone Advocacy.
18524	Investment and Expenditure of Candidates' Campaign Funds.
18530.45	Legal Defense Funds – Local Candidates and Officers.
18570	Return of Contributions with Insufficient Donor Information.
18994	Auditing and Investigations.
18995	Standards and Guidelines for Auditing Statements and Reports.

Contributions

This chapter begins with the definition of "contribution" and provides guidelines necessary for proper reporting, including a discussion on valuing nonmonetary contributions.

Many cities and counties have adopted campaign ordinances that include contribution limits and other restrictions. Check with your local elections or ethics agency. Effective January 1, 2021 a default state campaign contribution limit applies to city and county candidates when the city or county has not already enacted a contribution limit on such candidates per AB 571 (2019). Special rules apply to AB 571 candidate committees. Please see the FPPC's AB 571 fact sheet available on the FPPC website for additional rules applicable only to AB 571 candidates.

A. What is a Contribution?

A "contribution" is a monetary or nonmonetary payment received by a candidate or committee for which the candidate or committee has not provided full and adequate consideration in return. A contribution may take any of the following forms:

- Money (cash, check, credit card, wire transfers, text contributions).
- Nonmonetary items (donated goods or services, discounts, cryptocurrency).
- Payments made by a third party for advertising or other communications coordinated with the committee.
- Loans (including loan guarantees, co-signing, and lines of credit).
- Money, nonmonetary items, and loans from the candidate to their own committee or from the candidate's family.

- Enforceable promises to make a payment (for example, a contributor promises, in writing, to pay for specific goods or services and, based on that written promise, the committee expends funds or enters into a legally-enforceable contract to purchase the goods or services).

QUICK TIP: Contributions of $100 or more may never be made or received in cash.

B. When is a Contribution Received?

A **monetary** contribution is received on the date the candidate, committee, or an agent of the committee, obtains possession or control of the cash, check, or other item that constitutes the contribution.

When an agent of the committee, such as a campaign consultant, receives a contribution for the committee, the agent must notify the treasurer no later than the closing date of the next campaign statement due. The date of the contribution is the date the agent obtained possession of the contribution.

Ex 4.1 - A committee's campaign consultant received a hand-delivered check at a May 14, Friday evening fundraiser. The check was delivered to the committee's treasurer the following Monday, May 17. The contribution was received on May 14, the day the committee's agent obtained possession of the check.

Ex 4.2 - The committee also contracts with a website service to receive contributions over the Internet. The website service sends the committee's treasurer an email each time a contributor logs on to the website service and enters their donor information and credit card number. By logging onto the website service, the treasurer can accept the contribution and receive the funds. The committee reports receipt of the contribution on the date it receives the email because it controls the contribution on that date.

A **nonmonetary** contribution is received on the **earlier** of the following:

- The date funds were expended by the contributor for the goods or services;
- The date the candidate, committee, or an agent of the committee obtained possession or control of the goods or services; or
- The date the candidate or committee received the benefit of the expenditure.

A nonmonetary contribution of **employee services** is made by the contributor and received by the candidate or committee on the **payroll date** of the employee. See the discussion later in this chapter for information about how to value a contribution of employee services.

A committee may solicit a contribution of **cryptocurrency** as a nonmonetary contribution, subject to specific requirements. Contributions received in cryptocurrency are subject to any applicable limits and may not be accepted from foreign principals, lobbyists, or anonymous sources. Committees cannot receive cryptocurrency contributions directly. However, a committee may receive cryptocurrency contributions through a payment processor selected to act as a vendor on behalf of the committee.

Any cryptocurrency contribution must be made and received through a U.S. based cryptocurrency payment processor registered with the U.S. Department of Treasury, Financial Crimes Enforcement Network, which utilizes know your customer (KYC) protocols to verify the identity of the contributor for all contributions. A committee that chooses to solicit contributions in cryptocurrency must ensure that the payment processor it selects to process these contributions does all of the following:

- Utilizes KYC procedures that enable it to know the identity of each contributor,

- Collects the name, address, occupation, and employer of each contributor at the time the contribution is made and transmits this to the committee within 24 hours of the time the contribution is made, and

- Immediately converts the cryptocurrency to U.S. dollars upon receipt at the prevailing rate of exchange at the time of receipt, and deposits the funds into the committee's campaign bank account within two business days of receipt.

The amount of a cryptocurrency contribution is the fair market value of the cryptocurrency at the time the payment processor obtains possession of the contribution. A cryptocurrency contribution is received on the date the payment processor, an agent of the committee, obtains possession of the cryptocurrency that constitutes the contribution.

An **enforceable promise** is received on the date the candidate, committee, or an agent of the committee, receives documents verifying that a contributor has made a legally enforceable promise to make a payment. A person makes an "enforceable promise to make a payment" if they:

- Guarantee, furnish security for, endorse or cosign a loan.

- Make and deliver a post-dated check.

- Establish a line of credit at a bank or other commercial lending institution for a candidate or committee.

Exceptions: A pledge card is not considered an enforceable promise to make a payment. "Enforceable promise" also does not include a contributor's agreement to make future installment payments through wire transfer, credit card transaction, debit account transaction, or similar electronic payment.

C. Contribution Exceptions

There are many exceptions to the definition of "contribution." In addition to the most common exceptions listed below, Chapter 6 discusses certain types of communications that are not considered contributions.

Volunteer Personal Services: If an individual donates their personal or professional services to a campaign (including a volunteer's travel expenses), no contribution has been made or received as long as there is no understanding of reimbursement.

However, if an employer donates employee services to a campaign, and any employee spends more than 10 percent of their compensated time in a calendar month performing campaign activity for one or more campaigns, the employer has made a nonmonetary contribution to the committee. Determine the contribution amount by allocating the gross salary to the time spent on campaign activity. See "Employee Time" later in this chapter for additional information.

Home/Office Fundraisers: If a person, other than a lobbyist (or a cohabitant of a lobbyist) or lobbying firm, holds a fundraiser or other campaign event in their home or office, the costs incurred by the occupant of the home or office need not be reported as long as the total cost of the event is $500 or less. However, if someone else donates food, beverages, or anything else of value to the event, the fair market value of those donated goods is a nonmonetary contribution. In addition, the donated goods must be counted to determine whether the total cost of the event is $500 or less.

> **QUICK TIP:** For the home/office fundraiser contribution exception to apply, the total cost of the event must be $500 or less no matter how many candidates or committees benefit from the event.

Note: The home/office fundraiser exception does not apply to a state lobbyist or to a cohabitant of a state lobbyist. A registered state lobbyist may not make a contribution to an elected state officer or candidate for elective state office if the lobbyist is registered to lobby the official's agency or the agency for which the candidate is seeking election. A fundraiser held in the home of a lobbyist is considered a contribution; therefore, a lobbyist is prohibited from holding a fundraiser in their home for a candidate seeking election to a governmental agency that the lobbyist is registered to lobby. A similar prohibition applies to lobbying firms holding fundraisers at their offices.

QUICK TIP: A state lobbyist may not hold a fundraiser for a local candidate/officeholder who is seeking election to a state office.

Ex 4.3 - Your neighbor holds a fundraiser in their home for your campaign. As long as the total cost of the event is $500 or less, your committee is not required to report the cost of the event as a nonmonetary contribution.

Ex 4.4 - A business hosts a campaign fundraiser in its conference room. The business spends $450 for beverages. A separate business entity provides the food valued at $200. Since the total cost of the event now exceeds $500, both businesses have made reportable nonmonetary contributions that must be reported by your committee.

Social Media – Internet Communications: Uncompensated Internet activity by an individual, such as sending or forwarding electronic messages, social networking, blogging, creating or hosting a website, to support or oppose a candidate or ballot measure is not considered a contribution or expenditure. Certain Internet communications require advertisement disclosures as outlined in Chapter 7.

Ex 4.5 - Your friends send emails to their family and friends and post on their personal social networking sites communications supporting your campaign. Since your friends are not being compensated, these activities are not reportable even if you provided your friends with campaign materials.

Member Communications: Payments made by an organization (including a political party, union, trade association) for certain communications that are sent only to the organization's members, employees, or shareholders, or their families, are not contributions to a candidate endorsed in the communications. For example, if a union sends a mailing to only its membership, supporting your campaign, the cost of the mailing is not a reportable contribution.

Gifts: A payment or other benefit to a candidate or official that is made principally for personal purposes (not political purposes) is a gift unless the candidate or official provides payment or services of equal or greater value. Generally, gifts are subject to annual limits and must be disclosed by the candidate or official on a Form 700 (Statement of Economic Interests). For additional information about gifts, see the fact sheet on the FPPC's website entitled, *Limitations and Restrictions on Gifts, Honoraria, Travel and Loans.*

Payments for Legislative, Governmental, or Charitable Purposes: Behested payments made in connection with a legislative, governmental, or charitable purpose, are not considered to be made for political purposes; therefore, they are not considered contributions. However, if the payment is made at the behest of an elected official and the payment(s) totals $5,000 or more from a single source in a calendar year, the official is required to file a Form 803 (Behested Payment Report) as described in Chapter 11.

D. Aggregating Contributions

Contributions received from certain combinations of individuals and entities must be added together to determine the total amount that will be treated as received from a single contributor.

The following contributions are aggregated:

- Contributions from an individual's personal funds and contributions made by an entity when the individual directs and controls the entity's contributions.
- Contributions from two or more entities that are directed and controlled by a majority of the same persons.
- Contributions made by entities that are majority owned by any person. Contributions made by the majority owner and all other entities majority owned by that person are aggregated, unless those entities act independently in their decisions to make contributions.

QUICK TIP: The term "person" includes an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, and association.

The following examples provide general guidance regarding aggregation of contributions. The FPPC may be contacted for advice related to your specific facts.

Ex 4.6 - Sally Perez contributed $98 from Sally's personal funds and another $98 from the funds of Sally's wholly-owned business, Flowers by Sally Perez, to the Anderson Committee. Because contributions from an individual and their business, or from any other account they direct and control, are considered to be from a single contributor, the Anderson Committee must itemize both contributions and report a cumulative amount received from Sally and Sally's business of $196 on its committee campaign statement.

Ex 4.7 - EXtream Snowboards, Inc., made a contribution of $99 to the Johnson Committee. EXtream Snowboards, Inc., is a wholly-owned subsidiary of LeesureTech Industries, which also made a contribution of $99 to the Johnson Committee. If there was coordination between EXtream Snowboards and LeesureTech Industries, their contributions are considered to be from a single contributor. The Johnson Committee must itemize both contributions and report a cumulative amount received of $198 on its campaign statement.

Ex 4.8 - William Smith is a developer with four separate corporations. William makes political contributions from personal funds and directs and controls the contributions of each of William's corporations. William made a contribution of $1,000 from personal funds and contributions of $2,000 from the funds of each of William's corporations to the committee. Because William directed and controlled all of these contributions, they are considered to have been made by a single contributor. The committee must itemize each contribution and show a cumulative amount received of $9,000.

Ex 4.9 - Southwest TeleCom has a greater than 50 percent ownership interest in American TeleCom. Each entity, entirely on its own and with separate decision making bodies, makes a contribution of $1,000 to a committee. The committee does not aggregate these contributions because Southwest TeleCom and American TeleCom acted independently in their decisions to make the contributions.

E. Reporting the Intermediary of a Contribution

An intermediary is a person or entity that makes a contribution on behalf of another person. For example, an employee who is reimbursed for a contribution by their employer is not the true source of the funds, but the intermediary of the employer's contribution.

A committee receiving a contribution of $100 or more from an intermediary must report the true source and the intermediary. The campaign statement will identify both the intermediary's and the true source's name and address, and, if applicable, the occupation and employer.

Additionally, for contributions of $100 or more from an intermediary that is a limited liability company (LLC) that has qualified as an independent expenditure committee or major donor, include the name of the LLC and the full legal name of the LLC's responsible officer as defined in Regulation 18402.2. If the contributor is an LLC that has qualified as a recipient committee, include the name of the committee and its principal officer as defined in Section 82047.6. For an LLC that has not qualified as a committee, include the name of the LLC and the full legal name of the individual primarily responsible for approving the contribution. If more than one individual shares in the primary responsibility of approving a contribution, at least one such individual must be identified.

Failure to disclose the true source of a contribution is considered one of the most serious violations of the Political Reform Act.

> **Ex 4.10 -** Berry and Vienna each made a $100 contribution from their personal funds to support Tina Baker for city council, with the understanding that they would be reimbursed by their employer. Berry and Vienna must tell the committee that they are acting as intermediaries on behalf of their employer. The committee must itemize the $200 contribution from the employer and also disclose Berry and Vienna as intermediaries.

Ex 4.11 - A business collects ten contributions of $200 each earmarked for a candidate's campaign. The business deposits the contributions and provides the campaign committee one check from the business rather than providing ten individual checks. The committee reports the business as an intermediary and the individuals as the contributors.

Candidates and committees are required to check and, if necessary, correct any information regarding the true source of a contribution that a person of reasonable prudence would question based on all of the surrounding circumstances. If there is reason to question the source of a contribution (e.g., there is reason to believe the information contained on the contribution check does not contain the name of the person who is actually making the contribution), the donor should be asked if they are acting as an intermediary for the true source of the contribution.

This manual cannot address all scenarios that may need to be questioned, but it is prudent to question unusually large contributions from sources unfamiliar with the candidate or their agents; a series of contributions from a single employer; and, significant contributions from a nonprofit organization or multipurpose organization that is not registered as a political committee on the Secretary of State's website.

F. Reporting Various Types of Contributions

Electronic Receipt of Contributions: Contributions may be received by credit card, wire transfer, via the Internet, cell phone text message, telephone, debit account transaction, or similar electronic payment options. All of the reporting and recordkeeping requirements apply to these contributions. Some tips are:

- For contributions of $25 or more, the committee treasurer should make sure that a copy of the credit card voucher or other documentation is sent to the committee as soon as practicable after the contributions are made.

- The entire amount charged to the contributor is reported as a contribution.

- Fees associated with this type of fundraising or deducted by the vendor before the contributions are sent to the committee are reported as expenditures. The fees are not deducted from the amount of each contribution reported.

- Contributions made by text message are received on the date the mobile device company receives the funds from the contributor, not the date the text was sent.

Ex 4.12 - Your committee holds a golf fundraiser and charges $200 per person. After the event, you determine that it cost your committee $50 per person to pay the caterer, hall rental, entertainment, invitations, etc. The invitations state that half of the ticket cost will be donated to a charity and half will be contributed to your committee. Report on Schedule A of the Form 460 a $100 contribution from each of the ticket purchasers, as well as the contributor's name, address, occupation, and employer. Do not subtract the per person costs from each ticket sold. The expenses will be reported on Schedule E of the Form 460.

Cryptocurrency

The amount of a cryptocurrency contribution is the fair market value of the cryptocurrency at the time the payment processor obtains possession of the contribution. A cryptocurrency contribution is received on the date the payment processor, an agent of the committee, obtains possession of the cryptocurrency that constitutes the contribution. Some tips on reporting cryptocurrency contributions include:

- The entire amount of the cryptocurrency contribution is reported as a nonmonetary contribution. The processing fee charged by the payment processor is not deducted from the amount reported.

- The processing fee is reportable as an expenditure of the committee at the time the fee is deducted or charged.

- The entire amount of the cryptocurrency contribution is reportable as a "Miscellaneous Increase to Cash."

Ex 4.13 - Your candidate-controlled committee contracts with a payment processor, which charges a 2% processing fee, to accept cryptocurrency on its behalf for the upcoming election. The payment processor accepts a contribution in bitcoin valued at $1,000 on October 15. The committee would report the receipt of the $1,000 cryptocurrency in the following ways on the Form 460:

- Schedule C: The committee would report the receipt of the $1,000 as a non-monetary contribution. The committee would disclose the date received as October 15 and report all the required contributor information. For the description of goods or services, include “cryptocurrency contribution”.
- Schedule E: The committee would report the processing fee of $20 as an expenditure.
- Schedule I: The committee would report the $1,000 contribution as a miscellaneous increase to cash, along with the name and address of the contributor. For description of receipt, include “cryptocurrency contribution”.

Please note that if a cryptocurrency contribution is received and valued at $1,000 or more from a single source in the 90 days prior to or on the date of an election, the committee may incur additional filing obligations such as the Form 497.

Earmarked Contributions

A contribution to a committee that is earmarked for a contribution to any other particular committee, ballot measure, or candidate is required to be disclosed as outlined below.

A contribution is earmarked if it is made under any of the following circumstances:

- The committee or candidate receiving the contribution solicited the contribution for the purpose of making a contribution to another specifically identified committee, ballot measure, or candidate, requested the contributor to expressly consent to such use, and the contributor consents to such use.

- The contribution was made subject to a condition or agreement with the contributor that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

- After the contribution was made, the contributor and the committee or candidate receiving the contribution reached a subsequent agreement that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

However, there is an exception for dues, assessments, fees, and similar payments made to a membership organization or its sponsored committee in an amount less than five hundred dollars ($500) per calendar year from a single source for the purpose of making contributions or expenditures. Such funds are not considered to be earmarked by each individual contributor, instead the membership organization is to be reported as the source for these funds.

The committee making an earmarked contribution shall provide the committee receiving the earmarked contribution with the name and address and, if applicable, the occupation and employer of the contributor who earmarked their funds and the amount of the earmarked contribution at the time it makes the contribution. If the committee making the contribution received earmarked contributions that exceed the amount contributed, or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which contributors to identify, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

Ex 4.14 - A restaurant donates a dinner for four worth $200 to your committee. At your committee's auction, Gloria Sanchez bids $300 and wins the dinner for four. Itemize $200 as a nonmonetary contribution from the restaurant on Schedule C of the Form 460. Itemize Gloria Sanchez on Schedule I of the Form 460 ($200 miscellaneous increase to cash) and on Schedule A of the Form 460 as a contributor of $100 (the amount over the fair market value).

Fundraisers: The full amount (face value) of a fundraiser ticket is a reportable contribution, unless it is a joint committee/charity fundraiser advertised with specific attribution. The costs of the event are not subtracted when determining the amount of the contribution.

Auctions and Garage Sales: When items are donated for auction or sale at a fundraiser, the donated item is a nonmonetary contribution. (See below for determining the value.) When someone buys an item, the payment is considered a "Miscellaneous Increase to Cash" and is reported as such. If any person or entity pays $100 or more, the payment is itemized.

When someone pays more for an item than it is worth, the amount that is equal to the fair market value is reported as a miscellaneous increase to cash and the amount over the fair market value is reported as a monetary contribution. Each is itemized at $100.

Bar Receipts: Funds received by selling drinks at a fundraiser at fair market value are reported as miscellaneous increases to cash, not contributions.

Raffle Tickets: Receipts from the sale of raffle tickets at a fundraiser are reported as contributions. Items donated for raffle prizes are reported as nonmonetary contributions. (Note that Penal Code section 319 imposes some restrictions on raffles. Contact your county's district attorney for further information.)

Joint Checking Accounts: Individuals (including spouses) may make separate contributions from a joint checking account. For reporting purposes, the full amount of the contribution is reported as coming from the individual who signs the check. If two or more individuals sign the check, the contribution is divided equally between or among the signers, unless there is an accompanying document signed by each individual whose name is printed on the check that clearly indicates a different apportionment.

> **Ex 4.15 -** Linda and Jerry Nelson have a joint checking account. From this account, Linda signed a $100 check payable to Friends of Joshua Truman. The committee identifies Linda Nelson as the contributor of the full $100.

A check drawn on a joint checking account that is signed by an individual not listed on the check (e.g., an accountant) must be accompanied by a document signed by at least one of the individuals listed on the check stating to whom the check is to be attributed.

Business Accounts: Generally, if a check is drawn on the account of a business entity, the contributor is the business entity, not the person who signs the check.

> **Ex 4.16 -** Barbara Taylor was defeated in a June election. In order to use the leftover funds for a future election, Barbara must transfer the remaining funds to a new account within 90 days of the postelection reporting period. If the funds are not transferred by that date, they are considered “surplus funds” and may not be used for a future election.

Minor Children: A contribution made by a child under the age of 18 is presumed to be a contribution from their parent or guardian.

Text Contributions: For a contribution received by a text message, the contributor is the person who is subscribed to the cell phone number that texted the contribution.

Transfers from a Prior Campaign: Candidates who have more than one campaign bank account and controlled committee may transfer funds from one account/committee to another so long as the funds are not "surplus funds."

Leftover funds become surplus upon the 90th day after leaving an elective office, or the 90th day following the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last. See Chapter 8 for information about how to report transferred funds.

Chapter 11 includes a discussion about the rules for using leftover campaign funds for a future election.

> **QUICK TIP:** There are restrictions on transfers of funds to run for state office. See FPPC's Information Manual for State Candidates (Manual 1) for further information. In addition, candidates and committees should check with the local elections office to determine if there are local contribution limits or other restrictions pursuant to a local campaign ordinance.

Contributions from the Candidate: A payment from a joint checking account that bears the name of the candidate and spouse is considered a contribution from the candidate. This is true even if the spouse signs the check.

A contribution received from a spouse's legally separate funds and signed by the spouse is considered to be made by the spouse and is subject to possible contribution limits and other applicable provisions of the Act.

A candidate's business, other than a sole proprietorship, is considered a separate legal entity. Therefore, contributions from the business are not considered to be the candidate's personal funds and may be subject to local contribution limits. Generally, contributions from a candidate's sole proprietorship to the candidate are not considered to be from a separate entity and are therefore not subject to contribution limits, if any. Note: Contributions to another candidate or committee from the candidate and their sole proprietorship are aggregated for purposes of contribution limits. (See *Burch* Advice Letter, No. A-14-032.)

Contributions from Other Candidates: Candidates and committees may receive contributions, subject to contribution limits, if any, from other candidates or officeholders.

Undesignated Contributions: Candidates who are soliciting contributions for more than one office and receive a contribution that has not been designated for a specific office may deposit the contribution in any of their campaign bank accounts. An undesignated monetary contribution must be reported on the campaign statement for the reporting period in which it is received, and must be deposited in the campaign bank account for the controlled committee to which it is being allocated within 30 days of receipt.

Undesignated nonmonetary contributions must be allocated to a particular committee within 30 days of receipt or by the reporting deadline for the reporting period in which the contribution is received, whichever is earlier.

G. Valuing Nonmonetary Contributions

This section provides assistance in determining how to value nonmonetary contributions so that they may be reported accurately. The varieties of nonmonetary contributions are vast, so it is not possible to present all possibilities. Contact the FPPC for assistance.

> **Ex 4.17 -** The owner of an electronics store donates an iPad valued at $550 to your committee for sale at an upcoming auction. Although the cost to the owner is less than $550, the nonmonetary contribution is reported at the fair market value amount of $550 (the amount it would cost a member of the public to purchase the iPad).

Fair Market Value: When a nonmonetary contribution is received, the fair market value of the goods or services (the amount it would cost a member of the public to purchase the goods or services) must be reported. If the committee does not know the fair market value of a nonmonetary contribution (e.g., an original piece of artwork), the committee may send an email or a letter requesting that the contributor provide the value of the contribution in writing. The contributor is legally required to provide an amount if the value of the contribution is $100 or more.

> **Ex 4.18 -** Your committee treasurer knows the owner of a printing shop and the owner provides your committee a 50 percent discount on the printing of a brochure that normally would cost $1,200. Your committee must report a nonmonetary contribution of $600 from the printing shop.

Employee Time: If an employer donates the use of an employee to work on campaign activities for one or more campaigns, the amount the individual is paid is reportable as a nonmonetary contribution from the employer if the employee spends more than 10 percent of their compensated time in a calendar month working on campaign activity. To determine the contribution amount, the gross compensation is allocated to the time spent on campaign activity. Compensation

includes wages paid and any benefits in lieu of wages, such as stock options or an annuity purchase. Compensation does not include routine benefits, such as the employer's payments to a health care or retirement plan.

> **Ex 4.19 -** An accounting firm provides your committee with the services of an accountant. The accountant spends 25 percent of their time working for the campaign. This percentage of their gross compensation is $2,000. The amount of the nonmonetary contribution reported from the accounting firm is $2,000.

Discounts: If the committee receives a discount on goods or services it purchases and the discount is not offered to the public in the regular course of business, the discount is a nonmonetary contribution that must be reported.

Private Air Transportation: A person who provides a candidate with a flight in a private airplane is making a nonmonetary contribution. The value is determined by using either the commercial rate to the destination, if available, or the charter rate divided by the number of passengers on the flight.

Email Lists: If a list of email addresses is donated, the fair market value must be reported as a nonmonetary contribution.

Corporate Stock: The contribution of corporate stock must be reported and valued as listed on the stock exchange on the date of receipt. When the stock is sold, the total proceeds of the sale are reported on Schedule I as a miscellaneous increase to cash. If the purchaser is unknown, report the brokerage firm as the source with a notation that the payment represents the sale of stock. Broker's fees must be reported on Schedule E.

H. Valuing Mailings, Telephone Banks, Polls

Generally, the fair market value of a communication is reported as a contribution when it expressly advocates support of or opposition to a candidate and was made at the behest of (or in coordination with) the affected candidate or primarily formed committee.

> **Ex 4.20 -** The Express Paper Company agrees to produce a mailing for your committee. The value of the nonmonetary contribution is the amount it would have cost your committee if it had paid fair market value for the mailing, which is likely more than what the actual costs were to the company.

Multiple Candidates/Measures: If a communication expresses support of or opposition to more than one candidate or ballot measure, the fair market value attributable to each may be calculated by prorating the costs among the featured candidates and ballot measures. The prorated value is based on the amount of space allotted to each candidate or measure supported or opposed in the mailer.

The value of a mailer that supports or opposes candidates and measures being voted on in different jurisdictions may be prorated based on the number of mailers sent to each candidate or ballot measure's jurisdiction.

> **Ex 4.21 -** A Chamber of Commerce produces and mails a one-page flyer urging voters to vote for supervisor candidate Smith and vote against two ballot measures. Half of the flyer is devoted to supporting candidate Smith and the other half equally opposes the two measures. The Chamber coordinates the mailing with candidate Smith. The total cost of producing and mailing the flyer was $10,000. Candidate Smith must report a nonmonetary contribution of $5,000 from the Chamber.

Political and Non-Political Material: The cost of a communication containing both express advocacy in support of or opposition to a candidate, as well as non-political material, may be prorated. Costs directly associated with the political message are reportable by the candidate, including, for example, compensation paid to employees who spend more than 10 percent of their compensated time in a calendar month producing or mailing the political materials, and the pro rata cost of paper, envelopes, and postage. The allocation may be based on the comparative number of pages or the comparative amount of weight between the political and non-political materials.

Bulk Rate Permits: Use of an organization's bulk rate permit is a nonmonetary contribution from the organization. If the committee pays the actual postage costs incurred under the bulk rate permit, the fair market value of the contribution is either:

- The price the organization paid for the bulk mailing permit; or
- The difference in postage costs between the bulk mailing rate and that of regular mail.

> **QUICK TIP:** If the organization pays for the costs of the mailing using its bulk rate permit and the committee does not have such a permit, the amount it would have cost to pay for the mailing using regular mail or the cost of the bulk rate mailing plus the cost of a permit should be reported as a nonmonetary contribution.

Phone Banks: Businesses and other entities will sometimes allow a committee to use their phones to call prospective voters during non-business hours. The fair market value of the use of the phones is calculated to determine the amount reported as a nonmonetary contribution, even if only local calls are made. One method to determine the fair market value is to contact organizations that provide phone banks as a business. Note: Disclosures are required on certain paid telephone calls. (See Chapter 7.)

Polls and Surveys: A person or entity that provides data from a public opinion poll or survey to a candidate or committee is making a nonmonetary contribution if the candidate or committee requests the data or the data are used for political purposes. Standards used by the Federal Election Commission (11 CFR 106.4) may be used for valuing polling or survey data. The formula is based on the age of the data. The chart below illustrates the fair market value of data based on the number of days that pass from the date the entity originally received the data to the date the data were provided to the candidate or committee.

> **Ex 4.22 -** A local business association commissioned a public opinion poll to determine voters' attitudes about candidates running for Supervisor and candidates running for City Council. The association provided the poll results to a candidate for Supervisor and certain City Council candidates. Since only a limited number of questions pertained to City Council issues, the candidates for Supervisor who received the poll results may prorate the poll costs to determine the nonmonetary contribution amount they must report.

Age of Data	**Value**
0 - 15 days	Full Value
16 - 60 days	50%
61 - 180 days	5%
More than 180 days	No Value

When only a portion of a survey is provided to or for the benefit of a candidate or committee, the nonmonetary contribution is the prorated portion of the total value of the survey.

I. Notification to Contributors of $5,000 or More

Committees that receive one or more contributions totaling $5,000 or more in a calendar year from an individual or entity that made the contribution(s) from personal, business, corporate, or general funds must send the contributor written notice that they may have a filing obligation.

Generally, the notice must be mailed, faxed or emailed to the contributor **within two weeks** of receiving contributions totaling $5,000 or more. But, if a contribution of $10,000 or more is received in the 90 days prior to or on the date of the election, the notice must be mailed, faxed or emailed to the contributor **within one week.** A copy of each notice or a record of all notices showing the date sent and the name and address of the person receiving the notice must be retained.

The notice does not need to be sent again for subsequent contributions received from the same contributor in the same calendar year. In addition, the notice is not required to be sent if the source of the contribution is a candidate, officeholder, or an existing committee because they already are required to file campaign statements.

The notice may be tailored as long as it contains language substantially similar to the language below:

Major Donors

If your contribution(s) to this committee and to other California state or local committees total(s) $10,000 or more in a calendar year, California law requires you to file a Major Donor Committee Campaign Statement (Form 461). The deadline and location for filing this statement will depend upon the timing and type of contribution(s) you have made. For additional information, visit www.fppc.ca.gov and review the available campaign materials.

Multipurpose Organizations Including Nonprofits

If your organization is a multipurpose group, it may qualify as a major donor committee required to file Form 461 or as a recipient committee required to file the Form 460 disclosing donors. Refer to Government Code Section 84222 and FPPC Regulation 18422 to determine your filing requirements. For additional information, visit www.fppc.ca.gov and review the available campaign materials.

24-Hour/10-Day Reports

Major donors, nonprofits, and other multipurpose organizations that trigger reporting obligations must also file a 24-Hour/10-Day Contribution Report (Form 497) if they:

Make contributions totaling $1,000 or more to a single candidate, any of the candidate's controlled committees, or to a committee primarily formed to support or oppose a candidate or ballot measure during the 90 days prior to the election, or on the date of the election, in which the candidate or ballot measure is being voted on; or

Make contributions totaling $1,000 or more to state or county political party committees during the 90 days prior to a state election, or on the date of the election, including state special elections.

QUICK TIP: Once contributions of $10,000 or more are made, the major donor may be required to immediately file Form 497 (24-Hour/10-Day Contribution Report). Committees should provide donors the link to the appropriate FPPC filing schedule.

Electronic Filing

State committees that make contributions of $25,000 or more must file electronically with the Secretary of State. State committees that are required to file the Form 497 (24-Hour/10-Day Contribution Report) must file this form electronically even if the $25,000 threshold has not yet been met. For more information on the electronic filing requirements, contact the Secretary of State's office at (916) 653-6224. Local committees should contact the local jurisdiction to determine if there are electronic filing requirements.

Late Filing Penalties and Fines

Failure to file campaign statements may result in late filing penalties of $10/day (state committees may be fined $20/day if they must file electronically and on paper) and fines of up to $5,000 per violation.

FPPC Assistance

For assistance with your filing obligations, contact the Fair Political Practices Commission toll-free at (866) ASK-FPPC, send an email to advice@fppc.ca.gov, or refer to their website: www.fppc.ca.gov.

J. Returning Contributions

There are several provisions in the Act and FPPC regulations that regulate the return of contributions. The general rule is that a committee may return all or part of a contribution to the contributor so long as the return is reasonably related to a political, legislative, or governmental purpose.

General Rules: If a contribution is deposited, cashed or negotiated, it must be disclosed on the next campaign statement, even if it is subsequently returned. If a contribution is not deposited, cashed, or negotiated, it is not required to be reported under the following circumstances:

- **Outside the 90-Day Election Period:** A contribution is not required to be reported (by the donor or the committee receiving the funds) if it is not deposited, cashed, or negotiated and it is returned to the contributor before the closing date of the campaign statement on which it would otherwise be reported.

- **During the 90-Day Election Period:** A contribution of $1,000 or more received during the 90 days before an election, including the date of the election, is not required to be reported (by the donor or the committee receiving the funds) if it is not deposited, cashed, or negotiated and it is returned to the contributor within 24 hours of receipt.

Missing Contributor Information: A contribution of $100 or more must be returned within 60 days of receipt if the committee has not obtained the contributor's name, address, and, in the case of a contributor who is an individual, their occupation and employer. If the committee returns the contribution for lack of information, and the check is not cashed by the contributor within 90 days, the committee must, within the next 30 days, forward the amount to the general fund of the local jurisdiction.

Answering Your Questions

A. Our committee is holding a $200 per person dinner fundraiser. The actual cost of the event to our committee will be $75 per person. When someone pays $200 to attend the dinner, do we subtract the $75 cost to our committee and report receiving a $125 contribution?

No. Report the full amount paid for the fundraiser ticket ($200) as the contribution. The costs to the committee will be reported on Schedule E (Expenditures) of the Form 460.

B. When we send out a fundraising letter, are we required to put our committee identification number on the invitation?

There is no requirement to include the committee identification number, but it is highly recommended. Many campaigns do so because others need the information for their own reporting forms.

C. We would like to hold a raffle at our next fundraiser. Are there any restrictions on raffles?

The Political Reform Act does not restrict raffles; however, Penal Code 319 does prohibit certain raffles. The Penal Code is interpreted and enforced by each county's district attorney. Contact the local district attorney where the raffle will be held for further information. Of course, be sure all of the reporting and recordkeeping requirements are met.

D. If my nextdoor neighbor spends $1,000 on an event to help raise funds for two different candidates and the event is held in their home, have they made a contribution to each committee?

Yes. The total cost of a home fundraiser must be $500 or less or the event will qualify as a nonmonetary contribution. This is true no matter how many committees benefit from the event.

E. If I hold a fundraiser in my home for my candidacy, and the total cost is $500 or less, would the home/office fundraiser exception apply, meaning nothing would need to be reported on the Form 460?

No. A candidate must deposit any personal funds that will be used to promote their election into the campaign bank account. Therefore, any expenditures made for the fundraiser must be reported on your Form 460.

F. May a nonprofit organization hold a joint fundraiser with a political committee?

Yes. However, any costs incurred by the nonprofit organization which are not reimbursed by the political committee would be considered to be a nonmonetary contribution from the nonprofit to the political committee. The nonprofit organization should contact the IRS for any possible restrictions based upon the organization's tax status.

G. Is volunteer work provided by some people considered a nonmonetary contribution because of the volunteer's profession, such as free legal advice provided by a lawyer or bookkeeping done by a CPA?

No. Volunteer personal services, regardless of the profession of the individual, are not reportable so long as the individual providing the services is not paid by a third party.

H. Three candidates wish to conduct individual polls. A polling firm has offered a reduced rate because all three polls can be combined using one very large sample. Are the candidates receiving contributions from the polling firm because of the discounted fee, and are the candidates making contributions to each other?

To the extent each candidate pays only their share of the cost of the poll, the candidates are not making contributions to each other. Additionally, if the polling firm provides the discount as part of its standard business policy of providing discounts in similar situations and does not provide the discount for political purposes, the candidates will not receive a contribution from the polling firm.

I. A committee receives a contribution from a joint checking account signed by one of the individuals. The contribution exceeds local limits. If the committee later receives a document stating that the contribution is from both individuals, may the contribution be reported that way?

No. A document must accompany the contribution at the time the contribution is received in order for the contribution to be reported from both individuals. This is true for contributions made by check or electronic means.

J. If a potential donor takes me out to dinner to discuss my school board campaign and pays for my meal, do I report the meal as a nonmonetary contribution?

No. Because there is a personal benefit to you, the payment for the meal would be considered a gift to you, not a contribution.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

82004.5	Behested Payment.
82015	Contribution.
82015.5	Contribution; Aggregation.
82018	Cumulative Amount.
82025	Expenditure.
82025.5	Fair Market Value.
82036	Late Contribution.
82041.3	Made at the Behest of.
82047	Person.
82047.6	Principal Officer.
84105	Notification of Contributors.
84211	Contents of Campaign Statement.
84216	Loans.
84300	Cash and In-Kind Contributions; Cash Expenditures.
84302	Contributions by Intermediary or Agent.
84306	Contributions Received by Agents of Candidates and Committees.
85308	Family Contributions.
85312	Communications to Members of an Organization.
85700	Donor Information Requirements; Return of Contributions.
85704	Prohibition on Earmarking.

Title 2 Regulations

18215	Contribution.
18215.2	Uncompensated Internet Activity by Individuals that is not a Contribution or Expenditure.
18216	Enforceable Promise to Make a Payment.
18402.2	Limited Liability Companies, Responsible Officer.
18421.1	Disclosure of the Making and Receipt of Contributions.
18421.2	Cryptocurrency Contributions.
18421.3	Reporting of Contributions and Expenditures Collected by Contract Vendors or Collecting Agents.
18421.10	Reporting Contributions from Limited Liability Companies.
18421.31	Text Message Contributions.
18423	Payments for Personal Services as Contributions and Expenditures.
18427.1	Notification to Contributors of Filing Obligations.
18428	Reporting of Contributions and Independent Expenditures Required to be Aggregated.
18430	Committee Controlled by More Than One Candidate.
18432.5	Intermediary and Earmarked Funds Disclosure.
18523	Nondesignated Contributions or Loans.
18531.7	Payments for Communications – Section 85312.
18533	Contributions from Joint Checking Accounts.

CHAPTER 5

Contribution Restrictions

Although the Political Reform Act (Act) is primarily a disclosure law, there are several important restrictions and prohibitions on receiving contributions. This chapter reviews these restrictions and prohibitions, as well as some that are contained in laws other than the Act.

In addition, while the receipt of campaign contributions generally will not create a conflict of interest for an elected officeholder in the performance of their duties, contributions may be the source of a conflict of interest for officeholders or candidates who are also appointed to certain boards or commissions. The section on "Disqualification and Campaign Contributions" covers this area of the law.

A. Local Contribution Limits

The Act does not contain contribution limits for local candidates, but provides that cities and counties may adopt contribution limits applicable to their elections. Many California cities and counties have adopted campaign ordinances that include contribution limits and other disclosure provisions.

> **QUICK TIP:** Check with your local elections office to determine if local campaign finance rules apply to your campaign.

Effective January 1, 2021, a default contribution limit applies to city and county candidates when the city or county has not already enacted a contribution limit. Please see AB 571 (2019).

The FPPC's website lists cities and counties with local campaign finance rules and links to the ordinances. For questions about local contribution limits, candidates and committees should contact their city clerk, county elections office, or their City Attorney's or County Counsel's office.

B. Restrictions under the Political Reform Act

Reporting the True Donor

If a contribution of $100 or more is received from a single source in a calendar year, the source must be identified on the committee's Form 460. If a contribution is received through an intermediary, both the intermediary and the true source of the contribution must be identified. (See Chapter 3 for additional information about intermediaries.)

Failure to disclose the true source of a contribution is often referred to as campaign money laundering, which is a serious violation of the Act. One type of common violation is when an employer reimburses individual employees for contributions so that the committee receiving the contributions discloses the employees rather than the true source of the contribution (the employer) on campaign disclosure reports.

Another occurrence is when a person (organization, business, individual) makes a contribution to another person with the condition, agreement or understanding that the payment will be subsequently used for political purposes, such as a contribution to another committee. It is a violation for persons to conceal their identities by contributing through another person.

Committee treasurers must inquire about any information that a person of reasonable prudence would question based on all available information. It is not possible to describe every situation that might trigger a duty for a treasurer to inquire if a contribution is identified correctly. Some examples are the size of the contribution, the reported source, and the likelihood of that source making a contribution of the size reported.

> **Ex 5.1 -** A committee receives contributions of $1,000 each from ten different individuals in the same week. The committee treasurer and campaign fundraiser did not make specific solicitations to the individuals. Upon the treasurer's request, the individuals state that they all work for the same employer. The committee treasurer has a duty to inquire to determine if the employer reimbursed the employees.

If it is discovered that a committee received a contribution and the donor and intermediary were not properly identified, the contribution must be paid to the Secretary of State for deposit in the State General Fund. When the action is brought under a local campaign ordinance, a local committee may pay the contribution to the local jurisdiction for deposit in its general fund.

Cash Contributions

The committee may not accept a cash contribution of $100 or more. Such a contribution will not be deemed "received" if it is not deposited or spent and is returned to the contributor prior to the end of the reporting period of the campaign statement on which the contribution would otherwise be reported. Even if the contribution is inadvertently deposited, it is not deemed "received" if it is refunded within 72 hours of receipt. However, a cash contribution of $1,000 or more that is received in the 90 days before the election, including the date of the election, that is inadvertently deposited must be refunded within 48 hours in order to not be deemed "received."

> **QUICK TIP:** Even if change is immediately provided, a committee may not accept $100 or more in cash from a single source. For example, if the committee is holding a fundraiser and charging $50 per person, an attendee may not pay with a $100 bill. The payment must be made by personal check, debit card, or credit card.

Anonymous Contributions

Anonymous contributions of $100 or more are prohibited. If a committee receives a cash contribution of $100 or more from an unknown source, it must be sent to the Secretary of State for deposit in the State General Fund.

Contributions Made by Money Orders/Cashier's Checks/ Traveler's Cheques

Contributions of $100 or more made by money order, cashier's check, or traveler's cheque are prohibited and must be returned to the contributor, or, if made anonymously, sent to the Secretary of State for deposit in the State General Fund.

All monetary contributions of $100 or more must be made by written instrument (such as a check) containing the name of the donor and drawn from the account of the donor or the intermediary. Contributions may also be received by credit card (including over the Internet), wire transfer, or other electronic means. (See Chapter 3.)

Contributor's Legal Name

Contributions must be made in the name by which the contributor is identified for legal purposes.

Commingling Funds

Campaign funds may not be commingled with any individual's personal funds; they must be kept in an account separate from any account that contains personal funds. In general, campaign funds may not be used for personal expenses. (See Chapter 5 for information about the use of campaign funds.)

> **QUICK TIP:** Campaign contributions must be kept separate from personal funds and may not be used for personal expenses.

Contributions Delivered in State Office Buildings

A contribution may not be delivered to or received by another person, personally or through an agent, in the State Capitol or any other state office building for which the State of California pays the majority of the rent. "Personally delivered" includes the delivery of a copy or facsimile of a contribution, and the original or a copy of a contribution transmittal letter. This prohibition does not apply to contributions received or delivered in a legislative district office or those sent by postal mail.

Contributions from State Lobbyists

A state lobbyist may not make a contribution to an elected state officer or a candidate for elective state office if the lobbyist is registered to lobby the governmental agency of the elected officer or the agency to which the candidate is seeking election. The lobbyist also may not contribute to a local committee controlled by a state officer or candidate for elective state office.

State Lobbyist and Lobbying Firm Fundraisers

A fundraiser held in the home of a state lobbyist is considered a contribution; therefore, a lobbyist or a cohabitant of a lobbyist is prohibited from holding a fundraiser in their home for a candidate seeking election to a governmental agency that the lobbyist is registered to lobby. This includes a local candidate/officeholder that is seeking election to a state office. A similar prohibition applies to lobbying firms holding fundraisers at their offices.

Federal Law Prohibitions: Contributions from Foreign Nationals (including Foreign Principals and Foreign Governments)

Committees may not solicit or accept contributions from foreign nationals. Federal law prohibits contributions and expenditures solicited, directed, received or made directly or indirectly by or from foreign nationals in connection with any election — federal, state or local. This prohibition includes contributions made to political committees. Furthermore, it is a violation of federal law to knowingly provide substantial assistance in the making, acceptance or receipt of contributions or in connection with federal and nonfederal elections to a political committee. This prohibition includes, but is not limited to, acting as an intermediary for foreign national contributions. (52 USCS Section 30121).) Contact the Federal Election Commission for information at (800) 424-9530 or info@fec.gov.

Federal Law Prohibitions: Contributions from National Banks or Federally-Chartered Corporations

National banks and federally-chartered corporations are subject to federal law prohibiting particular contributions and expenditures in connection with local, state, or federal elections. (The Federal Election Campaign Act, 52 USCS Section 30101, et seq. and specifically Section 30118; and see 11 C.F. R. Section 114.2.) Contact the Federal Election Commission for information at (800) 424-9530 or info@fec.gov.

Soliciting Contributions from Public Employees

Government Code Section 3205 prohibits a local candidate from knowingly, directly or indirectly, soliciting a political contribution from any employees of their agency or from a person on an employment list of that agency. There is an exception for solicitations that are made to a significant segment of the public. For further information, contact the Attorney General's office at (800) 952-5225 or the local district attorney.

C. Public Funds and Public Resources

Under Government Code Section 85300, the use of public moneys for the purpose of seeking elective office is prohibited unless:

- The governmental entity establishes a dedicated fund for this purpose by statute, ordinance, resolution, or charter; and
- Public moneys held in the fund are available to all qualified, voluntarily participating candidates for the same office without regard to incumbency or political party preference; and
- The state or local governmental entity has established criteria for determining a candidate's qualification by statute, ordinance, resolution, or charter.

QUICK TIP: Using public resources for campaign purposes is prohibited.

Please note that at the time of this publication, recently enacted provisions of Section 85300 are currently the subject of a court challenge. (See *Howard Jarvis Taxpayers Assn. v. Brown,* Super. Ct. Sacramento County, 2016, No. 34-2016-80002512.)

In addition, laws outside the Act prohibit the use of public resources, such as office equipment, staff time, etc., for campaign or personal purposes. (Education Code Section 7054; Gov. Code Section 8314; Penal Code Section 426; and *Vargas v. City of Salinas* (2009) 46 Cal 4th 1.)

Ex 5.2 - Three city councilmembers and two county supervisors serve on the Local Agency Formation Commission (LAFCO). Since the councilmembers and supervisors were appointed to the commission, they may not vote on a LAFCO issue if they have received a contribution in the last 12 months of more than $250 from someone who is a party, participant, or agent in the proceeding.

Government Code Section 54964 prohibits an officer, employee or consultant of a local agency from expending or authorizing the expenditure of any local agency funds to support or oppose a candidate or ballot measure. For further information about laws outside the Act, contact the Attorney General's office at (800) 952-5225 or the local district attorney.

D. Campaign Contributions and Disqualification

Campaign contributions received in connection with an elective office may serve as the basis for disqualifying an officer from voting on a matter affecting the contributor, and may limit the amount of a contribution an officer can receive from a contributor with certain matters pending before the officer's agency. These rules apply to decisions before both elected officers as well as appointed officers where the appointed officer is also a candidate for an elected office. Specifically, Government Code Section 84308:

- **Prohibits Contributions Over $250:** Prohibits an officer from soliciting, accepting, or directing campaign contributions of more than $250 from any party, participant, or agent of a party or participant, while a proceeding involving a license, permit, or other entitlement for use is pending before the officer's agency and for 12 months following the date of that decision. This prohibition applies even when the contribution is for another candidate.

- **Requires Disclosure:** Requires disclosure of all such campaign contributions and also requires an officer's disqualification from making decisions in certain proceedings if the officer has received more than $250 in campaign contributions from a party or participant within 12 months preceding the decision.

- **Permits Return of Contributions After Proceeding:** Permits an officer who does not willfully or knowingly accept, solicit, or direct a contribution of more than $250 during the 12 months after the date a final decision is rendered in the proceeding to cure the violation by returning the contribution, or the portion of the contribution in excess of the $250, within 14 days of accepting, soliciting, or directing the contribution, whichever comes last. An officer's controlled committee, or the officer themselves if no controlled committee exists, must maintain records of curing any violation.

- **Permits Return of Contribution While Proceeding is Pending:** Allows an officer who receives a contribution that would otherwise require disqualification, who returns the contribution within 30 days from the time the officer knows, or should have known, about the contribution and the proceeding involves a license, permit, or other entitlement for use, to participate in the proceeding.

Who is Covered?

Generally, appointed board members, commissioners, or individuals who head state or local government agencies and who make decisions in proceedings involving licenses, permits, or other entitlements for use are subject to Section 84308. Common positions include:

- Local agencies whose members are elected by the voters (e.g., board of supervisors, city council, school board)
- Planning Commissioners
- Local Agency Formation Commission (LAFCO) members
- Members of redevelopment agencies that are not entirely comprised of elected members of the same agency
- Transportation Authority members
- Air Quality Management District members
- Waste Management Authority members
- California Coastal Commissioners

Ex 5.3 - A planning commissioner serves as the treasurer for a councilmember's campaign. The planning commissioner may not solicit, accept, or direct a campaign contribution of more than $250 for the councilmember's campaign from a party, participant, or agent whose proceeding is pending before the planning commission.

Ex 5.4 - Sarah is a city council candidate. Sarah is also an appointed member of the city's planning commission. Christopher has a permit request pending before the planning commission. Sarah is prohibited from soliciting or receiving any contribution of more than $250 from Christopher or Christopher's agent.

Ex 5.5 - Sarah wins the election and resigns from the position on the planning commission. Sarah is now serving solely in an elected position. Sarah is still required to disqualifiy themself from making decisions in proceedings involving a license, permit, or entitlement for use on the city council if Sarah has received contributions of more than $250 from a party or participant in the proceeding within the preceding 12 months.

Exempted Agencies

Section 84308 does not apply to the following agencies:

- Judicial branch
- Legislature
- Board of Equalization (Gov. Code Section 15626 applies)
- Constitutional officers

QUICK TIP: Section 84308 applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

82015	Contribution.
84300	Cash and In-Kind Contributions; Cash Expenditures.
84301	Contributions Made Under Legal Name.
84302	Contributions by Intermediary or Agent.
84304	Anonymous Contributions.
84307	Commingling with Personal Funds.
84308	Contributions to Officers; Disqualification.
84309	Transmittal of Campaign Contributions in State Office Buildings.
85700	Donor Information Requirements; Return of Contributions.
85701	Laundered Contributions.
85702	Contributions from Lobbyists.
85704	Prohibition on Earmarking.

Title 2 Regulations and Opinion

18215	Contribution.
18432.5	Intermediary and Earmarked Funds Disclosure.
18438.1	Officers and Agencies Under Government Code Section 84308.
18438.5	Aggregated Contributions Under Government Code Section 84308.
18438.6	Solicitation, Direction, and Receipt of Contributions Under Government Code Section 84308.
18438.7	Prohibitions and Disqualification Under Government Code Section 84308.
18438.8	Disclosure Under Government Code Section 84308.
18439	Definition of “Personally Deliver.”
18572	Lobbyist Contributions – Making a Contribution Defined.

Pelham Opinion (2001) 15 FPPC Ops. 1

CHAPTER 6

Use of Campaign Funds

The use of campaign funds by candidates, elected officials, and others who control the expenditure of campaign funds, is strictly regulated. The expenditure of campaign funds must be reasonably related to a political, legislative, or governmental purpose.

If an expenditure confers a substantial personal benefit on the candidate, officeholder, or any individual authorized to approve campaign expenditures, the expenditure must be directly related to a political, legislative, or governmental purpose. A substantial personal benefit means an expenditure of campaign funds which results in a direct personal benefit with a value of more than $200.

The following are examples of specific expenditures and the rules regarding the use of campaign funds for such purposes. If the examples are not helpful, contact the FPPC for assistance about whether or not a specific use of campaign funds is permissible by sending an email with specific facts to advice@fppc.ca.gov.

QUICK TIP: Campaign funds must be used for political, legislative, or governmental purposes. The FPPC has fined committees for payments made from a campaign account that were used for the following personal purposes: auto care services, doctor visits, clothing, and personal life insurance premiums.

A. Campaign Expenditures

Election Night Celebrations

Costs associated with election night celebrations or similar campaign events are considered to be directly related to a political, legislative, or governmental purpose; therefore, campaign funds may be used.

Attorneys' Fees

Generally, attorneys' fees and other costs related to administrative, civil, or criminal litigation may only be paid with campaign funds if the litigation is directly related to activities of the committee that are consistent with its primary objectives. Campaign funds may be used to pay for expenses related to the following:

- Action to halt defamation;
- Defense of an action to halt defamation;
- Defense of an action for violation of state or local campaign, disclosure, or election laws;
- Litigation to secure a place on the ballot or challenge the wording of the ballot pamphlet;
- Contested election;
- Election recount; and
- Compliance expenses (for example, completing campaign disclosure reports).

Reimbursements

If a bank account is required (see Chapter 1), the candidate must deposit personal funds in the campaign bank account and make expenditures from that account instead of spending personal funds for the campaign and later seeking reimbursement from campaign funds. However, any other individual (e.g., a volunteer or campaign worker) may make expenses from personal funds and be reimbursed, so long as the expenses are incurred for political, legislative, or governmental purposes and repayment is made within 45 days. An officeholder may use personal funds and be reimbursed for "officeholder" expenses. (See Chapter 8 for specific reporting rules and deadlines for reimbursements.)

Ex 6.1 - The candidate's spouse buys bagels for the morning shift of volunteer workers. After providing the treasurer with a receipt for bagels, the treasurer may reimburse the spouse for their expenses so long as the reimbursement is made within 45 days of the payment.

Automobile Lease or Purchase

When making payments associated with leasing, purchasing, or operating a vehicle, such as insurance, maintenance, and repairs, the campaign committee must be the lessee or hold title to the vehicle. Additional titleholders may not be the candidate, officeholder, treasurer, or any other person who may approve campaign expenditures, or a member of any such person's immediate family (spouse or registered domestic partner and dependent children). Additional lessees may not be the candidate, officeholder, treasurer, or a member of any of these persons' immediate family.

Reimbursed Automobile Expenses

Campaign funds may be used to reimburse an officeholder, candidate, immediate family member, treasurer, and committee staff for use of a personal vehicle if the use is directly related to a political, legislative, or governmental purpose. Documentation should be kept which includes the trip's purpose and mileage in a manner approved by the Internal Revenue Service for deducting mileage expenses. The rate for reimbursement may not exceed that allowed under Internal Revenue Code Section 162. For more details, the Internal Revenue Service may be contacted at (800) 829-1040 (www.irs.gov).

Childcare Expenses

Campaign funds may be used to pay or reimburse a candidate for a dependent child's reasonable and necessary childcare expenses resulting *directly* from engaging in campaign activities. An officeholder may use campaign funds for childcare expenses resulting from directly engaging in campaign activity including that which is both political and legislative or governmental. Under the Act, "directly" means that the candidate would not have otherwise incurred the childcare expenses if not for the candidate engaging in campaign activities.

Under the Act, “childcare expenses” include the reasonable costs of:

- Professional daycare services
- Babysitting
- Nannying services
- Food and beverages
- Transportation to and from the location of a childcare services provider
- Before and after school programs
- Summer day camps
- Preschool
- Costs related to a nurse, home care provider, or other care provider for a disabled dependent child

Prohibited uses of campaign funds for childcare expenses include:

- Private school tuition
- Medical expenses
- Tutoring services
- Payments to a relative within the third degree of consanguinity, unless the relative owns or operates a professional daycare or babysitting service for which the cost is no greater than the relative would otherwise charge.

Clothing

The purchase of clothing is a personal expense. The committee may not use campaign funds to pay for a candidate’s business or casual clothing. Specialty clothing, such as formal wear worn by an officeholder or candidate, may be purchased with campaign funds if the use of such clothing is directly related to a political, legislative, or governmental purpose.

Ex 6.2 - A candidate has been asked to attend a formal event honoring the mayor. Since they do not own a tuxedo, they may rent one with campaign funds since the event is directly related to a political purpose.

Contributions to Other Candidates and Committees

Candidates may make contributions to other candidates and committees unless prohibited by local rules. Contributions to certain state committees are subject to limitations.

Donations

Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations as long as the donation or loan is reasonably related to a political, legislative, or governmental purpose. In addition, the donation may not personally benefit the officeholder, candidate, committee treasurer, or any individual with authority to approve the expenditure of campaign funds, or any such person's immediate family member (spouse or registered domestic partner and dependent children).

Ex 6.3 - A fundraiser will be held to raise funds for a veteran's memorial at the local civic center. The committee is permitted to donate campaign funds because the payment has a political, legislative, or governmental purpose.

Ex 6.4 - Your committee would like donate funds to a homeless shelter where your spouse is a salaried employee. It is determined that a substantial part of the proceeds would benefit your spouse; therefore, this expenditure is not permissible.

Equipment and Appliances

Campaign funds may be used to buy, lease, or refurbish equipment or appliances, but only if their use is directly related to a political, legislative, or governmental purpose. As with restrictions on vehicles, the committee must hold title, or be the lessee, on the equipment; no individual may be listed as owner or lessee.

> **Ex 6.5 -** When the printer breaks down, the treasurer goes out and buys a new one. While shopping, the treasurer finds a great buy on a big screen TV. While the printer is a permissible expense, since it will be used to communicate with the voters, the television does not serve a directly-related political, legislative, or governmental purpose and, therefore, may not be paid for with campaign funds.

Fines, Penalties, Judgments, and Settlements

Generally, campaign funds may be used to pay the following fines, penalties, judgments, and settlements:

- Parking citations received while performing political, legislative, or governmental activities
- Fines assessed in relation to situations in which the use of campaign funds to pay for an attorney is allowed (discussed above)
- Fines imposed for late filing of campaign statements and Statements of Economic Interests (Form 700)

> **Ex 6.6 -** Your treasurer was two days late in filing the committee's first preelection statement and the filing officer fined the committee $20. The committee may pay the fine with campaign funds.

But campaign funds of any amount may not be used to pay a fine, penalty, judgment, or settlement relating to an improper use of campaign funds or an action involving bribery under Penal Code Section 86.

A candidate or officeholder may not use any funds to pay or be reimbursed for a penalty, judgement or settlement related to a claim of sexual assault, sexual abuse or sexual harassment filed against the candidate or officeholder in any civil, criminal or administrative proceeding.

A candidate or officeholder may use legal defense committee funds for *other* legal costs and expenses related to claims of sexual assault, sexual abuse or sexual harassment, but if the candidate or officeholder is held liable, the candidate or elected officer must reimburse the legal defense fund for all funds used in connection with those other legal costs and expenses.

"Sexual assault" and "sexual abuse" have the same meaning as provided in Penal Code Section 11165.1. "Sexual Harassment" has the same meaning as found in Government Code Section 12940(j).

Food

A committee may use campaign funds to purchase a meal with a cost of $200 or less, so long as the expenditure is reasonably related to a political, legislative, or governmental purpose. However, if the aggregate cost of the meal is more than $200, the expense must be directly related to one of these purposes. When a candidate controlled committee reports itemized expenditures for gifts, meals, or travel, specific details must be included as described in Chapter 8.

> **Ex 6.7 -** An officeholder attends a dinner sponsored by the police department to honor a local good Samaritan. Since the expenditure is directly related to a governmental purpose, the campaign may pay for their attendance even if the total cost is more than $200.

Future Election

Campaign funds leftover after an election may be redesignated for a future election to seek the **same office** in a city or county that has enacted its own contribution limit so long as the funds are not "surplus funds." If the city or county has not enacted its own contribution limit, campaign funds leftover must be deposited in a new bank account for reelection to the same office. (Note: Candidates for a city or county office in a jurisdiction that has enacted a local contribution limit should check with the local jurisdiction to determine if there is a local ordinance that does not allow a candidate to use the same committee for a future election.) In addition, campaign funds leftover after an election may be transferred to a new bank account for a future election to seek a **different office** so long as the funds are not "surplus funds." There is a discussion on when leftover funds become "surplus funds" at the end of this chapter. See Chapter 11 for the other requirements that must be met in order to use the funds for election to a future office.

Gifts

Unless directly related to a political, legislative, or governmental purpose, personal gifts may not be paid for with campaign funds. However, gifts of less than $250 in a calendar year to campaign employees or workers are permitted because they are considered to be directly related to a political, legislative, or governmental purpose. When a candidate controlled committee reports itemized expenditures for gifts, meals, or travel, specific details must be included as described in Chapter 8.

Health-Related Expenses

A committee may use campaign funds to pay for health care benefits for its employees or independent contractors. However, campaign funds may not be used to pay for other health-related expenses such as health club dues, special dietary foods, or medical check-ups.

Independent Expenditures

Government Code Section 85501 states that a candidate controlled committee may not make independent expenditures and may not contribute funds to another committee for the purpose of making independent expenditures to support or oppose other candidates.

However, a recent Sacramento County Superior Court decision in *Charles R. "Chuck" Reed v. Fair Political Practices Commission* found Section 85501 unconstitutional and enjoined the Commission from enforcing that provision.

Before making an independent expenditure to support or oppose another candidate, committees should seek advice from the FPPC. An advice letter (Downing, No. A-14-148) has been issued on the matter.

A candidate controlled committee for elective office may make independent expenditures to support or oppose a ballot measure.

Loans

Campaign funds may be used to make loans to other political committees, subject to applicable limits, if any. Transfers from a local candidate's committee to their state committee must be attributed to the original contributors. See Campaign Disclosure Manual 1 for State Candidates for more information on transfers and attribution.

Campaign funds may also be used to make loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations, so long as the loan does not personally benefit the officeholder, candidate, committee treasurer, or any individual with authority to approve the expenditure of campaign funds, or any such person's immediate family member. The loan must be reasonably related to a political, legislative, or governmental purpose. Campaign funds may not be loaned to an individual or to an entity other than those described above.

Professional Services

When the committee reasonably requires the services of professionals, such as accountants or attorneys, their fees may be paid with campaign funds as these expenditures are considered to be directly related to a political, legislative, or governmental purpose. (See below for restrictions on salary and compensation.)

Real Property

The committee may not purchase real property. It may, however, lease property for up to one year, so long as its use is directly related to a political, legislative, or governmental purpose. The candidate, officeholder, committee treasurer, any individual with authority to approve the committee's expenditures, or an immediate family member of any of these persons may not be a lessee or sublessor, or hold legal title to the leased property.

Recurring Contributions

A "recurring contribution" is a contribution from a person to a candidate or committee that is automatically charged to the person's bank account, credit card, or other payment account on a repeated basis, such as weekly or monthly, without approval or any other affirmative consent by the person after their initial contribution to the candidate or committee.

A committee must obtain affirmative consent from a person making a recurring contribution at the time of the initial contribution. Any solicitation for a recurring contribution must be in a form that requires affirmative consent from the person making the contribution. Passive action by the contributor, such as failing to uncheck a pre-checked box authorizing a recurring contribution, does not meet the requirement of affirmative consent. A committee that accepts a recurring contribution is required to provide a receipt for each contribution, provide information necessary to cancel the recurring contribution, and immediately cancel a recurring contribution upon request.

A recurring contribution accepted in response to a solicitation that did not require affirmative consent must be returned to the contributor within 14 days of the earlier of the following:

- receipt of a request from the contributor to return the contribution, or
- the date on which the candidate or committee becomes aware that the solicitation of the recurring contribution was in violation of the Act.

A contribution accepted after a contributor requested to cancel a recurring contribution must be returned to the contributor within 14 days of the request to cancel the recurring contribution.

Refunding Contributions

The return of contributions to contributors is permitted.

Returning Contributions Lacking Contributor Information

When a contribution of $100 or more is received in a calendar year from a single contributor, the committee must disclose the contributor's name and address, and, if the contributor is an individual, their occupation and employer. If the committee does not have this information in its records within 60 days of receipt of the contribution, it must be returned to the contributor. (See Chapter 2.)

> **Ex 6.8 -** Paula Greene, a member of Supervisor Howard's staff, is also the treasurer of the Supervisor's campaign committee. Paula does all recordkeeping for the committee and completes the committee's campaign reports. Paula also has authority to approve committee expenditures. Campaign funds may be used to pay Paula Greene for services Paula provides as committee treasurer. Funds may not be used to supplement or pay her government salary.

Salary and Compensation

The candidate or officeholder, or any individual authorized to approve the committee's expenditures, may not receive a salary or other compensation from the committee for the performance of political, legislative, or governmental activities. However, the committee may pay for professional services such as an accountant or treasurer, even if the accountant or treasurer has authority to sign committee checks.

A spouse or domestic partner of an elected officer or a candidate for elective office may not receive, in exchange for any services rendered, compensation from campaign funds held by a controlled committee of the officer or candidate.

Security Systems

A candidate may use campaign funds to purchase an electronic security system. To do so, the candidate must have received threats to their physical safety because of their status as a candidate or elected official and the incidents must be verified by an appropriate law enforcement agency. No more than $5,000 may be spent and a report to the FPPC is required.

Effective January 1, 2020, campaign funds may be used to pay for, or reimburse the state for, the installation and monitoring of hardware, software, and services related to the cybersecurity of the electronic devices of a candidate, elected officer, or campaign worker. Any expenditure of campaign funds for these purposes must be reported on the candidate or elected officer's campaign statements.

Tickets for Entertainment and Sporting Events

Campaign funds may not be used to purchase entertainment and sporting event tickets for use by the candidate or officeholder, or staff of the committee, unless attendance at the event is directly related to a political, legislative, or governmental purpose.

Ex 6.9 - Candidates for the office of mayor have been offered the chance to speak during half-time at the local college football game. Campaign funds may be used to purchase tickets for the candidates and committee staff to attend, but only because they will be speaking.

Tickets to Political Fundraisers

A committee may purchase tickets to political fundraisers (subject to any applicable contribution limits) for the candidate, officeholder, or their immediate family, or an officer, director, employee, or staff of the committee or the officeholder's governmental agency.

Travel

A committee may use campaign funds to pay for travel or accommodations for the candidate or officeholder, any individual with authority to approve the committee's expenditures, or staff of the committee so long as the standards set by Internal Revenue Code Sections 162 and 274 (deduction of travel expenses for tax purposes) are complied with. Contact the Internal Revenue Service at (800) 829-1040 for more information. When a candidate controlled committee reports itemized expenditures for gifts, meals, or travel, specific details must be included as described in Chapter 8.

Airline Mileage Programs

Some airlines have mileage programs that allow individuals to earn free tickets or other awards. These mileage credits and awards belong to the individual traveler, not the committee. The committee is not required to report either the receipt of the mileage credit awards or the redemption of the credits.

B. Surplus Funds

There are restrictions on how campaign funds held by an elected officeholder or candidate may be spent once the funds become "surplus." Surplus funds may not be used for a future election. See Chapter 11 for information about all requirements that must be met in order to use leftover campaign funds for a future election before the funds become surplus.

Campaign funds held by an officeholder become surplus on the 90th day after the officeholder leaves the office for which the funds were raised, or on the 90th day after the end of the postelection reporting period following their defeat, whichever occurs last. Campaign funds held by a non-incumbent defeated candidate or a candidate that withdrew become surplus on the 90th day after the postelection reporting period following the election. The end of the postelection reporting period is June 30 for elections held during the first six months of the calendar year and December 31 for elections held during the last six months of the calendar year.

Surplus funds may only be used to make the following expenditures:

- Payments for outstanding campaign debts or officeholder expenses.
- Refunds to contributors.
- Donations to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, provided no substantial part of the proceeds will have a material financial effect on the candidate, on any member of the candidate's immediate family (spouse or registered domestic partner and children), or the campaign treasurer.
- Contributions to a political party committee, so long as the funds are not used to make contributions in support of or opposition to a candidate for elective office. (For example, funds earmarked for overhead expenses.)

- Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.

- Payments for professional services or attorneys' fees for litigation that arises out of campaign or election activities.

- Payment for an electronic security system. Contact the FPPC for information about specific requirements that must be met.

Answering Your Questions

A. Are there private firms that provide treasurer or campaign reporting services?

Yes. The FPPC does not endorse or recommend any particular private firm. Candidates may find useful information on the websites of the California Political Attorneys Association and the California Political Treasurers Association.

B. I am a candidate for a local office. It appears that I won't have any problem winning my seat. I would like to return some of my contributions to my contributors. May I do this?

At any time during the campaign, you may return all or part of a contribution to your contributors.

C. I am a candidate. I make long-distance phone calls on my home phone to request support from organizations statewide. How may I pay for them?

When the bill arrives and there are additional charges that can be directly attributed to the campaign activity, the committee should pay for that portion. If the personal charges are not changed by the campaign activity, there is no reporting required.

D. May I use campaign funds to pay a babysitter for the evenings that I am out campaigning?

Yes. Candidates may use campaign funds to pay for babysitting services for events that are directly related to campaign activity because the candidate would not have otherwise incurred childcare expenses if the candidate did not engage in the campaign activity.

E. As a candidate, I will be using my personal car to get around during the campaign. Is mileage considered a reportable contribution if I do not want to be reimbursed?

No. Incidental use of your personal car for campaign purposes is not considered a contribution and is not reportable.

F. May I use campaign funds to have an additional telephone line put in my home?

Yes, as long as the additional phone line is used for campaign purposes only. If, after the campaign, you choose to retain the additional phone line for personal purposes, you must pay the campaign what it would cost to install an additional line at that time.

G. Is it permissible to use campaign funds to pay an independent contractor (e.g., the campaign consultant) additional money if I win my election?

Yes. You may use campaign funds to pay a contractor for fees that are part of the written contract.

H. May I host a victory party or give bonuses to my campaign workers?

Yes. In most cases, the bonuses would be considered gifts and would be limited to $250 per calendar year.

I. I lost my election and have funds remaining. May I, a non-incumbent, use the leftover funds to run again in two years?

If you wish to use funds left over from an unsuccessful race for a future election to the same office, file a new Form 501 and amend your existing Form 410 within 90 days after the end of the postelection reporting period. For elections occurring in the first six months of the calendar year, the end of the postelection reporting period is June 30. For elections occurring in the last six months of the calendar year, the end of the postelection reporting period is December 31. If you plan to run for a different office, file a new Form 501, transfer the funds to a new campaign bank account, and file a new Form 410. If the funds become "surplus," they may not be used for a future election.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

82022.5	Election-Related Activities.
82025	Expenditure.
82044	Payment.
84307.5	Fundraising Payments Made to a Spouse or Domestic Partner.
85201	Campaign Bank Account.
85304.5	Legal Defense Fund; Local Candidates and Elected Officeholders.
85501	Prohibition on Independent Expenditures by Candidate Controlled Committees.
85700	Donor Information Requirements; Return of Contributions.
85710.5	Recurring Contributions
89511	Campaign Funds Held by Candidates and Committees.
89511.5	Use of Personal Funds for Incumbent Elected Officers.
89512	Expenditures Associated with Seeking or Holding Office.
89513	Use of Campaign Funds for Specific Activities.
89514	Use of Campaign Funds for Attorney's Fees.
89515	Use of Campaign Funds for Donations and Loans.
89516	Use of Campaign Funds for Vehicle Expenses.
89517	Use of Campaign Funds for Real Property, Appliances or Equipment.
89517.5	Use of Campaign Funds for Security System.
89517.6	Use of Campaign Funds for Cybersecurity System.
89518	Use of Campaign Funds for Compensation.
89519	Use of Surplus Campaign Funds.

Title 2 Regulations

18526	Reimbursement of Expenditures.
18530.45	Legal Defense Funds – Local Candidates and Officers.
18570	Return of Contributions with Insufficient Donor Information.
18951	Surplus Funds.
18960	Direct Personal Benefit Defined.
18961	Incidental Use.

CHAPTER 7

COMMUNICATIONS

Campaigns reach the voters through political communications including television, radio, and Internet advertising, mailers, billboards, precinct-walking, and flyers. The Political Reform Act (Act) requires that committees report most payments in connection with political communications as direct expenditures, nonmonetary contributions to the campaign, or independent expenditures. As discussed below, however, certain types of communications may not be reportable at all, or may be subject to special reporting requirements. This chapter reviews common communications in a campaign and how payments for the communications are reported.

The Act also requires "paid for by" disclosures on campaign ads to inform voters who is paying for the communication. Chapter 7 discusses the disclosure requirements that apply to communications, including mass mailings, made by candidate controlled committees for their own election and communications made by non-controlled committees that are primarily formed to support or oppose a candidate.

A. Payments for Communications Made by Candidate's Campaign

In most cases, a candidate's campaign committee will be funding the bulk of the communications to elect that candidate to office. When a candidate's campaign committee makes expenditures for communications in furtherance of the candidate's election, the committee simply reports these direct expenditures. The expenditures are reported on the committee's Form 460, Schedule E, as described in Chapter 8.

B. Payments for Communications Made by Others

Generally, when someone other than the candidate or their committee pays for a communication that expressly advocates support of the candidate, and the communication is coordinated with or "made at the behest" of the affected candidate, the candidate has received a **nonmonetary contribution** that must be reported by the candidate's controlled committee.

Payments for communications expressly advocating support of or opposition to a candidate, which are not coordinated with or made at the behest of the candidate, are **independent expenditures**, and the affected candidate is not required to report the payments; however, the person making the independent expenditure may have reporting obligations.

Whether a communication is a contribution, an independent expenditure, or some other type of reportable payment depends on several facts, including whether the communication "expressly advocates" support of or opposition to a clearly identified candidate or ballot measure. The information and examples below may be of assistance in making that determination. However, it is impossible to address all of the types of communications in a campaign. If presented with specific facts, FPPC staff may provide assistance.

> **QUICK TIP:** If a third party pays for communications supporting or opposing the election of a candidate, these may be nonmonetary contributions to the candidate, if coordinated with the candidate, or independent expenditures.

Communications paid for by a candidate's controlled committee to support their own candidacy, or to oppose their opponent, are direct campaign expenditures, not contributions or independent expenditures.

In most cases, communications paid for by a non-candidate controlled committee primarily formed to support or oppose a candidate are considered contributions or independent expenditures.

Coordinated Communications - Nonmonetary Contributions

When someone other than the candidate or their committee pays for a communication that is coordinated with or "made at the behest" of the candidate or their committee, the payment for the communication is a nonmonetary contribution to the affected candidate.

Coordination – "Made at the Behest"

A payment is coordinated with or "made at the behest" of the candidate or committee under each of the following situations:

- It is made at the request, suggestion, or direction of, or in cooperation, arrangement, consultation, concert, or coordination with the candidate or committee on whose behalf, or whose benefit the expenditure is made.

- The candidate or committee has made or participated in making any decision about the content, timing, location, mode, intended audience, volume of distribution, or frequency of placing the communication.

- A creator, producer, or distributor of the communication, or the person paying for the communication has had a discussion with the candidate or committee regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placing the communication.

There is a rebuttable presumption that an expenditure funding a communication is **coordinated** with **or "made at the behest"** of a candidate or committee if:

- **Committee's Needs.** It is based on information about the candidate's or committee's campaign needs or plans provided by the candidate or committee to the person making the expenditure, such as information concerning campaign messaging, planned expenditures, or polling data.

- **Agent.** It is made by or through any agent of the candidate or committee in the course of the agent's involvement in the current campaign. "Current campaign" means the period beginning 12 months prior to the date of the primary or special

election in which the candidate is on the ballot for an elective office and ending on the date of the general or special runoff election for that office.

QUICK TIP: When a communication that expressly advocates support of a candidate is paid for by someone other than the candidate or their committee, and the communication is "made at the behest" of the affected candidate, the candidate must report the payment as a nonmonetary contribution.

- **Common Consultants.** The person making the expenditure retains the services of a person who provides either the candidate or the committee supporting or opposing the ballot measure with professional services related to campaign or fundraising strategy for the current campaign.

- **Republication.** The communication replicates, reproduces, republishes, or disseminates, in whole or substantial part, a communication, including video footage, designed, produced, paid for, or distributed by the candidate or committee.

- **Fundraising.** The committee making the expenditure is primarily formed to support the candidate or oppose their opponent and in the course of the current campaign, the candidate who benefits from the expenditure solicits funds for or appears as a speaker at a fundraiser for the committee making the expenditure.

- **Former Staff.** The person making the expenditure is established, run, or staffed in a leadership role, by an individual who previously worked in a senior position or advisory capacity on the candidate's or officeholder's staff within the current campaign.

- **Candidate's Family.** The person making the expenditure is established, run, staffed in a leadership role, or principally funded by an individual who is an immediate family member of the candidate.

However, an expenditure is **not considered to be coordinated** with or made at the behest of a candidate or committee based solely on any of the following circumstances:

- **Interview.** A person interviews the candidate on issues affecting the person making the expenditure.

- **Candidate Material.** The person making the expenditure has obtained a photograph, biography, position paper, press release, or similar material from the candidate or the candidate's agents.

- **General Request for Support.** The person makes the expenditure in response to a general, non-specific request for support by a candidate or committee, provided that there is no discussion with the candidate or committee prior to the expenditure relating to details of the expenditure.

- **Public Appearance.** The person making the expenditure has invited the candidate or committee representative to make a public appearance before the person's members, employees, shareholders, or their families, provided that there is no discussion with the candidate or committee prior to the expenditure related to details of the expenditure.

- **Prior Contribution.** The person making the expenditure has made a contribution to the candidate or committee.

- **Informed after the Expenditure is Made.** A person informs a candidate or committee that the person has made an expenditure, provided that there is no exchange of information, not otherwise available to the public, relating to details of the expenditure.

- **Expenditure Benefits Another Candidate or Committee.** The expenditure is made at the request or suggestion of the candidate or committee for the benefit of another candidate or committee.

- **Hyperlink.** The communication includes a hyperlink to the Internet website or other social media page of a candidate or ballot measure committee.

FPPC Regulation 18225.7, summarized above, specifies when a communication is considered independent versus made at the behest of a candidate or committee. Because the determination is based on specific facts, persons are encouraged to contact the FPPC for guidance.

Independent Expenditures

An independent expenditure is a payment for a communication that:

- **Expressly advocates** the election or defeat of a **clearly identified candidate** or the qualification, passage or defeat of a clearly identified measure, and
- The communication is **not coordinated** with or "made at the behest" of the affected candidate or committee.

Clearly Identified Candidate

A communication clearly identifies a candidate when it uses the candidate's name, photograph, or status as a candidate or officeholder. If a communication includes a group of candidates and refers to some well-defined characteristic of the group, the candidates are clearly identified even if it does not use specific names.

> **QUICK TIP:** When a communication that expressly advocates support of a candidate is not "made at the behest" of the affected candidate, the payment is considered an independent expenditure and the candidate does not report the payment. The person making the payment may have reporting obligations.

Express Advocacy

A communication expressly advocates support of or opposition to a clearly identified candidate under the following scenarios:

- **Magic Words.** The communication uses words such as "vote for," "elect," "support," "cast your ballot," "vote against," "defeat," or "reject."

Ex 7.1 - An individual paid $4,000 for a newspaper ad stating "Vote for Autumn Gomez." The communication expressly advocates support for a clearly identified candidate and must be reported either as a contribution if it was made at the candidate's behest or as an independent expenditure if it was not.

Later, the same individual paid $2,000 for post card-sized flyers that simply stated, "Vote on Election Day." This communication is not reported as a contribution or independent expenditure because it did not expressly advocate support of or opposition to a candidate or measure.

Ex 7.2 - Friends of Gomez, a non-candidate controlled committee primarily formed to support Autumn Gomez's candidacy, printed campaign literature stating, "Vote for Autumn Gomez." The communication included a copy of a photograph the committee obtained from the public information counter at Autumn Gomez's campaign headquarters. Autumn Gomez did not in any way coordinate with the committee in producing the campaign literature. Therefore, the committee made an independent expenditure, not a contribution to Autumn's Gomez's campaign.

On the other hand, if the committee contacted Autumn Gomez and arranged for a professional photographer to meet for the purpose of taking photographs for the mailer, the committee would be making a nonmonetary contribution to Autumn Gomez's campaign.

Ex 7.3 - During Curt Anthony's campaign, two newspaper advertisements supporting Curt Anthony were published without Curt Anthony's knowledge or consent. Because the payments for these communications were not coordinated with Curt Anthony or made at Curt Anthony's behest, they were independent expenditures by the person(s) funding the ads and were not reportable by Curt Anthony's campaign. The person(s) who paid for the ads may have a filing obligation.

- **Unambiguously Urges.** The communication is made within 60 days prior to an election, it refers to a clearly identified candidate, and when taken as a whole, it unambiguously urges a particular result in an election. The message must be susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

A committee or person making independent expenditures must be aware that the communication cannot be coordinated with the affected candidate or measure committee. If there is coordination, the payments are reported as contributions.

C. Other Communications

Endorsements

An endorsement of a candidate may become a contribution or an independent expenditure when a payment is made in connection with the endorsement.

Frequently, a candidate will publish their endorsement by another official. As long as the communication does not advocate the election of the endorsing official (or the defeat of that official's opponent), a payment made to communicate the endorsement is not a contribution to the endorsing candidate or official, even though the endorsement was made at the behest of both individuals.

If a candidate pays for a communication supporting their own candidacy that also supports or opposes a ballot measure, the payment is not a contribution or independent expenditure made in connection with the ballot measure.

Ex 7.4 - The president of a police officers' association announces at its annual meeting that the association endorses John Law for county sheriff. Merely making an oral endorsement is not a contribution to or independent expenditure for John Law. Closer to the election, at the request of candidate John Law, the association mails a special flyer to the voters announcing its endorsement of John. Because the mailing was made at the behest of the candidate, the association has now made a nonmonetary contribution to John Law.

Ex 7.5 - A city council candidate paid for a mailing which quoted the mayor's verbal endorsement of their candidacy. Although the mayor was also on the ballot, the flyer was not a contribution to the mayor.

Ex 7.6 - Emmelyn Chin, a city council member running for reelection, sent out a flyer to registered voters in Emmelyn's district asking them to support Emmelyn's candidacy. The flyer also encouraged the voters to vote for Lorraine Sweet for Governor, although this endorsement was not made at Lorraine's behest. Because the gubernatorial election and city council election would appear on the same ballot for those living in Emmelyn Chin's district (and the flyer was sent only to voters in that district), the payment for the flyer is not an independent expenditure supporting Lorraine Sweet.

If a candidate pays for a communication that supports another candidate, and the payment is not made at the behest of the endorsed candidate, the payment is not considered to be an independent expenditure if: (1) the candidate paying for the communication also is included in the communication; (2) the non-paying candidate is listed on the same ballot as the paying candidate; and (3) the communication is targeted only to potential voters in the paying candidate's district.

QUICK TIP: See Chapter 7 for the disclosure and sender identification requirements for mass mailings sent by a candidate-controlled committee or a committee primarily formed to support or oppose a candidate.

Social Media – Internet Communications

Paid Advertisements on the Internet. A paid advertisement that a candidate or committee places on the Internet is reportable under the Act. A candidate or committee that pays to place a communication on another person's website must report the expenditure on a campaign statement. Similarly, a candidate must report a payment to purchase email addresses or any payment for general or public advertisements on Internet sites.

Ex 7.7 - John is running for school board and John's neighbor George posts support for John's candidacy on Facebook. In George's Facebook post, George includes a picture of John that George got from John's website. The communication is not reportable because George was not paid for the Facebook post.

Uncompensated Individuals' Internet Activity. When an individual who is not compensated by a candidate or committee sends communications over the Internet (e.g., emails, social networking, blogging, website postings, and hyperlinks) that support or oppose a candidate or measure, these activities do not constitute reportable contributions or expenditures. Regulation 18215.2 creates a "safe harbor" for uncompensated individuals' political activity on the Internet.

Paid Blogger. The safe harbor for an individual's uncompensated Internet activity does not apply to a blogger a committee pays to support or oppose a candidate or measure. The committee must report payments to that individual. The safe harbor also does not apply to a blogger who receives a majority of their advertisement revenue from a single candidate or committee because they are not considered to be providing uncompensated personal services.

Ex 7.8 - Camille is running for local office and pays Julia to post a message on Julia's blog supporting Camille's candidacy. Camille's committee must report the payment as an expenditure on the Form 460.

D. Non-Contributions

There are some communications that are not considered to be contributions to the candidate or the candidate's controlled committee.

Ex 7.9 - The League of Women Voters invited all candidates for city council to speak at a forum. Only one candidate attended, but since at least two candidates running for the same office were invited, the cost of the forum is not a contribution to the candidate who attended.

Debates

If a nonpartisan organization hosts a debate or other forum and invites at least two opposing candidates, a payment for the event is not a contribution to the candidates.

Similarly, a payment for a debate or forum sponsored by a political party or a committee affiliated with a political party is not a contribution if a majority of the candidates for the party's nomination are invited to participate.

Ex 7.10 - At a union's regularly-scheduled monthly meeting, one candidate was invited to solicit votes. The union did not incur any additional costs in connection with the speaker's presentation, so no contribution was made.

Meetings

A payment made by a bona fide service, social, business, trade, union, or professional organization for reasonable overhead expenses associated with a regularly-scheduled meeting at which a candidate speaks is not a contribution if the organization pays no additional costs in connection with the speaker's attendance.

Non-Political Communications

A payment made at the behest of a candidate for a communication by the candidate or any other person is not a contribution to the candidate if the communication:

- Does not contain express advocacy;
- Does not refer to the candidate's election campaign, or their opponent's qualifications for office; and
- Does not solicit contributions to the candidate or to third persons for use in support of or opposition to the candidate.

Member Communications

Payments made by an organization or its sponsored committee for a communication that supports or opposes a candidate are not contributions or expenditures as long as the communication is made only to the organization's members, employees, or shareholders, or the families of its members, employees, or shareholders. The payments may not be for general public advertising, such as billboards, newspaper ads, or radio or television ads. If the organization's sponsored committee makes the payments, the committee would report the payments as being made for general member communications.

Payments made by a political party for a communication that supports a candidate are not contributions to the candidate as long as the communication is distributed only to the party's members, employees, and families of its members and employees. The party must report the payments, however, as if they were contributions or independent expenditures.

> **Ex 7.11 -** Your campaign consultant asks a labor organization to send a mailing supporting your election. The mailing will be sent only to the organization's membership. The mailing is not a contribution to you. Later, the campaign consultant asks the organization to send the mailing to all registered voters in your district. The mailing to the voters is a contribution to you.

Ex 7.12 - The Green Party pays for a mailing supporting your candidacy to all of its members five days before your election. The cost of the mailing exceeds $1,000. The Party must file a Form 497 (24-Hour/10 Day Contribution Report). You are not required to disclose the mailing as a contribution.

News Stories

A payment for the cost of publishing or broadcasting a news story, commentary, or editorial is not a contribution when the payment is made by a federally regulated broadcast outlet or a regularly published newspaper, magazine or other periodical of general circulation that routinely carries news, articles, and commentary of general interest.

Voter Registration

A payment made at the behest of a candidate as part of voter registration or get-out-the-vote activities is not a contribution if the communication does not expressly advocate support of or opposition to the candidate.

Ex 7.13 - At the behest of an elected official, an organization paid for a voter registration booth at a local fair. No other literature was distributed at the booth. The payment for the voter registration booth was not a contribution to the official.

Voting Records

An entity may publish the voting records of public officials. As long as only the voting records are published, the communication is not considered a contribution or an independent expenditure.

Answering Your Questions

A. A labor union pays for a mailing advocating the election of a candidate for city council. The mailing list includes both union members and non-union members and 20% of the mailing costs are attributed to non-union members. Must the candidate report the full cost of the mailing as a non-monetary contribution?

No. The candidate may pro-rate the cost and report as a nonmonetary contribution only the mailing costs for the non-union members.

B. A representative of an environmental organization interviewed a candidate for county supervisor about issues affecting the environment. Later, the candidate learned that the organization paid for a radio advertisement advocating the election of that candidate. Must the candidate report a nonmonetary contribution?

No. An expenditure is not made at the behest of a candidate just because a person interviews the candidate on issues affecting the person making the expenditure. As long as the candidate did not coordinate with the organization to produce the advertisement in any other way, the organization made an independent expenditure, not a contribution to the candidate.

C. I was elected to the city council in November. May I assist an independent expenditure committee that supported my candidacy in retiring its debt now that the election is over?

No. An “independent expenditure” is made without the coordination, cooperation, or consultation of the candidate. If you assist the committee, the expenditures are not considered independent.

D. I am a law enforcement officer running for city council. Is it permissible to wear my law enforcement uniform in my campaign literature?

The Political Reform Act does not contain restrictions related to a candidate wearing a law enforcement uniform; however, other laws may apply. Candidates should contact the District Attorney or City Attorney.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

82015	Contribution.
82025	Expenditure.
82031	Independent Expenditure.
82041.3	Made at the Behest of.
82044	Payment.
82047	Person.
84211	Contents of Campaign Statement.
85312	Communications to Members of an Organization.

Title 2 Regulations

18215	Contribution.
18215.2	Uncompensated Internet Activity by Individuals that is not a Contribution or Expenditure.
18225.7	Made At the Behest; Independent versus Coordinated Expenditures.
18421.5	Reporting an Expenditure for Paid Online Communications.
18450.1	Definitions. Advertisement Disclosure.
18531.7	Payments for Communications – Section 85312.

Advertisement Disclosures

CHAPTER 8

This chapter describes the disclosures required by the Political Reform Act ("Act") on mass mailings and other advertisements made by candidate controlled committees and committees primarily formed to support or oppose a candidate. A disclosure is the portion of a political message that identifies the committee that paid for and authorized the communication. The basic disclosure for a communication made by a candidate's committee for their own election is "paid for by [committee name]." The disclosure ensures that the committee paying for the ad is identified. The Act does not regulate the truth or accuracy of political communications given that the First Amendment provides broad protection for political speech.

Disclosure Example:



A. Which Communications Require an Ad Disclosure?

Candidate Controlled Committees

Under the Act, a candidate controlled committee must include a disclosure on mass mailings and certain telephone calls advocating the candidate's own election. In addition, radio and television advertisements require a "paid for by" disclosure. The Act does not require a specific disclosure on other communications, such as billboards and yard signs, when they are paid for by a candidate controlled committee in support of the candidate's own campaign. However, the FPPC recommends placing "paid for by [committee name]" and the committee's ID number on all public campaign materials.

Primarily Formed Committees Making Independent Expenditures

Under the Act, committees that are primarily formed to support or oppose a candidate must include a disclosure on the following communications:

- Mailings, including emails
- Paid telephone calls
- Radio ads
- Television and video ads
- Electronic media ads, including audio only ads
- Newspaper and magazine ads
- Billboards
- Yard signs
- Door hangers
- Flyers
- Posters

QUICK TIP: Check with your local elections office for rules on the placement of campaign signs and any local advertisement disclosure rules. Also check the rules on placing temporary political signs in California's Outdoor Advertising Act Sec. 5405.3, on the Department of Transportation's website.

Advertisement Disclosure Exceptions

Generally, a disclosure is not required on the following advertisements:

- Regular-size campaign buttons and bumper stickers, pins, or magnets
- Pens, pencils, rulers, mugs, potholders, key tags, golf balls and similar small campaign promotional items where a disclosure cannot be conveniently printed
- T-shirts, caps, hats, and other articles of clothing
- Skywriting and airplane banners
- Committee checks and receipts

Online Platform Disclosed Advertisement Requirements

Please note that advertisements that are "online platform disclosed advertisements" have different disclosure requirements than other types of online advertisements. "Online platform disclosed advertisements" are either (1) electronic media advertisements made via an online platform that allows users to engage in discourse and post content, or any other type of social media, for which the committee pays the online platform or (2) electronic media advertisements that are in the form of a graphic, image, animated graphic, or animated image that an online platform hosting the advertisement does not allow to hyperlink to an internet website containing required disclosures. For more information on "online platform disclosed advertisements" please refer to the "Online Platform Disclosed Advertisement Requirements" chart later in this chapter.

Electronic media advertisements that are not "online platform disclosed advertisements" shall follow disclosure requirements described in this chapter, other than those listed in the "Online Platform Disclosed Advertisement Requirements" chart.

B. How Must the Disclosure Appear?

Disclosures on political ads vary by the type of advertisement. Please review the advertisement disclosure charts available on the FPPC's website for the specific requirements.

C. Advertisement Disclosures for Communications by Candidate Committees for their own Election

The disclosure on a communication made by a candidate's committee for their own election must include "Paid for by [committee name]," unless otherwise noted in the Communications by Candidate Committees for their own Election chart #1 available on the FPPC's website.

> **QUICK TIP:** A candidate's personal Facebook page needs the "Ad paid for by" disclosure on Header Photo if the candidate has a controlled committee and is using their personal Facebook page for campaigning and/or fundraising.

D. Advertisement Disclosures for Independent Expenditure Ads Made by Committees Primarily Formed to Support or Oppose a Candidate

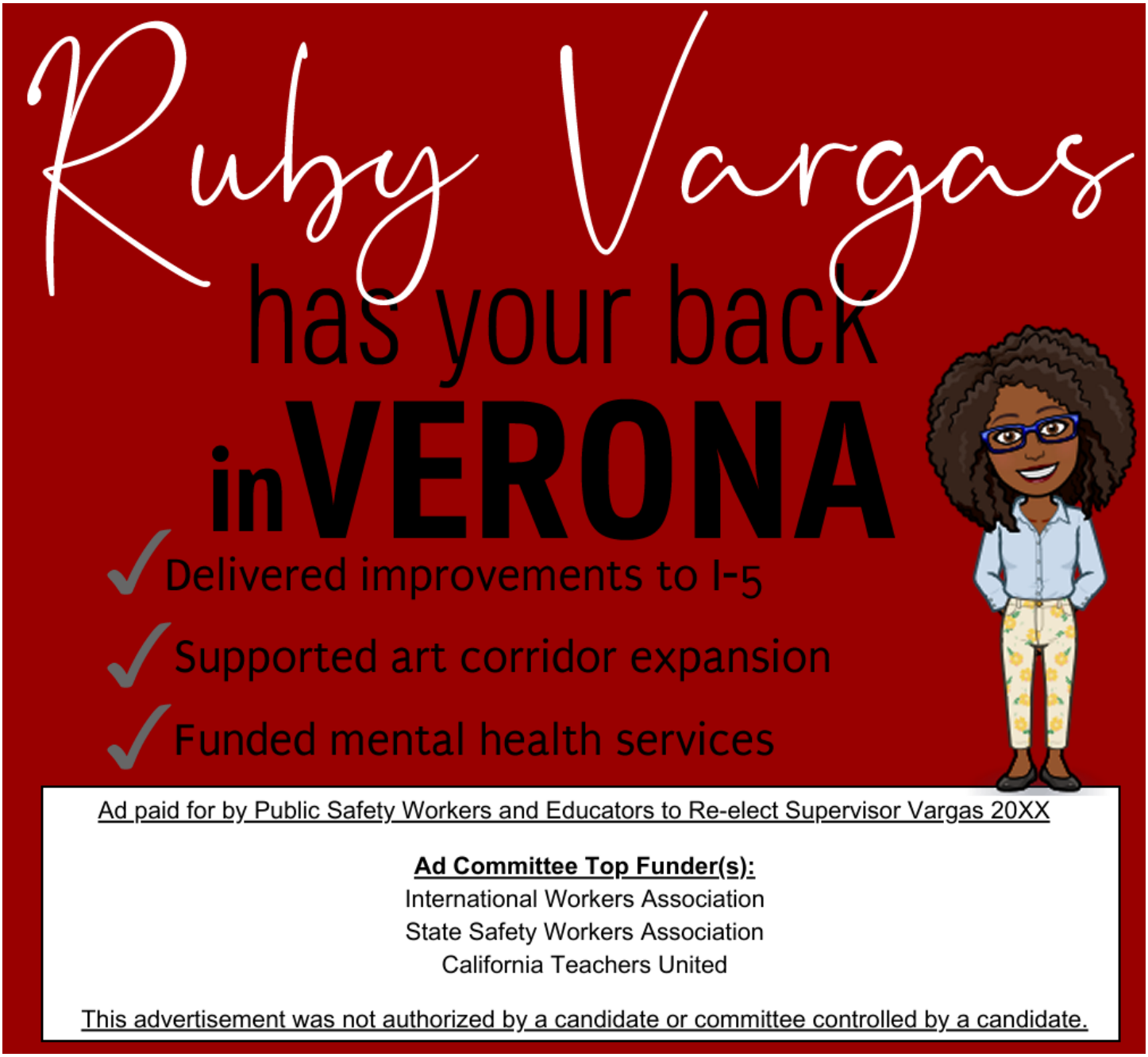
When a committee primarily formed to support or oppose a candidate pays for an advertisement that is an independent expenditure, the advertisement disclosure must include the information contained in the Independent Expenditure Ads on Candidates (except ads by candidates and political party committees) chart #2 available on the FPPC's website, including the names of the committee's top three contributors.

Top Contributors

"Top contributors" means the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of fifty thousand dollars ($50,000) or more. If two or more contributors of identical amounts qualify as top contributors, the most recent contributor of that amount must be listed as the top contributor.

If an advertisement paid for by a committee supports or opposes a candidate, the determination of top contributors may not include any nonprofit organization exempt from federal income taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code or any person who has prohibited in writing the use of their contributions to support or oppose candidates if the committee does not use such contributions to support or oppose candidates.

Print Advertisement Disclosure Example:



E. Online Platform Disclosed Advertisements

"Online platform disclosed advertisements" are either (1) electronic media advertisements made via an online platform that allows users to engage in discourse and post content, or any other type of social media, for which the committee pays the online platform, or (2) electronic media advertisements that are in the form of a graphic, image, animated graphic, or animated image that an online platform hosting the advertisement does not allow to hyperlink to an internet website containing required disclosures.

Electronic media advertisements that are not "online platform disclosed advertisements" shall follow disclosure requirements described previously in this chapter.

Online Platform Disclosed Advertisement Requirements

Communication	Disclosure and Manner of Display
Type of Advertisement Law Applies To:	Either (1) electronic media advertisements made via an online platform that allows users to engage in discourse and post content, or any other type of social media, for which the committee pays the online platform or (2) electronic media advertisements that are in the form of a graphic, image, animated graphic, or animated image that an online platform hosting the advertisement does not allow to hyperlink to an internet website containing required disclosures.

Communication	Disclosure and Manner of Display
Ad Disclosure that Online Platform is Required to Place on Advertisement:	**An Online Platform Must Do One of the Following:** 1) Display "Paid for by" or "Ad Paid for by" followed by "Ad Committee's Top Funder(s)" followed by the committee's top three contributors of $50,000 or more, followed by a colon, followed by surrounded in quotation marks, the name of the committee easily readable to the average viewer located adjacent to any statement the communication is an advertisement (or is promoted or sponsored). The online platform may display only one hundred or more characters of the "committee major funding from" followed by the committee's top three contributors and name of the committee disclosures if followed by a "…" that is clearly clickable and that links to a page that provides the disclosures. The ad may instead link to a website that the committee has created pursuant to other provisions of the Act that contains the committee's name, top contributor information, and whether the ad was authorized by a candidate for independent expenditure ads on candidates. 2) Display a hyperlink, icon, button, or tab with the text "Who funded this ad?," "Paid for by," or "Ad Paid for by" that is clearly clickable and links to a page that provides the "Ad Committee's Top Funder(s)" followed by the committee's top three contributors of $50,000 or more, followed by a colon, followed by the committee's name disclosures. This text must be easily readable to the average viewer, in the same or similar font and in at least the same font size as the online platform's text stating that the communication is an advertisement (or is promoted or sponsored). The ad may instead link to a website that the committee has created pursuant to other provisions of the Act that contains the committee's name, top contributor information, and whether the ad was authorized by a candidate for independent expenditure ads on candidates. If fewer than three contributors qualify as top contributors, only those contributors that qualify shall be disclosed. If there are no contributors that qualify as top contributors, the top contributor disclosure is not required. Please note that advertisements for a candidate controlled committee established for an elective office of the controlling candidate are not required to display top contributor disclosures. **The Online Platform Must Also:** Display a prominent button, icon, tab, or hyperlink with the text "View Ads" or similar text. The button, icon, tab, or hyperlink shall link to a page containing the records required to be displayed in the publicly available online database in one of the following locations: 1) Near the top of a profile, landing page, or similar location of a committee that paid for an advertisement in a position that the average viewer will readily see it upon viewing that page. 2) On a page that displays the committee's profile information or biographical information. 3) On a page on which the average viewer would normally navigate to view additional information about a committee.

Communication	Disclosure and Manner of Display
Information Committee Paying for Advertisement is Required to Provide to Online Platform:	Upon requesting the dissemination of the advertisement, committee must do all of the following: 1) Expressly notify the online platform that the advertisement is one that falls under the Act. 2) Provide the online platform with committee's top contributors and the committee's name and identification number. 3) Provide the online platform with the name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers. 4) Update the online platform with any change in the name of the committee or its top three contributors within 5 business days.
Records Required to be Kept and Provided to the Public in Online Platform's Public Database:	For all committees that purchased online platform disclosed ads and paid for five hundred dollars ($500) or more in advertisements to the online platform during the preceding 12 months the database must contain: 1) A digital copy of the advertisement. 2) The approximate number of views generated from the advertisement and the date and time that the advertisement was first displayed and last displayed. 3) Information regarding the range charged or the total amount spent on the advertisement. 4) The name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers. 5) The name and identification number of the committee that paid for the advertisement, if the committee is assigned an identification number. These records are required to be made available by the online platform as soon as practicable and must be retained by the online platform for 4 years.

F. Mass Mailings – Emails and Postal Mailings

A "mass mailing" is made when more than 200 substantially similar pieces of mail have been sent within a calendar month. A mass mailing also includes more than 200 substantially similar messages distributed to the public within a calendar month through electronic mail ("email"). Solicitation letters, notices of fundraising events, newsletters sent by the candidate or committee, and other types of campaign literature are common types of mass mailings.

> **QUICK TIP:** The committee ID number is not required to be included on mass mailings, but the FPPC recommends that committees include the committee name and ID number on all public campaign materials.

Disclosures for Emails Sent by a Candidate for their own Election

Emails must include the committee's name preceded by the words "paid for by" in at least the same size font as a majority of the text in the email.

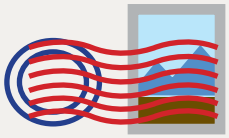
From: Rreynolds@yahoo.com
To: Voter1@gmail.com
Cc:
Subject: Reynolds for City Council 20XX

Don't forget to vote for Reynolds on Tuesday! This message was paid for by Reynolds for City Council 20XX.

Disclosures for Postal Mailings Sent by a Candidate for their own Election

A mass mailing sent by a candidate controlled committee must include the words "paid for by" immediately in front of or above the name and address of the committee on the outside of each piece of postal mail. The disclosure must be in no less than 6-point type and in a color that contrasts with the background (Example: no light blue disclosures on a blue background). A post office box may be used as the address only if the committee's street address is on its Statement of Organization (Form 410) on file with the Secretary of State.

Paid For By
Roxie Reynolds for City Council 20XX
1615 Skate Street
Torrance, CA 90503



Ahmed Cooper
315 S. Fairfield Street
Torrance, CA 90503

Mailings Sent by More than One Candidate Controlled Committee

A mass mailing sent by more than one candidate controlled committee must include the words “paid for by” immediately in front of or above the name and address of the committee that is paying the greatest share of the mass mailing including costs for designing, printing, and postage. This disclosure must appear on the outside of each piece of mail. If two or more committees pay equally for the mailer, the name and address of at least one of the committees must be shown on the outside and the names and addresses of all committees must appear on at least one insert. The disclosure must be in no less than 6-point type and in a color that contrasts with the background (Example: no light blue disclosure on a blue background). A post office box may be used as the address only if the committee’s street address is on its Statement of Organization (Form 410) on file with the Secretary of State.

QUICK TIP: If two or more candidate controlled committees pay equally for a mass mailing, the names and addresses of each of the committees must appear on at least one insert.

Mailings (including Emails) Sent by Committees Primarily Formed to Support or Oppose a Candidate

Postal Mailings. Any mailing (regardless of the number of pieces sent) paid for by a primarily formed committee as an independent expenditure supporting or opposing a candidate must include the disclosures below in Arial equivalent font, in at least 10-point size, in a contrasting color, centered horizontally and, except for the names of top contributors, underlined. The names of top contributors may not be underlined and the text may not be condensed. If there are no top contributors, the "Ad paid for by" need not be underlined. All text must appear in a printed or drawn box with a solid white background at the bottom of at least one page and set apart from other printed matter.

- "Ad paid for by [committee's name]"
- "Ad Committee Top Funder(s) [names of top three contributors of $50,000 or more]" each listed on a separate horizontal line, in descending order, beginning with the largest contributor. Mailings that are 20 square inches or less must only disclose the single top contributor of $50,000 or more. This text may not appear in all capital letters.
- Below the top contributor information (if any), a statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate. This text must not appear in all capital letters.

> **QUICK TIP:** A mass mailing paid for by an independent expenditure must include a statement that the mailing was not authorized by a candidate or a committee controlled by a candidate.

Emails. Emails sent by a primarily formed committee supporting or opposing a candidate must include the "Paid for by," "Committee major funding from," and "Not authorized by" disclosures printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email. "Committee major funding from" and "Not authorized by" disclosures must not appear in all capital letters.

Recordkeeping for Mass Mailings (including Emails)

For each independent expenditure mailing and candidate-controlled mass mailing or email communication, the following information must be retained in the committee's records for a period of four years:

- A sample of the mailing;
- A record of the date of the mailing;
- The number of pieces sent; and
- The method of postage used for postal mailings.

G. Telephone Calls

Calls Made by Candidate Controlled Committees for their own Election

If a candidate controlled committee pays for **500 or more** similar telephone calls made by vendors ("robo" calls) or paid individuals advocating the candidate's own election, the name of the organization that authorized the call must be disclosed to the recipient of the call. If the organization authorizing the call does not have filing obligations under the Act, the name of the candidate that paid for the call must be disclosed to recipients. The disclosure must include the words "paid for by" or "authorized by." The disclosure is not required for telephone calls personally dialed by the candidate, campaign manager, or volunteers. The disclosure can occur anytime during the call.

Calls Made by Committees Primarily Formed to Support or Oppose a Candidate

If a primarily formed committee pays for a telephone call that expressly advocates support for or opposition to a candidate, the name of the committee must be disclosed to recipients. The disclosure must include the words "Ad paid for by." If the call is an independent expenditure, the disclosure must also include a statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate. The disclosure must also include the committee's top three contributors of $50,000 or more during the 12-month period prior to the expenditure, if any. The disclosure must be spoken clearly for at least three seconds at the beginning or end of

the call, in a pitch and tone substantially similar to the rest of the call. Prerecorded telephone ads must disclose only the top two contributors of $50,000 or more unless the ad lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor must be disclosed.

QUICK TIP: Anonymous robocalls are a violation of the Act. Committees are prohibited from contracting with a vendor for political calls that does not disclose who paid for or authorized the calls.

Recordkeeping for Telephone Calls

A committee must retain for a period of four years the following records for each telephone call:

- If the message was live, a script of the call.
- If the message was recorded, a copy of the recording.

Ex 8.1 - City Councilmember Reitz pays a vendor to make calls to 1,500 local voters to encourage them to reelect the Councilmember to the city council. The disclosure must state that the telephone calls were paid for by the candidate's committee. For example, "[t]his call was paid for by Reelect City Councilmember Reitz 20XX."

Ex 8.2 - At City Councilmember Reitz's request, Citizens for Better Schools (a general purpose committee) pays a vendor to make calls to 1,500 local voters to encourage them to reelect Councilmember Reitz to the city council. The disclosure must identify the committee paying for the call or the candidate authorizing the call. For example, "[t]his call was paid for by Citizens for Better Schools" or "[t]his call was authorized by Councilmember Reitz."

H. Electronic Media Ads

Please review the advertisement disclosure charts available on the FPPC's website for the specific disclosure requirements on electronic media ads.

I. Newspaper, Radio and Television Ads

Radio and television ads paid for by a candidate's committee for their own election must include the following disclosures:

- **Radio:** "Ad paid for by" followed by name of committee as it appears on most recent Form 410 at the beginning or end of advertisement read in a clearly spoken manner with pitch and tone substantially similar to the rest of advertisement.

- **Television:** "Ad paid for by" followed by name of committee as it appears on most recent Form 410 shown for at least four seconds. Letters must be in a type size greater than or equal to four percent of the height of the screen.

The Act does not require a specific disclosure on newspaper ads paid for by a candidate's committee for their own election. For newspaper ad requirements, candidates and committees should check the Elections Code.

Committees primarily formed to support or oppose a candidate making independent expenditures for a newspaper, radio, or television ad to support or oppose a candidate are subject to the "Ad paid for by [committee name]" disclosure and other requirements as described in the advertisement disclosure chart available on the FPPC's website.

J. Paid Spokespersons for Ballot Measure Ads

Generally, candidate controlled committees and primarily formed committees spend campaign funds only in connection with the candidate's election. However, there may be times when a committee wants to pay for an advertisement to support or oppose a ballot measure.

The Act requires specific disclosure when any committee uses a paid spokesperson in an advertisement to support or oppose a ballot measure. The committee must (1) file a Paid Spokesperson Report, Form 511, for an individual's appearance in a ballot measure advertisement and (2) include a disclosure on the ad in the following situations.

$5,000 payment to an individual in an ad: The committee makes expenditures totaling $5,000 or more for an individual's appearance in an advertisement to support or oppose the qualification, passage or defeat of a state or local ballot measure.

> **Disclosure on ad:** "(Spokesperson's name) is being paid by this campaign or its contributors."

Any payment to an individual in an ad portraying a professional (e.g., nurse, doctor, firefighter, scientist, engineer, lawyer, etc.): The committee makes expenditures of any amount to an individual for their appearance in an ad supporting or opposing the qualification, passage or defeat of a state or local ballot measure that states or suggests that the individual is a member of an occupation that requires licensure, certification, or other specialized, documented training to engage in that occupation.

> **Disclosure on ad:** "Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations."

Note: If the individual in the ad is actually a member of the occupation portrayed, the committee may omit this disclosure, and shall maintain documentation of the individual's license or certification for the occupation. Upon request from the FPPC, the committee must provide documentation of an individual's occupation by electronic means within 24 hours.

QUICK TIP: If the committee pays for a spokesperson in an advertisement to support or oppose a ballot measure, the committee may also be required to file the Form 511 (Paid Spokesperson Report). See Chapter 10.

The advertisements include print, television, video, and radio ads, as well as telephone messages. The disclosures on the ads must be shown in highly visible font for print, television or video ads, or spoken in a clearly audible manner for radio ads or telephone messages. The disclosure must be shown continuously except when other required disclosures are being shown.

K. Updating a Disclosure

Advertisement disclosures must be revised if a committee's name changes, if the order of the top contributors changes, or if there is a new $50,000 contributor. Television, radio, electronic media, or "robo" calls must be amended within five business days. Print media, mass mailings, or other tangible items must be amended every time an order to reproduce is placed.

L. Penalties

Failure to comply with the Act's disclosure requirements may result in fines of up to $5,000 per violation. In addition, any person who violates the disclosure requirements for ballot measure and independent expenditure advertisements may be liable for fines of up to three times the cost of the advertisement, including placement costs.

Answering Your Questions

A. Are the disclosure rules the same for candidate controlled committees and committees primarily formed for candidates that will be making independent expenditures?

No. Stricter disclosure rules apply to independent expenditure advertisements because it is less clear to the public who is responsible for these ads. The Act requires disclosures on a broader range of advertisements when they are paid for by a committee making independent expenditures. See the ad disclosure charts in this chapter for additional information.

B. A committee primarily formed for a candidate has agreed to pay for several types of communications (yard signs, a billboard, door hangers) to advocate support of the candidate. The advertisements are prepared by the candidate's campaign consultant. What disclosures are required, if any?

The same disclosures are required as those for a primarily formed committee making independent expenditures except for the "not authorized by" disclosure.

C. If a business entity includes a copy of a candidate's flyer in its regular monthly mailing, is the candidate required to be identified on the outside of the mailer?

No. The candidate's name and address must be identified on the flyer only.

D. If a committee has more than one address, can any of the addresses be used on mass mailings?

Any address that is on the committee's Statement of Organization (Form 410) on file with the Secretary of State may be used.

E. A committee pays for a candidate's mailing as a nonmonetary contribution. Must the committee paying for the mailing or the candidate's committee be identified on the outside of the mailing?

The committee that pays for the mailing must be identified on the outside of the mailing.

F. If a candidate's committee is sending a postcard-type mailing, may the name of the committee appear only once?

Yes. The name must appear only once. The committee's address must also be included.

G. Where on the outside of the mailing must the candidate identification be placed?

There is no specific requirement for the location of the sender identification as long as it appears on the outside of the mailing. The words "paid for by" must be immediately in front of or above the committee name and address.

H. What type of disclosure is required for a committee that sends independent expenditure ads on candidates through Twitter?

Committees making independent expenditures via electronic media ads on Twitter may satisfy the Act's disclosure requirements in one of two ways: (1) providing its full disclosure statement on its Twitter profile/landing page or (2) including the phrase "Who funded this ad?" on its Twitter profile/landing page immediately followed by a hyperlink to an Internet Web site containing the full disclosure statement.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

82025	Expenditure.
82031	Independent Expenditure.
82041.5	Mass Mailing.
82044	Payment.
82047	Person.
84305	Requirements for Mass Mailing.
84310	Identification Requirements for Telephone Calls.
84501	Advertisement.
84502	Disclosure; Committee Name.
84503	Top Contributor Disclosure.
84504	Disclosure; Radio and Telephone Ads.
84504.1	Disclosure; Video and Television Ads.
84504.2	Disclosure; Print Ads.
84504.3	Disclosure; Electronic Media Ads.
84504.4	Disclosure; Radio and Television Ads; Political Parties and Candidates.
84504.5	Disclosure;Independent Expenditure Ads; Political Parties and Candidates.
84505	Avoidance of Disclosure.
84506.5	Disclosure; Independent Expenditure Ads; Not Authorized by Candidate.
84504.6	Disclosure; Online Platform.
84504.7	Disclosure; Text Messages.
84509	Amended Disclosure.
84511	Ballot Measure Ads; Paid Spokesperson Disclosure.

Title 2 Regulations

18215	Contribution.
18225.7	Made At the Behest of; Independent versus Coordinated Expenditures.
18247.5	Primarily Formed Committees.
18401	Required Recordkeeping for Chapters 4 & 5.
18435	Definition of Mass Mailing.
18440	Telephone Advocacy.
18450.1	Definitions. Advertisement Disclosure.
18450.2	Definitions. Authorized and Paid For.
18450.4	Video and Television Advertisement Disclosure.
18450.5	Amended Advertising Disclosure.
18450.11	Spokesperson Disclosure.
18523.1	Written Solicitation for Contributions.

Committee Report – Form 460

Generally, candidate controlled committees and committees primarily formed to support or oppose a candidate(s) use the Recipient Committee Campaign Statement (Form 460) to report campaign activity for all semi-annual and preelection statements. The Form 460 is the main campaign disclosure statement and provides the public with an overview of the committee's activity, including money coming in and money going out, during a specified reporting period.

The statement must include all activity during the specified reporting period, even if it was previously reported. For example, a contribution that was already reported on the Form 497 (24-Hour/10-Day Contribution Report) must still be reported on the committee's next Form 460.

A primarily formed committee may file the Form 450 (Committee Campaign Statement – Short Form) instead of the Form 460 if, during the reporting period, the committee:

- Has not received a contribution that must be itemized (a cumulative amount of $100 or more from a single source);
- Has not received any other payment of $100 or more (miscellaneous increases to cash);
- Has no outstanding loans made or received; and
- Has no accrued expense (unpaid bills).

QUICK TIP: A committee controlled by a candidate must use the Form 460 to report its campaign activity – the short Form 450 or Form 425 may not be used.

A primarily formed committee that has not received any contributions and has not made any expenditures during the six-month period covered by a semi-annual statement may file the Form 425 (Semi-Annual Statement of No Activity).

This chapter discusses how to complete the Form 460 and provides examples for each type of campaign activity that may have to be reported. The Forms 450 and 425 are available on the FPPC's website and include detailed instructions for completing the forms.

COVER PAGE

Recipient Committee Campaign Statement Cover Page

Date Stamp

CALIFORNIA FORM 460

Page XX of XX

For Official Use Only

SEE INSTRUCTIONS ON REVERSE

A Statement covers period from 7/1/XX through 12/31/XX

B Date of election if applicable: (Month, Day, Year)

1 Type of Recipient Committee: All Committees – Complete Parts 1, 2, 3, and 4.

- ☑ Officeholder, Candidate Controlled Committee
  - ○ State Candidate Election Committee
  - ○ Recall (Also Complete Part 5)
- ☐ General Purpose Committee
  - ○ Sponsored
  - ○ Small Contributor Committee
  - ○ Political Party/Central Committee
- ☐ Primarily Formed Ballot Measure Committee
  - ○ Controlled
  - ○ Sponsored (Also Complete Part 6)
- ☐ Primarily Formed Candidate/ Officeholder Committee (Also Complete Part 7)

2 Type of Statement:

- ☐ Preelection Statement
- ☑ Semi-annual Statement
- ☐ Termination Statement (Also file a Form 410 Termination)
- ☐ Amendment (Explain below)
- ☐ Quarterly Statement
- ☐ Special Odd-Year Report

3 Committee Information

I.D. NUMBER: 12344XX

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE): Manuel Alvarez for Mayor 20XX

STREET ADDRESS (NO P.O. BOX): 225 Presley Street

CITY: Oakmont | STATE: CA | ZIP CODE: 95443 | AREA CODE/PHONE: 707-555-6868

MAILING ADDRESS (IF DIFFERENT) NO. AND STREET OR P.O. BOX: P.O. Box 1744

CITY: Oakmont | STATE: CA | ZIP CODE: 95434 | AREA CODE/PHONE: 707-555-6868

OPTIONAL: FAX / E-MAIL ADDRESS: 707-555-6869/mrichards@oakmontmail.com

Treasurer(s)

NAME OF TREASURER: Madeline Richards

MAILING ADDRESS: 225 Presley Street

CITY: Oakmont | STATE: CA | ZIP CODE: 95443 | AREA CODE/PHONE: 707-555-6868

NAME OF ASSISTANT TREASURER, IF ANY: Manuel Alvarez

MAILING ADDRESS: 225 Presley Street

CITY: Oakmont | STATE: CA | ZIP CODE: 95443 | AREA CODE/PHONE: 707-555-6868

OPTIONAL: FAX / E-MAIL ADDRESS: 707-555-6869/mrichards@oakmontmail.com

4 Verification

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on [Date Required] (Date) By [Signature Required] (Signature of Treasurer or Assistant Treasurer)

Executed on [Date Required] (Date) By [Signature Required] (Signature of Controlling Officeholder, Candidate, State Measure Proponent or Responsible Officer of Sponsor)

Executed on _____ (Date) By _____ (Signature of Controlling Officeholder, Candidate, State Measure Proponent)

Executed on _____ (Date) By _____ (Signature of Controlling Officeholder, Candidate, State Measure Proponent)

A. Completing the Form 460 Cover Page

A Statement Covers Period

If this is the first statement of the calendar year, the "from" date should be January 1. Otherwise, this date should be the day after the closing date of the most recently filed campaign statement. The closing date depends on the type of statement being filed (e.g., semi-annual, preelection). The period covered will be identified on the filing schedule for the specific election.

B Date of Election

When filing a preelection statement in connection with an election, provide the date of the election.

1 Type of Recipient Committee

Check the appropriate box to indicate the type of committee:

- Officeholder/Candidate Controlled Committee: Complete Cover Page Parts 1, 2, 3, 4, and 5.
- Primarily Formed Candidate/Officeholder Committee: Complete Cover Page Parts 1, 2, 3, 4, and 7.

2 Type of Statement

Check the appropriate box to indicate the type of statement being filed (e.g., semi-annual, preelection).

3 Committee Information and Treasurer(s)

This entire section must be completed and should include the same information as provided on the committee's most recently filed Statement of Organization (Form 410). An email address for the committee must be included. If the committee has not yet received an identification number from the Secretary of State, enter "pending" in the "I.D. Number" box.

4 Verification

All campaign statements are signed under penalty of perjury and must be verified by the committee treasurer or the assistant treasurer named on the committee's Statement of Organization (Form 410). The verification states that the signer has used all reasonable diligence in its preparation, and that to the best of their knowledge, it is true and complete. The Form 460 is not considered filed if it is not signed.

If an officeholder or candidate controls the committee, they also must sign the verification. If two or three officeholders or candidates control the committee, each of them must sign the verification. If more than three officeholders or candidates control the committee, one may sign the verification on behalf of the others.

Some local agencies may require local candidates and committees to file campaign statements electronically. The electronic filing system must include a procedure for filers to comply with the requirement that they sign the statements under penalty of perjury.

Recipient Committee Campaign Statement Cover Page — Part 2

COVER PAGE - PART 2

CALIFORNIA FORM 460

Page XX of XX

5 Officeholder or Candidate Controlled Committee

NAME OF OFFICEHOLDER OR CANDIDATE

Manuel Alvarez

OFFICE SOUGHT OR HELD (INCLUDE LOCATION AND DISTRICT NUMBER IF APPLICABLE)

Mayor, City of Oakmont

RESIDENTIAL/BUSINESS ADDRESS (NO. AND STREET) | CITY | STATE | ZIP

4245 McDow Street | Oakmont | CA | 95443

Related Committees Not Included in this Statement: ***List any committees not included in this statement that are controlled by you or are primarily formed to receive contributions or make expenditures on behalf of your candidacy.***

COMMITTEE NAME	I.D. NUMBER
Friends Supporting Alvarez for Mayor 20XX	12399XX
NAME OF TREASURER	CONTROLLED COMMITTEE?
Karen Lucci	☐ YES ☑ NO

COMMITTEE ADDRESS STREET ADDRESS (NO P.O. BOX)

10 Main Street

CITY | STATE | ZIP CODE | AREA CODE/PHONE

Oakmont | CA | 95443 | 707-111-2222

COMMITTEE NAME	I.D. NUMBER
NAME OF TREASURER	CONTROLLED COMMITTEE?
	☐ YES ☐ NO

COMMITTEE ADDRESS STREET ADDRESS (NO P.O. BOX)

CITY | STATE | ZIP CODE | AREA CODE/PHONE

6 Primarily Formed Ballot Measure Committee

NAME OF BALLOT MEASURE

BALLOT NO. OR LETTER	JURISDICTION	☐ SUPPORT ☐ OPPOSE

Identify the controlling officeholder, candidate, or state measure proponent, if any.

NAME OF OFFICEHOLDER, CANDIDATE, OR PROPONENT

OFFICE SOUGHT OR HELD	DISTRICT NO. IF ANY

7 Primarily Formed Candidate/Officeholder Committee ***List names of officeholder(s) or candidate(s) for which this committee is primarily formed.***

NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	☐ SUPPORT ☐ OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	☐ SUPPORT ☐ OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	☐ SUPPORT ☐ OPPOSE
NAME OF OFFICEHOLDER OR CANDIDATE	OFFICE SOUGHT OR HELD	☐ SUPPORT ☐ OPPOSE

Attach continuation sheets if necessary

B. Completing the Form 460 Cover Page – Part 2

5 Officeholder or Candidate Controlled Committee

Provide the name of the officeholder or candidate controlling the committee and indicate the office sought or held, including the location and district number, if any. If more than one candidate controls the committee, include the required information for all controlling candidates in an attachment.

Related Committees Not Included in this Statement

If the officeholder or candidate controls any other committees (i.e., ballot measure committee, legal defense fund committee, another election committee), those committees must be listed. If the candidate is aware of any primarily formed committees that exist to receive contributions or to make expenditures on behalf of their candidacy, those committees must also be listed.

6 Primarily Formed Ballot Measure Committee

Candidate controlled committees and primarily formed candidate/officeholder committees do not complete Part 6.

7 Primarily Formed Candidate/Officeholder Committee

Provide the name(s) of the officeholder(s) or candidate(s), the office(s) sought or held, and indicate whether the committee is supporting or opposing the officeholder(s) or candidate(s).

Campaign Disclosure Statement
Summary Page

Amounts may be rounded to whole dollars.

SUMMARY PAGE

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM 460

Page XX of XX

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER
Manuel Alvarez for Mayor 20XX

I.D. NUMBER
12344XX

1 Contributions Received

		Column A (TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES))	Column B (CALENDAR YEAR TOTAL TO DATE)
1. Monetary Contributions	*Schedule A, Line 3*	$ 6,773	$ 100,000
2. Loans Received	*Schedule B, Line 3*	9,000	11,000
3. SUBTOTAL CASH CONTRIBUTIONS	*Add Lines 1 + 2*	$ 15,773	$ 111,000
4. Nonmonetary Contributions	*Schedule C, Line 3*	6,500	6,500
5. TOTAL CONTRIBUTIONS RECEIVED	*Add Lines 3 + 4*	$ 22,273	$ 117,500

2 Expenditures Made

6. Payments Made	*Schedule E, Line 4*	$ 40,950	$ 75,750
7. Loans Made	*Schedule H, Line 3*	1,000	1,000
8. SUBTOTAL CASH PAYMENTS	*Add Lines 6 + 7*	$ 41,950	$ 76,750
9. Accrued Expenses (Unpaid Bills)	*Schedule F, Line 3*	1,550	3,550
10. Nonmonetary Adjustment	*Schedule C, Line 3*	6,500	6,500
11. TOTAL EXPENDITURES MADE	*Add Lines 8 + 9 + 10*	$ 50,000	$ 86,800

3 Current Cash Statement

12. Beginning Cash Balance	*Previous Summary Page, Line 16*	$ 39,500
13. Cash Receipts	*Column A, Line 3 above*	15,773
14. Miscellaneous Increases to Cash	*Schedule I, Line 4*	3,000
15. Cash Payments	*Column A, Line 8 above*	41,950
16. **ENDING CASH BALANCE**	*Add Lines 12 + 13 + 14, then subtract Line 15*	$ 16,323

If this is a termination statement, Line 16 must be zero.

4

17. LOAN GUARANTEES RECEIVED — *Schedule B, Part 2* — $ 10,000

5 Cash Equivalents and Outstanding Debts

18. Cash Equivalents — *See instructions on reverse* — $ 1,000

6

19. Outstanding Debts — *Add Line 2 + Line 9 in Column B above* — $ 14,550

To calculate Column B, add amounts in Column A to the corresponding amounts from Column B of your last report. Some amounts in Column A may be negative figures that should be subtracted from previous period amounts. If this is the first report being filed for this calendar year, only carry over the amounts from Lines 2, 7, and 9 (if any).

Calendar Year Summary for Candidates Running in Both the State Primary and General Elections

	1/1 through 6/30	7/1 to Date
20. Contributions Received	$	$
21. Expenditures Made	$	$

Expenditure Limit Summary for State Candidates

22. **Cumulative Expenditures Made***
(If Subject to Voluntary Expenditure Limit)

Date of Election (mm/dd/yy)	Total to Date
___/___/___	$
___/___/___	$

*Amounts in this section may be different from amounts reported in Column B.

C. Completing the Form 460 Summary Page

The Summary Page provides an overview of the committee's financial activities, including all contributions received and expenditures made during the period covered by the statement. The Summary Page also includes the cumulative totals for contributions received and expenditures made during the calendar year. Although the Summary Page is located at the beginning of the Form 460, it should be completed last. Totals from certain schedules are carried forward to the Summary Page.

QUICK TIP: Complete the Summary Page after all other schedules have been completed. Totals from some of the schedules are carried forward to the Summary Page.

A Column A – Total This Period

This column reflects the committee's activity through the current reporting period as reported on Schedules A through I. If there is no activity to report on a particular schedule, enter a zero or the word "none" on the appropriate line in Column A. There should be no blank lines.

B Column B – Total to Date

This column generally reflects the cumulative totals since January 1 of the current calendar year. However, there is an exception if a committee is required to file a preelection statement in one year in connection with an election held in another year, such as elections held in January or early February. In this case, the cumulation period begins on January 1 of the year before the election and ends on the closing date of the semi-annual statement filed after the election.

Add the totals from Column B of the committee's last campaign statement (if any) to the corresponding amounts in Column A to calculate the Column B totals for the current statement. If this is the first report being filed for a calendar year, only carry forward the amounts for loans and accrued expenses reported on Lines 2, 7, and 9 of Column B from the committee's last statement. (Note: The amounts reported on Lines 2, 7, and 9 of Column B should be the same as the total outstanding amounts disclosed in column (d) of Schedules B, H, and F, respectively, of the current report.)

When loans (Schedules B and H) and accrued expenses (Schedule F) are paid, the figures to be carried forward from the schedules to Lines 2, 7, and 9 of Column A may be negative numbers. In this case, be sure to show them as negative figures on the Summary Page (e.g., with a minus sign (-) or in parentheses), and subtract them when totaling Columns A and B.

QUICK TIP: Loans and accrued expenses must be reported on each campaign statement until the amounts are paid off or forgiven.

1 Lines 1-5 (Contributions Received)

Collectively, these lines represent contributions received: monetary, nonmonetary, and loans.

2 Lines 6-11 (Expenditures Made)

Collectively, these lines represent expenditures made: payments, loans made, accrued expenses (bills that are still outstanding), and nonmonetary adjustments.

3 Lines 12-16 (Current Cash Statement)

The Current Cash Statement section should accurately reflect the committee's cash position at the end of the reporting period. If deposits or expenditures have been made that have not cleared the bank account, the committee's bank balance may not match the ending cash balance.

Beginning and ending cash balances should include the total amount of funds in the committee's campaign checking and savings accounts, plus any investments that can be readily converted to cash, such as certificates of deposit, money market accounts, stocks and bonds, etc.

Line 12 (Beginning Cash Balance)

The beginning cash balance must be the same as the ending cash balance reported on Line 16 of the previously filed statement. If this is the first statement of the calendar year and no previous statement has been filed but money was raised or spent in the previous reporting period, enter the amount of cash on hand on December 31. Otherwise, enter zero.

Line 13 (Cash Receipts)

This amount represents the total of all monetary contributions and loans received during the reporting period. Nonmonetary contributions should not be included.

Line 14 (Miscellaneous Increases to Cash)

This amount represents increases to the committee's cash position that are not contributions, loans, or repayments of loans made to others. Miscellaneous increases to cash include, for example, interest received from a bank account, refunds received from vendors, and proceeds from the sale of campaign property or auction items. The amount is carried forward from Schedule I.

Together, Lines 13 and 14 reflect all money that has been received during the current reporting period.

Line 15 (Cash Payments)

This amount represents the total amount the committee has spent during the reporting period, including loans made and any accrued expenses paid.

Line 16 (Ending Cash Balance)

This amount represents the total of Lines 12, 13, and 14 minus Line 15. The amount reported on Line 16 must equal the total amount of cash the committee has in its campaign bank account and the amount of all funds held in interest bearing accounts, certificates of deposit, money market accounts, shares in government bonds, or any other investments that can be readily converted to cash.

If this is a termination statement, Line 16 must be zero.

4 Line 17 (Loan Guarantees Received)

This amount represents the total of all loan guarantees, endorsements, or security received during the period. The amount is carried forward from Schedule B, Part 2.

5 Line 18 (Cash Equivalents)

This amount includes investments that cannot be readily converted to cash, as well as the balance due on all outstanding loans the committee has made to others.

Do not include any amount that is invested in interest bearing accounts, certificates of deposit, money market accounts, or any other investments that can be readily converted to cash. These amounts should be part of the ending cash figure reported on Line 16.

6 Line 19 (Outstanding Debts)

This amount is the total of all money owed by the committee. Using Column B, add Line 2 (loans received) and Line 9 (accrued expenses).

Lines 20, 21, & 22

These lines are for certain state candidates only. Local committees do not complete these sections.

Answering Your Summary Page Questions

A. Is there any circumstance where Line 16, Ending Cash Balance, would be a negative amount?

If you report a negative amount on Line 16, this means that either you have made a mathematical error in your calculations or the committee's bank account is overdrawn. Rounding off also may cause a small negative in the cash on hand balance.

B. Is there any circumstance where an amount in Column A would be negative?

Yes. When loans and accrued expenses are paid down, the amount reflected in Column A may be a negative amount.

C. What should I do if I am unable to balance my accounting records by the filing deadline?

Since the Political Reform Act does not provide for filing deadline extensions, complete the form as accurately as you can and file by the deadline. You should file an amendment with the corrections as soon as possible.

D. What is the most common mistake made on the Form 460 Summary Page?

Loan repayments are often reported twice, once on Schedule B and again on Schedule E. When the committee makes a loan repayment, it should only be reported on Schedule B.

D. General Rules for Reporting Contributions Received on Schedule A

Chapter 3 provides detailed information on the following topics, as well as other contribution reporting rules. The information below is a short summary of some of the most common reporting rules.

$5,000 Contributor – Major Donor Notice

If contributions totaling $5,000 or more are received from a single source in a calendar year, a "major donor" notice must be sent to the contributor within two weeks. If a contribution of $10,000 or more is received from a single source within 90 days before the election or on the date of the election, the notice must be sent within one week. Do not send the notice if the contribution is from another recipient committee.

Joint Checking Account

If a check is received that is imprinted with two individuals' names, report the contribution from the person who signed the check. However, if both individuals signed the check, or one signed the check but both have signed an accompanying document indicating that the contribution is from both, then report 50 percent of the contribution amount from one individual and 50 percent from the other, unless the document attributes specific amounts to each contributor.

Reporting Earmarked Contributions

A committee that makes a contribution to another committee earmarked for a third specifically identified committee must disclose the specifically identified committee as the recipient of the contribution and the other committee as an intermediary at the time the earmarked contribution is made. The specifically identified committee must disclose the contributor and intermediary at the time the funds are received from the intermediary. The intermediary must disclose receipt of the funds as a miscellaneous increase to cash on Schedule I of Form 460 at the time the funds are received and must disclose the expenditure as the transfer of an earmarked contribution from the contributor to the specifically identified committee at the time the funds are given to the specifically identified committee.

> **Ex 9.1 -** Sarah Gomez made a $500 contribution to your committee and notified you that they would later be reimbursed by their employer, Hilltop Dairy. Your committee will report Hilltop Dairy as the source of the contribution and must also disclose Sarah as the intermediary.

A committee that makes a contribution to another committee and subsequently reaches an agreement with that committee that all or a portion of the contribution would be used for another committee, ballot measure or candidate must include a notation on its next statement that the original contribution was subsequently earmarked, including the name of the specifically identified committee, ballot measure, or candidate. The committee that initially received the funds must also include a notation on its next statement that the original contribution was subsequently earmarked and must disclose the original contributor to any new committee to which it transfers the earmarked funds. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

Ex 9.2 - Temple Construction is a subsidiary of Temple Enterprises. Contributions made by the two entities must be aggregated and they qualify as a major donor. Your committee receives a contribution from Temple Construction. Temple Construction is required to notify you that its contribution is reported on a campaign statement filed under the name of Temple Enterprises. Your committee must identify both names on its report and, if you receive contributions from both entities, the contributions must be aggregated for purposes of reporting cumulative amounts.

A committee that makes a contribution earmarked for a specifically identified ballot measure or candidate must disclose a contribution to the committee that received the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate. The committee receiving the earmarked contribution must disclose the contributor with a notation that the contribution was earmarked for the specific ballot measure or candidate when the contribution is received. This committee is solely responsible for disclosing the ultimate use of the earmarked contribution, whether by contribution or expenditure, at the time the funds are used. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee to support or oppose the specifically identified ballot measure or candidate, that committee shall disclose the true source of the contribution to the new committee receiving the earmarked funds for disclosure on the new committee's campaign report. The new committee shall disclose the true source of the contribution with a notation that the contribution was earmarked to the specific ballot measure or candidate.

Intermediary

If a contribution of $100 or more is received from a person who is acting as an intermediary for the true source of the contribution, disclose both the true source of the contribution and the intermediary. Failure to report the true source of a contribution is a serious violation of the Act.

Contributions from Family Trusts

If a contribution is received from a family trust account, it is attributed to the person who directed the contribution.

Aggregating Contributions

There are a variety of situations in which contributions from two or more contributors must be aggregated for reporting purposes. For example, when an individual who is the sole proprietor of a company makes a contribution from company funds and another contribution from personal funds, these contributions are added together for reporting purposes. Additional information and several examples are included in Chapter 3.

If contributions that must be aggregated are received from a major donor (i.e., an individual or business entity that makes contributions totaling $10,000 or more in a calendar year), the major donor must notify each committee to which it makes a contribution of the name under which the major donor is filing its campaign statement (Form 461). When reporting the contribution received, the recipient of the contribution must identify the name under which the major donor is filing its Form 461 and the name of the contributor, if it is different.

Contributor Information

If a committee receives a contribution of $100 or more, but does not receive the required contributor information (name, address, and if the contributor is an individual, their occupation and employer) within 60 days of receiving the contribution, the committee must return the contribution to the contributor. Contributions may be deposited in the committee's bank account pending receipt of the information, in which case they must be reported on the next campaign statement (Form 460) filed. The campaign statement must be amended within 70 days from its closing date to disclose the missing contributor information, unless the contribution was returned to the donor.

See the chart below for examples of acceptable ways to report an individual's occupation and employer.

Individual Donor Information

(Contributors of $100 or more)

Complete

- Retired
- Consultant, A Better Business Agency
- Self-Employed, No Separate Business Name
- Homemaker or Student
- Private Investor: stocks & bonds
- Lawyer, Ortiz & Smith

Incomplete

- Manager
- Next Door Neighbor
- Friend
- ABBA (no acronyms)
- Business Person
- Entrepreneur
- Investor

Contributions of $100 or more **must be returned within 60 days** if individual's name, street address, occupation, and employer are not obtained.

Calendar Year Cumulation Exception

The cumulation period for a statement is generally January 1 through December 31 of the current calendar year. However, there is an exception if a committee is required to file a preelection statement in one calendar year in connection with an election held in the next calendar year, such as elections held in January or early February. In this case, the cumulation period begins on January 1 of the year before the election and ends on the closing date of the semi-annual statement filed after the election.

Ex 9.3 - A city calls a February 4 special election to fill a vacant city council position. Candidates running in the February 4 election are required to file two preelection statements in connection with the election. The first preelection statement is due in December of the year prior to the year in which the election will be held. In this case, the cumulation period begins on January 1 of the year before the election and ends on the closing date of the semi-annual statement filed after the election.

Returned Contributions

Not Deposited: A contribution need not be reported if it is not cashed, negotiated, or deposited and is returned to the contributor before the closing date of the campaign statement on which it would otherwise be reported. A contribution of $1,000 or more received in the 90 days prior to the election, or on the date of the election, need not be reported if it is not cashed, negotiated, or deposited and is returned to the contributor within 24 hours of receipt.

Deposited, Negotiated, or Returned After Closing Date: A contribution that is cashed, negotiated, or deposited, and is not returned prior to the closing date of the campaign statement, must be reported on Schedule A. If the contribution is returned within 30 days of receipt, and within the reporting period, the return may be shown as a negative figure on Schedule A. Otherwise, the return of the contribution must be reported on Schedule E.

Returned for Insufficient Funds: If the committee deposits a check and the check is returned from the bank due to insufficient funds, both the receipt and the return of the contribution may be reported on Schedule A (the return will be reported as a negative amount) if the committee returns the check to the contributor during the same reporting period. Otherwise, the return of the contribution must be reported on Schedule E.

Transfers

If campaign funds are transferred from one of a candidate's controlled local election committees to another, the transfer is reported by the receiving committee on Schedule I, not on Schedule A.

Enforceable Promises

If a contribution is received in the form of an "enforceable promise" that has not been paid during the period, report the contribution as a memo entry on Schedule A.

Disclose the date of the promise, all of the required information about the contributor, and the amount promised, but do not include the amount in the summary totals. When the contributor makes the actual payment, fully disclose the contribution on Schedule A, if the payment is made to the committee, or on Schedule C, if the contributor pays the vendor directly, and include the amount in the appropriate summary section.

Installment Payments

Contributions may be received as installment payments made at regular intervals over a period of time via credit card, debit card, wire transfer, or similar electronic means. When a contributor authorizes a series of installment payments, the contribution is reported as received when the committee, or agent of the committee, obtains possession or control of the funds for each installment payment.

Schedule A
Monetary Contributions Received

Amounts may be rounded to whole dollars.

SCHEDULE A

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM 460

Page XX **of** XX

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER
Manuel Alvarez for Mayor 20XX

I.D. NUMBER
12344XX

1 DATE RECEIVED	2 FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER, IF LLC, REFER TO INSTRUCTIONS FOR WHAT TO ENTER.)	3 CONTRIBUTOR CODE *	4 IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	5 AMOUNT RECEIVED THIS PERIOD	6 CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	7 PER ELECTION TO DATE (IF REQUIRED)
9/2/XX	Joey's Super Market 500 North Mesa Street Oakmont, CA 95443	☐ IND ☐ COM ☑ OTH ☐ PTY ☐ SCC		$5,000	$5,000	
10/15/XX	Martin Developers 1650 Wingfield Road Oakmont, CA 95443	☐ IND ☐ COM ☑ OTH ☐ PTY ☐ SCC		$198	$198	
	Intermediaries: Marcus Brown $99 325 Richmond Road, Oakmont, CA 95443	☑ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC	Bookkeeper, Martin Developers			
	Ashley Green $99 448 Harbor Drive Oakmont, CA 95443	☑ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC	Sales Representative, Martin Developers			
12/15/XX	Angel Trujillo 6688 Fourth Avenue Oakmont, CA 95443	☑ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC	Requested	$75	$300	
			SUBTOTAL $	5,273		

8 Schedule A Summary

1. Amount received this period – itemized monetary contributions. (Include all Schedule A subtotals.) ..... $ 5,273
2. Amount received this period – unitemized monetary contributions of less than $100 ..... $ 1,500
3. Total monetary contributions received this period. (Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Line 1.) ..... **TOTAL $** 6,773

*Contributor Codes
IND – Individual
COM – Recipient Committee (other than PTY or SCC)
OTH – Other (e.g., business entity)
PTY – Political Party
SCC – Small Contributor Committee

E. Completing the Form 460 Schedule A (Monetary Contributions Received)

Schedule A is used to report monetary contributions received by the committee, except for loans received, which are reported on Schedule B. Payments received for repayments on loans made to others are reported on Schedule H. Payments received that are not contributions, loans, or repayments of loans made to others, are reported as miscellaneous increases to cash on Schedule I.

1 Date Received

Enter the date the committee obtained possession or control of the contribution. For instance, in the case of a check, report the date the check was received, which may differ from the date the check was written and the date the check was deposited.

For contributions received by electronic transaction (such as credit card, debit account, or wire transfer, including those received over the Internet), report the date the committee received or had control of the credit/debit account information or other payment information, or the date the committee received or had control of the funds, whichever is earlier. Chapter 2 provides several examples of different types of contributions and when they are deemed "received."

2 Contributor Information

Itemize persons that have contributed to the committee a cumulative amount of $100 or more during the calendar year. Provide each contributor's full name, street address, city, state, and zip code. Many local agencies require itemization at a lower threshold so check with your elections office.

> **Ex 9.4 -** Wade Murphy contributed $25 to your committee during the first reporting period of the calendar year. On your committee's first campaign statement, Wade's contribution was not required to be itemized. During the second reporting period, Wade contributed $99 to your committee. Since Wade's cumulative contributions for the calendar year are now $100 or more, Wade must be itemized on the second campaign statement. The $99 contribution will be reported under "amount received this period" and $124 will be reported as the "cumulative to date" total. Wade's name, address, occupation, and employer must also be disclosed.

If the contributor is a recipient committee, report that committee's identification number. If an identification number has not yet been assigned or is unknown, report the full name, street address, city, state, and zip code of that committee's treasurer. If the contributor is a limited liability company (LLC) that has qualified as an independent expenditure committee or major donor, include the name of the LLC and the full legal name of the of the LLC's responsible officer as defined in Regulation 18402.2. For contributions of $100 or more received from an LLC that has qualified as a recipient committee, include the name of the committee and its principal officer as defined in Section 82047.6. For an LLC that has not qualified as a committee, include the name of the LLC and the full legal name of the individual primarily responsible for approving the contribution. If more than one individual shares in the primary responsibility of approving a contribution, at least one such individual must be identified.

If a contribution is received through an intermediary, provide the name, street address, city, state, zip code, and, if applicable, occupation and employer, of both the intermediary and the true source of the contribution. (See Chapter 3.) Additionally, for contributions of $100 or more from an intermediary that is a limited liability company (LLC) that has qualified as an independent expenditure committee or major donor, include the name of the LLC and the full legal name of the LLC's responsible officer as defined in Regulation 18402.2. If the contributor is an LLC that has qualified as a recipient committee, include the name of the committee and its principal officer as defined in Section 82047.6. For an LLC that has not qualified as a committee, include the name of the LLC and the full legal name of the individual primarily responsible for approving the contribution. If more than one individual shares in the primary responsibility of approving a contribution, at least one such individual must be identified.

3 Contributor Code

For each itemized contributor, check the appropriate box to indicate whether the contributor is an individual, a committee, "other" (such as a business entity), or a political party. (The code "SCC" is for small contributor committees and is applicable only to state candidates and committees.)

4 Occupation and Employer Information

If the contributor is an individual, provide the individual's occupation and the name of their employer. If the individual is self-employed, provide the name of their business. Do not leave this column blank. If the information has not yet been obtained, enter "requested" or similar language and amend Schedule A when the information has been received.

> **QUICK TIP:** Once a committee has received $100 or more from a contributor in a calendar year, all future contributions received from that contributor in that calendar year, regardless of the amount, must be itemized.

As explained in Chapter 2, a contribution of $100 or more must be returned if the contributor's name, street address, and if the contributor is an individual, their occupation and employer are not in the committee's records within 60 days of receipt of the contribution.

5 Amount Received This Period

Report the amount of the contribution.

6 Cumulative to Date

Enter the cumulative amount of contributions (including monetary contributions, nonmonetary contributions, loans, and loan guarantees) received from the contributor. Contributions from a single source are generally cumulated from January 1 through December 31 of the current calendar year. However, there is an exception to calendar year cumulation if the committee is required to file a preelection statement in one calendar year in connection with an election held in the next calendar year. See "Calendar Year Cumulation Exception" under Section D., General Rules for Reporting Contributions Received on Schedule A.

The amount listed in the "Cumulative to Date Calendar Year" column will differ from the "Amount Received This Period" column if the committee has received other contributions, including nonmonetary contributions, loans, or loan guarantees from the same source during

the calendar year. Once a committee has received $100 or more from a contributor in a calendar year, all future contributions received from that contributor in that calendar year, regardless of the amount, must be itemized.

7 Per Election to Date

The “Per Election to Date” column is generally for state candidates and committees that are subject to contribution limits. The Act does not contain contribution limits for local candidates and committees; however, local ordinances may include limits and other restrictions and reporting requirements. Local candidates and committees should check with the local elections office about reporting obligations under local laws.

8 Schedule A Summary

Complete the Schedule A Summary section by entering the total amount of itemized contributions ($100 or more) received this period on Line 1 and the total amount of unitemized contributions (less than $100) received this period on Line 2. Add Lines 1 and 2 and enter that amount on Line 3. The amount on Line 3 is carried forward to the overall Summary Page, Column A, Line 2.

SCHEDULE B - PART 1

Schedule B – Part 1
Loans Received

Amounts may be rounded to whole dollars.

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM **460**

Page XX of XX

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER
Manuel Alvarez for Mayor 20XX

I.D. NUMBER
123XX

1 FULL NAME, STREET ADDRESS AND ZIP CODE OF LENDER (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	2 IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	a OUTSTANDING BALANCE BEGINNING THIS PERIOD	b AMOUNT RECEIVED THIS PERIOD	c AMOUNT PAID OR FORGIVEN THIS PERIOD *	d OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD	e INTEREST PAID THIS PERIOD	f ORIGINAL AMOUNT OF LOAN	g CUMULATIVE CONTRIBUTIONS TO DATE
American Credit Union 350 South Park Street Oakmont, CA 95443 †☐ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC		$ 0	$ 10,000	☐ PAID $ 0 ☐ FORGIVEN $ 0	$ 10,000 7/1/XX DATE DUE	5 % RATE $ 250	$ 10,000 7/1/XX DATE INCURRED	CALENDAR YEAR $ N/A PER ELECTION** $ N/A
Manuel Alvarez 4245 McDow Street Oakmont, CA 95443 †☑ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC	Editor, Oakmont Weekly	$ 2,000	$ 0	☑ PAID $ 1,000 ☐ FORGIVEN $ 0	$ 1,000 N/A DATE DUE	0 % RATE $ -0-	$ 2,000 1/15/XX DATE INCURRED	CALENDAR YEAR $ 2,000 PER ELECTION** $ N/A
	SUBTOTALS	$ 10,000	$ 1,000	$ 11,000	$ 250 (Enter (e) on Schedule E, Line 3)			

3

Schedule B Summary

1. Loans received this period ..... $ 10,000
   (Total Column (b) plus unitemized loans of less than $100.)
2. Loans paid or forgiven this period ..... $ 1,000
   (Total Column (c) plus loans under $100 paid or forgiven.)
   (Include loans paid by a third party that are also itemized on Schedule A.)
3. Net change this period. (**Subtract** Line 2 from Line 1.) ..... NET $ 9,000
   Enter the net here and on the Summary Page, Column A, Line 2. (May be a negative number)

†Contributor Codes
IND – Individual
COM – Recipient Committee (other than PTY or SCC)
OTH – Other (e.g., business entity)
PTY – Political Party
SCC – Small Contributor Committee

F. Completing the Form 460 Schedule B – Part 1 (Loans Received)

Schedule B is used to report activity on loans received by the committee. Outstanding loans are reported on each campaign statement until they are paid off or forgiven. Schedule B has two parts:

- Part 1 lists loans received or outstanding, and the repayment, forgiveness, or payment by a third party of a loan previously received.
- Part 2 lists information about loan guarantors, if any.

QUICK TIP: If the committee has drawn on a line of credit, it is reported as a loan.

1 Lender Information and Contributor Code

Provide the full name, street address, city, state, and zip code, of each lender of $100 or more. For each itemized lender, check the appropriate box to indicate whether the lender is an individual, a committee, “other” (such as a business entity), or a political party. (The code “SCC” is for small contributor committees and is applicable only to state candidates and committees.) For loans that are contributions of $100 or more from Limited Liability Companies (LLCs) please see instructions for Schedule A above for information required to be reported in connection with contributions received from LLCs. Loans received from commercial lending institutions in the normal course of business are not contributions.

> **QUICK TIP:** A loan received from a commercial lending institution in the normal course of business is reportable on Schedule B but is not considered a contribution. Contributor codes and cumulative amounts are only required for loans that are contributions.

Financial Institution

If a financial institution (i.e., bank or credit union) has made a loan to the committee, or the committee has drawn on a line of credit from a financial institution, report the institution as the lender, even if the candidate has established the line of credit.

2 Individual Lender

If the lender is an individual (including a candidate or officeholder using personal funds to make a loan to their committee), provide the individual’s occupation and the name of their employer. If the individual is self-employed, provide the name of their business. Do not leave this column blank. If this information has not yet been obtained, enter “requested” or similar language and amend Schedule B, Part 1, when the information is received. (See Chapter 2 for information about the requirement to return contributions/loans if the name, address, occupation, or employer information is not received.)

QUICK TIP: A candidate or officeholder who deposits personal funds into their own campaign bank account may report the funds as a loan on Schedule B or as a contribution on Schedule A.

QUICK TIP: Report each loan separately, even if the committee has received more than one loan from a single source.

Loan Amounts

a Outstanding Balance Beginning This Period

Enter the outstanding loan balance at the beginning of this reporting period (Column (d) of the last report filed). If the loan was received this period, enter zero.

b Amount Received This Period

Enter the amount received from the lender during this reporting period. If this loan was received in a previous reporting period, enter zero.

c Amount Paid or Forgiven This Period

Enter the amount of any reduction of the loan during this reporting period. Check the appropriate box to indicate whether the reduction was a payment or forgiveness. When the lender forgives all or part of a loan, or a third party makes a payment on a loan, also report the lender or third party on Schedule A as a contributor. Enter zero if no payments were made during this reporting period.

d Outstanding Balance at Close of This Period

Enter the outstanding balance of the loan at the close of this reporting period. Enter the due date, if any.

e Interest Paid This Period

Enter the interest rate and the amount of interest paid on the loan during this reporting period. If the lender is not charging interest, indicate “none” on the “interest rate” line. Interest paid is reported separately from payments made on the loan principal. Interest payments are also transferred to the Schedule E Summary.

f Original Amount of Loan

Enter the original amount of the loan and the date it was received. If this is the first time the loan is being reported, this is the same amount as reported in Column (b).

QUICK TIP: Do not report the repayment of a loan on Schedule E. Only the “Interest Paid This Period” should be reported on Schedule E.

g Cumulative Contributions to Date

Enter the cumulative amount of contributions (including loans, loan guarantees, monetary and nonmonetary contributions) received from the lender. Contributions from a single source are generally cumulated from January 1 through December 31 of the current calendar year. However, there is an exception to calendar year cumulation if the committee is required to file a preelection statement in one calendar year in connection with an election held in the next calendar year. See "Calendar Year Cumulation Exception" under Section D., General Rules for Reporting Contributions Received on Schedule A.

The "Per Election to Date" column is generally for state candidates and committees that are subject to contribution limits. The Act does not contain contribution limits for local candidates and committees; however, local ordinances may include limits and other restrictions and reporting requirements. Local candidates and committees should check with the local elections office about reporting obligations under local laws.

3 Schedule B Summary

Complete the Schedule B Summary by entering the total amount of loans **received** this period on Line 1 and the total amount of loans **paid or forgiven** on Line 2. Subtract Line 2 from Line 1 and enter the difference (net change this period) on Line 3. The amount on Line 3 will be a negative amount when the loans paid or forgiven this period are more than the amount of new loans received. The amount on Line 3 is carried forward to the overall Summary Page, Column A, Line 2.

Outstanding Loans Received (Summary Page – Column B, Line 2)

Loans received are carried forward on future statements until they are paid off or forgiven. To determine the amount for Column B, Line 2 of the overall Summary Page, add the amount from Column A, Line 2 of this statement to the amount of Column B, Line 2 of the previous statement. If the amount in Column A, Line 2 is a negative number, subtract it from the amount in Column B, Line 7 of the previous statement.

SCHEDULE B - PART 2

Schedule B – Part 2
Loan Guarantors

Amounts may be rounded to whole dollars.

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM **460**

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SEE INSTRUCTIONS ON REVERSE

NAME OF FILER
Manuel Alvarez for Mayor 20XX

I.D. NUMBER
12344XX

1 FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	2 CONTRIBUTOR CODE*	3 IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	4 LOAN	5 AMOUNT GUARANTEED THIS PERIOD	6 CUMULATIVE TO DATE	7 BALANCE OUTSTANDING TO DATE
Joseph Alvarez 445 C Street Oakmont, CA 95443	☑ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC	Realtor, Alvarez and Mitchell Realty	LENDER: American Credit Union DATE: 7/1/XX	$10,000	CALENDAR YEAR $10,000 PER ELECTION (IF REQUIRED) N/A	$10,000
				SUBTOTAL $ 10,000	Enter on Summary Page, Line 17 only.	

G. Completing the Form 460 Schedule B – Part 2 (Loan Guarantors)

1 Guarantor Information

If someone other than the controlling candidate co-signs, endorses, or provides security for a loan of $100 or more, enter the full name, street address, city, state, and zip code, of the guarantor. If the guarantor is a Limited Liability Company (LLC) please see instructions for Schedule A above for information required to be reported in connection with contributions received from LLCs.

Lines of Credit

If a third party establishes a line of credit of $100 or more for the committee, enter the third party's full name, street address, city, state, and zip code, as the guarantor.

2 Contributor Code

For each itemized guarantor, check the appropriate box to indicate whether the guarantor is an individual, committee, "other" (i.e., business entity), or a political party. (The code "SCC" is for small contributor committees and is applicable only to state candidates and committees.)

3 Individual Loan Guarantor

If the guarantor is an individual, provide the individual's occupation and the name of their employer. If the individual is self-employed, provide the name of their business. Do not leave this column blank. If this information has not yet been obtained, enter "requested" or similar language and amend Schedule B, Part 2, when the information is received.

4 Loan/Lender

Enter the name of the lender or the entity at which a line of credit was established and the date of the loan or the date the line of credit was established.

5 Amount Guaranteed This Period

Enter the amount guaranteed this period, if applicable. For lines of credit, enter the full amount established or secured by the guarantor during the period. (Report amounts **drawn** on a line of credit on Schedule B — Part 1.)

6 Cumulative to Date

Enter the cumulative amount of contributions (including loans, loan guarantees, monetary and nonmonetary contributions) received from the guarantor. Contributions from a single source are generally cumulated from January 1 through December 31 of the current calendar year. However, there is an exception to calendar year cumulation if the committee is required to file a preelection statement in one calendar year in connection with an election held in the next calendar year. See "Calendar Year Cumulation Exception" under Section D., General Rules for Reporting Contributions Received on Schedule A.

QUICK TIP: Loan guarantees are not included in the Schedule B Summary, but are carried forward in a lump sum to Line 17 of the overall Summary Page.

The "per election" information is generally only required for state candidates and committees that are subject to contribution limits. The Act does not contain contribution limits for local candidates and committees; however, local ordinances may include limits and other restrictions and reporting requirements. Local candidates and committees should check with the local elections office about reporting obligations under local laws.

7 Balance Outstanding to Date

Report the outstanding balance for which the guarantor is liable at the close of the reporting period.

H. General Rules for Reporting Nonmonetary Contributions Received on Schedule C

Schedule C is used to report nonmonetary contributions received by the committee. Nonmonetary contributions are goods or services provided to the committee for which it does not pay the fair market value.

The fair market value is the amount the committee would pay for the goods or services on the open market – whatever it would cost any member of the general public to obtain the same goods or services. (See Chapter 3 for assistance in determining the fair market value of a nonmonetary contribution.)

> **Ex 9.5 -** A restaurant donates food for a committee fundraiser. The cost of the food if purchased by the committee would be $1,000. The committee must report $1,000 as the fair market value of the contribution even though the cost to the restaurant was less than the fair market value.

Examples of Nonmonetary Contributions

- Items donated for a garage sale, raffle, or auction
- Poll results
- Signs, postage, and printing
- Food and entertainment provided for a fundraiser
- Discounts or rebates that are not extended to the general public
- Mailing lists, mailings, and other advertising
- Forgiveness of an accrued expense by the creditor
- Use of an office, automobile, or airplane
- Mail production, postage, printing, shipping, data and graphics
- Phone banking and public communications
- Media consulting services
- Video services
- Staff time and expenses
- Banner ads
- Precinct walking and door hangers
- Food for volunteers
- Slate mailer/slate cards
- Campaign materials, flyers for rally, buttons, t-shirts
- Corporate stock

QUICK TIP: If corporate stock is received as a contribution, the amount reported on Schedule C is the value listed on the stock exchange on the date of receipt. When the stock is sold, the proceeds are reported on Schedule I as a miscellaneous increase to cash. See Chapter 3 for additional information.

- Compensation paid by an employer to an employee who spends more than 10 percent of their compensated time in a calendar month working on campaign activities for one or more campaigns. Compensation includes gross wages paid and any benefits in lieu of wages, such as stock options or an annuity purchase. Compensation does not include standard benefits, such as the employer's payments to a retirement or health plan.

See Chapter 3 for exceptions, such as volunteer personal services, home/office fundraisers, and member communications.

Schedule C
Nonmonetary Contributions Received

Amounts may be rounded to whole dollars.

SCHEDULE C

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM 460

Page XX of XX

SEE INSTRUCTIONS ON REVERSE
NAME OF FILER
Manuel Alvarez for Mayor 20XX

I.D. NUMBER
12344XX

1 DATE RECEIVED	2 FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	3 CONTRIBUTOR CODE *	4 IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	5 DESCRIPTION OF GOODS OR SERVICES	6 AMOUNT/ FAIR MARKET VALUE	7 CUMULATIVE TO DATE CALENDAR YEAR (JAN 1 - DEC 31)	8 PER ELECTION TO DATE (IF REQUIRED)
9/25/XX	Genesis Insurance Company 850 F Street Oakmont, CA 95443	☐ IND ☐ COM ☑ OTH ☐ PTY ☐ SCC		Food for Fundraiser	$1,500	$1,500	N/A
10/1/XX	Citizens for Improving Oakmont (ID 116787XX) 1275 Main Street, Oakmont, CA 95443	☐ IND ☑ COM ☐ OTH ☐ PTY ☐ SCC		Employee Compensation for Campaign Activities	$5,000	$5,000	N/A
Attach additional information on appropriately labeled continuation sheets.				**SUBTOTAL $**	6,500		

9 Schedule C Summary

1. Amount received this period – itemized nonmonetary contributions. (Include all Schedule C subtotals.) ..... $ 6,500
2. Amount received this period – unitemized nonmonetary contributions of less than $100 ..... $ 0
3. Total nonmonetary contributions received this period. (Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Lines 4 and 10.) ..... **TOTAL $** 6,500

*Contributor Codes
IND – Individual
COM – Recipient Committee (other than PTY or SCC)
OTH – Other (e.g., business entity)
PTY – Political Party
SCC – Small Contributor Committee

I. Completing the Form 460 Schedule C (Nonmonetary Contributions Received)

1 Date Received

A nonmonetary contribution is received on the earlier of the following:

- The date that funds are expended by the contributor for the goods or services;
- The date that the candidate or committee obtains possession or control of the goods or services; or
- The date the committee receives the benefit of the expenditure.

Ex 9.6 - A general purpose committee, in coordination with your committee, printed a brochure advocating your election to the school board. The committee delivered the brochures to your committee headquarters on February 22 and paid the printing bill on March 15. Your committee received the nonmonetary contribution on February 22.

2 Contributor Information

Itemize persons who have contributed to the committee a cumulative amount of $100 or more during the calendar year. Provide each contributor's name, street address, city, state, and zip code. For contributions received from Limited Liability Companies (LLCs) please see instructions for Schedule A above for information required to be reported in connection with contributions received from LLCs. Remember to maintain the names and addresses of contributors of $25 or more in your records. (See Chapter 2.)

3 Contributor Code

For each itemized contributor, check the appropriate box to indicate whether the contributor is an individual, committee, "other" (i.e., business entity), or a political party. (The code "SCC" is for small contributor committees and is applicable only to state candidates and committees.)

4 Occupation and Employer

If the contributor is an individual, provide the individual's occupation and the name of their employer. If the individual is self-employed, provide the name of their business. Do not leave this column blank. If this information has not yet been obtained, enter "requested" or similar language and amend Schedule C when the information has been received.

5 Description of Goods or Services

Provide a brief description of the goods or services received.

> **QUICK TIP:** If an individual donates their personal or professional services to a campaign (including their travel expenses), no contribution has been made or received as long as the individual is not paid or reimbursed.

6 Amount/Fair Market Value

Report the value of the nonmonetary contribution received.

7 Cumulative to Date

Enter the cumulative amount of contributions (including loans, loan guarantees, monetary and nonmonetary contributions) received from the contributor. Contributions from a single source are generally cumulated from January 1 through December 31 of the current calendar year. However, there is an exception to calendar year cumulation if the committee is required to file a preelection statement in one calendar year in connection with an election held in the next calendar year. See “Calendar Year Cumulation Exception” under Section D., General Rules for Reporting Contributions Received on Schedule A.

8 Per Election to Date

The “Per Election to Date” column is generally for state candidates and committees that are subject to contribution limits. The Act does not contain contribution limits for local candidates and committees; however, local ordinances may include limits and other restrictions and reporting requirements. Local candidates and committees should check with the local elections office about reporting obligations under local laws.

9 Schedule C Summary

Complete the Schedule C Summary section by entering the total amount of itemized nonmonetary contributions ($100 or more) received this period on Line 1 and the total amount of unitemized nonmonetary contributions (less than $100) received this period on Line 2. Add Lines 1 and 2 and enter the total on Line 3. The amount on Line 3 is carried forward to the overall Summary Page, Column A, Lines 4 and 10. **Reminder:** Once a contributor has contributed $100 or more in a calendar year, all future contributions received from that person, regardless of the amount, must be itemized.

Answering Your Nonmonetary Contributions Questions

A. What is the value of the time provided by a graphic artist who volunteers to design a logo for my committee?

The artist's time is not reportable if it constitutes volunteer personal services. But, if the artist is an employee of a business and spends more than 10 percent of their compensated time in a calendar month working on the design, the paid compensation becomes a nonmonetary contribution from the artist's employer.

B. How do I determine the fair market value of a mailing list provided by another committee?

The most common way for a committee to determine the value is to contact a business from which a similar mailing list may be obtained.

J. General Rules for Reporting Expenditures Supporting/ Opposing Other Candidates, Measures, and Committees on Schedule D

Schedule D provides a summary of payments reported on Schedules E, F, and H that are contributions or independent expenditures to support or oppose other candidates, measures, and committees. Such payments include:

- Monetary contributions or loans to other candidates and committees.
- Payments to vendors for goods or services for other candidates and committees (nonmonetary contributions).
- Donations to other candidates and committees of goods on hand, or the payment of salary or expenses for a campaign employee who spends more than 10 percent of their compensated time in a calendar month on campaign activities for other candidates or committees (nonmonetary contributions).

- Payments for communications (e.g., mailings, billboards, radio ads) that expressly advocates support of or opposition to a clearly identified candidate or ballot measure, but the payments are not made to, or at the behest of, the candidate or ballot measure committee (independent expenditures).

Candidate Controlled Committees

Payments made to support the controlling candidate's own candidacy, or to oppose the candidate's opponent(s), are not reported on Schedule D. These payments are direct campaign expenditures and are reported only on Schedule E.

If, during a calendar year, an officeholder or candidate uses **personal** funds to make contributions of $10,000 or more, or independent expenditures of $1,000 or more, to support or oppose **other** officeholders, candidates, committees, or ballot measures (including a controlled ballot measure committee), the candidate must file a Major Donor and Independent Expenditure Committee Campaign Statement (Form 461). These payments are not reported on Schedule D.

Primarily Formed Committees

Payments made for communications that support or oppose the candidate for which the committee is primarily formed are required to be reported on Schedule D as either contributions or independent expenditures, depending on whether the payments were made at the behest of the candidate. These payments are also reported on Schedule E or F.

Schedule D
Summary of Expenditures Supporting/Opposing Other Candidates, Measures and Committees

SEE INSTRUCTIONS ON REVERSE

Amounts may be rounded to whole dollars.

SCHEDULE D

CALIFORNIA FORM 460

Statement covers period
from 7/1/XX
through 12/31/XX

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NAME OF FILER
Manuel Alvarez for Mayor 20XX

I.D. NUMBER
12344XX

1 DATE	2 NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE	3 TYPE OF PAYMENT	4 DESCRIPTION (IF REQUIRED)	5 AMOUNT THIS PERIOD	6 CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	7 PER ELECTION TO DATE (IF REQUIRED)
10/1/XX	Committee for Bike Lanes in Oakmont Yes on Measure E (ID 12456XX) City of Oakmont ☑ Support ☐ Oppose	☑ Monetary Contribution ☐ Nonmonetary Contribution ☐ Independent Expenditure	Loan	$1,000	$1,000	N/A
10/12/XX	Del Norte County Independent Central Committee (ID 11852XX) ☑ Support ☐ Oppose	☑ Monetary Contribution ☐ Nonmonetary Contribution ☐ Independent Expenditure		$500	$500	N/A
	☐ Support ☐ Oppose	☐ Monetary Contribution ☐ Nonmonetary Contribution ☐ Independent Expenditure				
			SUBTOTAL $	1,500		

8 Schedule D Summary

1. Itemized contributions and independent expenditures made this period. (Include all Schedule D subtotals.)..... $ 1,500
2. Unitemized contributions and independent expenditures made this period of under $100..... $ 0
3. Total contributions and independent expenditures made this period. (Add Lines 1 and 2. Do not enter on the Summary Page.) ..... **TOTAL** .. $ 1,500

K. Completing the Form 460 Schedule D (Summary of Expenditures Supporting/Opposing Other Candidates, Measures and Committees)

1 Date

Report the date the contribution or independent expenditure was made. A monetary contribution is made on the date it is mailed, delivered, or otherwise transmitted to the officeholder, candidate, or committee.

A **nonmonetary contribution** is made on the earlier of the following:

- The date an expenditure is made for the goods or services;

- The date the committee or an agent of the committee obtained possession or control of the goods or services; or

- The date the committee otherwise received the benefit of the expenditure.

> **Ex 9.7 -** Your committee, working on behalf of the Friends of the Forest committee, arranged for the mailing of a campaign piece supporting their issue. The mailer is sent to voters directly from the mail house on September 4. On September 6, the mail house submits an invoice for payment to your committee. Your committee made a nonmonetary contribution to the Friends of the Forest committee on September 4 (the date they received the benefit of the expenditure).

A payment made in connection with the development, production, or dissemination of a communication that is an **independent expenditure** must be reported no later than the date the communication is mailed, broadcast, or otherwise disseminated to the public.

A payment for a communication that is never disseminated to the public is not considered an independent expenditure and need not be reported on Schedule D. The payment must be reported on Schedule E as an expenditure.

> **QUICK TIP:** Schedule D is a summary of payments made by the committee that were contributions to other candidates and committees or independent expenditures to support or oppose other candidates and ballot measures. The payments are also reported on Schedule E, F, or H.

2 Candidate and Office, Measure and Jurisdiction, or Committee

If a total of $100 or more is contributed or expended during a calendar year to support or oppose a single candidate, ballot measure, or a general purpose committee (e.g., a political party), disclose the name of the candidate and the office sought or held, the number or letter and jurisdiction of the ballot measure, or the name of the general purpose committee. For each candidate or measure listed, indicate whether the payment was made to support or oppose the candidate or measure.

> **Ex 9.8 -** The Committee to Elect Waters for Seaside Mayor 20XX made a contribution of $100 to the Committee to Support Growth in Seaside, Yes on Measure C. In addition to reporting the contribution on Schedule D, the expenditure must also be reported on Schedule E.

3 Type of Payment

Check the appropriate box to indicate whether the payment was a monetary contribution, nonmonetary contribution, or independent expenditure.

4 Description of Nonmonetary Contribution Where No Payment is Made

Because payments must be described when they are reported on Schedule E or F, a description is not required on Schedule D for payments reported on Schedule E or F that are nonmonetary contributions or independent expenditures. However, if no payment was made, describe the goods or services. For example, if goods on hand (i.e., office supplies) are contributed to another candidate or committee, a description must be included.

5 Amount This Period

Provide the amount(s) of contributions or independent expenditures made this period relative to each candidate, measure, or committee.

6 Cumulative to Date Calendar Year

Report the cumulative amount contributed to or expended to support or oppose each itemized candidate, ballot measure, or committee since January 1 of the current calendar year.

If contributions are made to more than one election committee controlled by the same candidate, report the total amount contributed to all of the committees. Do not cumulate contributions made to a candidate's election committee with contributions made to other committees controlled by the candidate, such as a ballot measure committee or a legal defense fund committee. Contributions and independent expenditures are cumulative separately.

7 Per Election to Date

If contributions of $100 or more were made to state candidates during a state election cycle, the cumulative amount contributed during the election cycle is reported in this column.

In addition, a local ordinance may require committees in that jurisdiction to report the cumulative amount contributed to a local candidate during a specified period. Check with the local elections office.

8 Schedule D Summary

Complete the Schedule D Summary by entering the total amount of itemized contributions and independent expenditures of $100 or more (Line 1), the total amount of unitemized contributions and independent expenditures of less than $100 (Line 2), and the total amount for both (Line 3). Totals from the Schedule D Summary are **not** carried forward to the overall Summary Page.

Answering Your Major Donor Questions

A. Must a candidate file the Form 461 (Major Donor and Independent Expenditure Committee Campaign Statement) if they make personal contributions to their controlled election campaign committee of $10,000 or more?

No. A candidate's contributions to their own election committee do not trigger the requirement to file the Form 461. But, if a candidate otherwise qualifies as a major donor committee by making personal contributions of $10,000 or more to other candidates or committees, the Form 461 must also include personal contributions made to their own controlled committees.

B. Must the spouse of a candidate file the Form 461 if they make personal contributions to their spouse's campaign of $10,000 or more?

If the contributions are made from community funds, neither the spouse nor the candidate will qualify as a major donor. But, if the candidate's spouse makes contributions from legally separate funds, the spouse will become a major donor and must file the Form 461.

C. Must a candidate file the Form 461 if they make personal contributions to their controlled ballot measure committee of $10,000 or more?

Yes.

D. Using personal funds, a candidate made contributions totaling $9,000 to other candidates and committees. They also contributed $3,000 to their own election committee. Since the total amount of all contributions made is $12,000, must the candidate file the Form 461 as a major donor?

No. Contributions to a candidate's own election committee are not counted toward the $10,000 major donor threshold.

L. General Rules for Reporting Payments Made on Schedule E and Accrued Expenses (Unpaid Bills) on Schedule F

Schedule E is used to report money spent by the committee during the reporting period, except for payments made on loans received by the committee or payments made in the form of loans to other candidates or committees. Use Schedule B (Part 1) to report repayments on **loans received** by the committee. Use Schedule H to report **loans made** to other candidates and committees.

QUICK TIP: Expenditures of campaign funds must have a political, legislative, or governmental purpose. (See Chapter 5.)

An expenditure is "made" on the date the payment is made or the date the committee receives the goods or services, whichever is earlier. Use Schedule F to report amounts owed by the committee for goods or services received but not paid for by the end of the reporting period.

Ex 9.9 - During October and November, your committee:

(a) Paid a deposit on a room for a fundraiser to be held January 10;

(b) Ordered and received the fundraiser invitations for which you were billed but had not made a payment by December 31; and

(c) Ordered, but did not receive, flowers for the fundraiser for which you will be billed at the end of January.

On your semi-annual statement covering the period ending December 31, report the payment for the room deposit on Schedule E. Because you received the invitations but had not paid for them by December 31, report the outstanding amount on Schedule F. The cost of the flowers will not be reported until the next reporting period because you did not pay for nor receive the flowers during the period covered by the statement.

The committee's unpaid administrative overhead expenses, such as rent, utilities, phones, or employee salaries, need not be reported

on Schedule F if the committee has not received a bill in the normal course of business or if the due date for the payment is after the closing date of the statement. Regular administrative overhead does not include contracts for services such as accounting, legal services, campaign consulting, and public relations.

> **Ex 9.10 -** On June 15, your committee received two bills for June services. One bill was from the restaurant where your committee held a fundraiser and the other was for office rent. The due date for both invoices is July 15. If, on June 30, the committee has not paid the two bills, the bill from the restaurant is reported on Schedule F as an accrued expense on your semi-annual statement. Since the rent bill is a regular administrative overhead expense, it does not need to be reported as an accrued expense.

Information Required

Itemize each payment or accrued expense of $100 or more to a single payee, and any payments totaling $100 or more for a single product or service made during the period.

If the committee has entered into an agreement to make payments over time for a product or service, other than general administrative expenses such as rent and utilities, the unpaid balance may be reportable on Schedule F as an accrued expense.

Payments for Online Communications

Additional expenditure reporting is required when a committee pays a person to provide favorable or unfavorable content about a candidate or ballot measure on an Internet site other than the committee's own website. The committee must specifically describe amounts the committee paid to provide favorable or unfavorable content on a candidate or ballot measure by:

- Providing such content for or posting on a website or blog, whether one's own or another's.
- Providing such content for or posting on a social media platform.
- Providing such video content for posting online.

Content means that which is offered on a website or other digital platform in writing, picture, video, photograph or other similar format.

Payments made to an individual, either directly or through a third party, must be reported on Schedule E or F using the code "WEB." In addition, the following information must be included: the amount of the payment, the payee, the name of the individual providing content, and the name of the website or the URL on which the communication is published in the first instance. The committee is not required to know where the content is shared or passed on to after the initial post. The additional reporting is not required if the fact that the campaign paid for the content is posted in a clearly conspicuous manner with the posted content. (See Regulation 18421.5 for additional information.)

Savings Accounts/Certificates of Deposit/Money Market Accounts

Do not report on Schedule E the transfer of campaign funds into a savings account, certificate of deposit, money market account, or the purchase of any other asset that can be readily converted to cash. Report these amounts as cash on hand on the Summary Page, Line 16.

Transfers

If a candidate controlled committee transfers funds to another committee controlled by the candidate, the transfer is reported on Schedule E. The receiving committee reports the transfer on Schedule I (Miscellaneous Increases to Cash). There are restrictions on transfers of surplus funds (see Chapter 5) and on transfers of funds to run for state office. (See Campaign Disclosure Manual 1 for State Candidates.)

Contributions and Independent Expenditures

If the committee makes contributions and/or independent expenditures to support or oppose other candidates, officeholders, or committees, in addition to reporting the payments or accrued expenses on Schedule E or F, they must also be reported on Schedule D. For payments made for goods or services that are nonmonetary contributions or

independent expenditures, also identify the candidate, committee, or ballot measure supported or opposed by the expenditure in the "Description of Payment" column on Schedule E or F.

When a primarily formed committee makes a payment for a communication that expressly advocates support for or opposition to the candidate for whom the committee is formed, the payment is reported as a contribution or independent expenditure. As discussed in Chapter 6, the determination is based on whether the payment was made at the behest of the candidate. If the payment is an independent expenditure, additional forms, such as the Verification of Independent Expenditures (Form 462) and the 24-Hour/10-Day Independent Expenditure Report (Form 496), may be required. (See Chapter 10 for additional information.)

If a primarily formed committee makes payments for contributions or independent expenditures to support or oppose **other** candidates, officeholders, committees, or ballot measures, it may qualify as a different type of committee (i.e., a general purpose committee), which has different reporting obligations. Contact the FPPC for assistance.

Subvendor Payments (often reported on Schedule G)

When an agent or independent contractor (such as a campaign worker, consulting firm, or advertising agency) makes an expenditure, or incurs a debt, of $500 or more on behalf of the committee, the expenditure must be reported in the same detail as if it had been made directly by the committee. These are commonly known as "subvendor payments." The committee must also obtain and keep receipts, invoices, and other documentation for subvendor payments. (See Chapter 2.)

Examples of subvendor payments that must be itemized include:

- Development of campaign strategy;
- Media placements – television, radio, cable, digital (specifically listing the TV or radio stations);
- Commissions paid to media firms for media placements;

- Travel expenses, such as a commercial airline or hotel paid $500 or more;
- Print or online advertisements;
- Polling and survey research;
- Talent and media services, production costs;
- Voter canvas program;
- Robocalls;
- Printing and literature; and
- Design or management of campaign literature or advertising.

  * If signature gathering, door-to-door solicitations, or canvassing is done by an individual, the agent or independent contractor does not need to supply the name of the individual to the committee, nor does the committee need to name the individual. For more information regarding this, please review Regulation 18431(e).

QUICK TIP: Payments made to subvendors may be itemized on Schedule E or Schedule G. Accrued expenses owed to a subvendor are reported on Schedule F.

Generally, agents and independent contractors must provide the committee with the required payment information no later than **three working days** prior to the deadline for filing the campaign statement; however, an expenditure of $1,000 or more made for a contribution or independent expenditure in the 90 days before an election, including the date of the election, must be reported to the committee **within 24 hours**. Expenditures made by the agent or independent contractor for its own overhead and operating expenses need not be itemized.

Ex 9.11 - An agent purchased $535 worth of flowers, $250 worth of postage, and $100 worth of balloons for a fundraiser. Itemize the agent on Schedule E (or Schedule F if the agent was not reimbursed during the reporting period). Provide the agent's name and address, a code or a description of the expenditures, and the amount being reimbursed ($885). In addition, since the payment to the florist was $500 or more, the florist must also be itemized. Provide the name and address of the florist, a code or description of the expenditure, and the amount paid to the florist ($535).

In many cases, funds paid to an agent or independent contractor in one reporting period will not be used by the agent or contractor until a subsequent reporting period. Payments to an agent or contractor are reported on Schedule E of the campaign statement covering the period in which the payments are made. When the agent or contractor spends the money, subvendor payments are reported on the campaign statement covering the period in which the expenditures are made. Payments of $500 or more must be itemized.

Subvendor payments are most commonly reported on Schedule G, but may be reported on Schedule E or F along with the payment made or owed to the agent or contractor. When itemizing subvendor payments on Schedule E or F, do not include the payments in the "Amount Paid" column, as this will inflate expenditure totals.

Credit Card Payments

When reporting payments to a credit card company, provide the name, street address, city, state, zip code, and the amount of payment. In addition, provide the name, street address, city, state, and zip code of any vendor that received $100 or more, the amount paid to each itemized vendor, and a code or description of the payment.

If a payment has not been made on the credit card by the end of the reporting period, or only partial payment has been made, report the amount outstanding to the credit card company on Schedule F. Payments to the credit card company should be reflected on Schedule E when payments are made and Schedule F when there is a balance still owing at the end of the reporting period. Vendors are not required to be listed more than one time, on either Schedule E or Schedule F. Schedule G may also be used to disclose vendors.

> **Ex 9.12 -** Sandra's committee for city council used the campaign credit card on December 28 at two different vendors to purchase office supplies and to have invitations to a fundraiser printed. The printing job cost $560, while the office supplies were under $100. Since the committee did not make a payment on the credit card by December 31, the end of the reporting period, the amount owed is reported on Schedule F. In addition to the total amount owed to the financial institution that issued the credit card, the committee also itemizes the printer, since the amount owed is $100 or more. The committee will report payments it makes to the financial institution, but does not reitemize any vendors.

Contingency Payments

If the committee has entered into an agreement to pay a contingency fee, such as a bonus to a consultant if the campaign is successful, report the fee amount on Schedule F only if it is outstanding at the end of the campaign. The fee is not required to be reported as an accrued expense until it is due.

Reimbursements – Candidates

Candidates may not use their personal funds for campaign expenses (except for filing and ballot statement fees and the $50 Secretary of State fee) without first depositing them into the campaign bank account.

Reimbursements – Volunteers, Employees, Agents and Contractors

Volunteers (including a candidate's spouse), employees, and agents or independent contractors (e.g., a consultant or an advertising agent),

may be reimbursed for goods, services, or travel expenses when the following criteria are met:

- The treasurer is provided with a dated receipt and a written description of each expenditure prior to reimbursement;
- The reimbursement is paid within 45 calendar days after the expenditure is made; and
- There is a written contract between the committee and the agent or independent contractor providing for the reimbursement of expenditures. (Volunteers and employees do not need a written contract.)

If the reimbursement does not occur within 45 calendar days, the expenditure is considered a nonmonetary contribution from the volunteer, paid employee, agent or independent contractor, unless the person seeking reimbursement has made a good faith effort to obtain reimbursement and is unable to collect from the committee.

Reimbursements – Officeholders

Officeholders may be reimbursed for expenses related to holding office paid for from personal funds when the following criteria are met.

- The expenditures are not campaign expenditures;
- The committee's treasurer is provided with a dated receipt and a written description of the expenditure; and
- Reimbursement occurs:
- For a monetary expenditure: Within 90 calendar days after the officeholder incurs the expense.
- For a credit card or charge account: Within 90 calendar days of the end of the billing period.

If the reimbursement does not occur within the 90-day period, the amount must be reported as a nonmonetary contribution from the officeholder to the committee and no reimbursement may occur.

An officeholder may be reimbursed from either the controlled committee campaign bank account established for election to the incumbent term of office, or from a controlled committee bank account established for a different election to the same office, if all of the conditions above are met. When reporting reimbursements to the officeholder, subvendor payments of $100 or more must be itemized.

Expenditures Made for Gifts, Meals, and Travel Payments

A candidate controlled committee that makes an expenditure of $100 or more for a gift, meal, or travel must further explain the expenditure in the "Description of Payment" column as described below. The explanation must be provided even if an expenditure code is used.

Gifts: When reporting an itemized expenditure for a gift, the committee must briefly describe the political, legislative, or governmental purpose of the expenditure. In addition, the committee must provide the date of the gift and a description of the gift. If the gift was made to an individual recipient, the name of the recipient must be included. If a gift was made to a group of recipients, the name of each recipient who received a benefit of $50 or more is required. When the recipient of a gift with a value of $50 or more is not known at the time the payment is required to be reported, the committee must report that the gift was for an "undetermined recipient." Once the gift has been given to the recipient, the campaign statement must be amended within 45 calendar days to disclose the name of the recipient.

Meals: When reporting an itemized expenditure for a meal (other than a meal reported as an itemized expenditure for travel, as discussed below), the committee must briefly describe the political, legislative, or governmental purpose of the expenditure. In addition, the committee must provide the date of the meal, the number of individuals who were present at the meal, and whether the candidate, a member of their household, or an individual with authority to approve expenditures of campaign funds was present at the meal. It is not necessary to include the names of individual attendees on the report. However, the names of the attendees must be maintained in the committee's records. (See Chapter 2.)

Ex 9.13 -The mayor's election committee purchased $50 restaurant gift certificates for two volunteer campaign workers. On Schedule E, the payment must be itemized. In the "Description of Payment" column, the following would adequately describe the payment: "12/5/XX – gift certificates for campaign workers, Linda Davis ($50), and Richard Bailey ($50)."

Ex 9.14 -The committee's controlling candidate and campaign manager discuss the election campaign during a lunch meeting at a restaurant. The meal was charged to the campaign credit card. On Schedule E, the payment to the credit card company and the restaurant must be itemized. In the "Description of Payment" column, the following would adequately describe the payment: "9/1/XX – Lunch meeting regarding campaign attended by campaign manager and candidate.

Travel Payments: When reporting an itemized expenditure for travel, including lodging and meals, the committee must briefly describe the political, legislative, or governmental purpose of the expenditure. In addition, the committee must also provide the date or dates of the travel, the destination, and the goods or services purchased. The description must also include the number of individuals for whom the payment was made and whether the trip included the candidate, a member of their household, or an individual with the authority to approve expenditures of campaign funds. The names of individuals who traveled are not required to be disclosed on the report. However, the names of the travelers must be maintained in the committee's records. (See Chapter 2.)

Ex 9.15 - A San Diego elected officeholder attended a fundraiser in Sacramento for a state ballot measure committee. The officeholder's committee paid for the travel expenses. On Schedule E, the payment to the airline must be itemized. In the "Description of Payment" column, the following would adequately describe the payment:
"8/1/XX and 8/3/XX – Round trip airfare to Sacramento for officeholder to attend ballot measure committee fundraiser."

SCHEDULE E

Schedule E
Payments Made

Amounts may be rounded to whole dollars.

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM 460

Page XX of XX

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER: Manuel Alvarez for Mayor 20XX

I.D. NUMBER: 12344XX

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

CMP campaign paraphernalia/misc.
CNS campaign consultants
CTB contribution (explain nonmonetary)*
CVC civic donations
FIL candidate filing/ballot fees
FND fundraising events
IND independent expenditure supporting/opposing others (explain)*
LEG legal defense
LIT campaign literature and mailings
MBR member communications
MTG meetings and appearances
OFC office expenses
PET petition circulating
PHO phone banks
POL polling and survey research
POS postage, delivery and messenger services
PRO professional services (legal, accounting)
PRT print ads
RAD radio airtime and production costs
RFD returned contributions
SAL campaign workers' salaries
TEL t.v. or cable airtime and production costs
TRC candidate travel, lodging, and meals
TRS staff/spouse travel, lodging, and meals
TSF transfer between committees of the same candidate/sponsor
VOT voter registration
WEB information technology costs (internet, e-mail)

1 NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	2 CODE	OR DESCRIPTION OF PAYMENT	3 AMOUNT PAID
Del Norte County Bank (Visa) 8995 Pine Street, Crescent City, CA 95531			$15,000
Subvendor: Mailings and More $14,500 855 Redwood Street, Oakmont, CA 95443	LIT		
Lam and Pettit Consultants 2720 P Street Crescent City, CA 95531	PRO	See Schedule G for subvendors	$20,000

* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

SUBTOTAL $ 35,000

4 Schedule E Summary

1. Itemized payments made this period. (Include all Schedule E subtotals.)	$ 37,200
2. Unitemized payments made this period of under $100	$ 3,500
3. Total interest paid this period on loans. (Enter amount from Schedule B, Part 1, Column (e).)	$ 250
4. Total payments made this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Column A, Line 6.)	**TOTAL $** 40,950

SCHEDULE E (CONT.)

Schedule E
(Continuation Sheet)
Payments Made

Amounts may be rounded to whole dollars.

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM 460

Page XX of XX

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER: Manuel Alvarez for Mayor 20XX

I.D. NUMBER: 12344XX

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

CMP campaign paraphernalia/misc.
CNS campaign consultants
CTB contribution (explain nonmonetary)*
CVC civic donations
FIL candidate filing/ballot fees
FND fundraising events
IND independent expenditure supporting/opposing others (explain)*
LEG legal defense
LIT campaign literature and mailings
MBR member communications
MTG meetings and appearances
OFC office expenses
PET petition circulating
PHO phone banks
POL polling and survey research
POS postage, delivery and messenger services
PRO professional services (legal, accounting)
PRT print ads
RAD radio airtime and production costs
RFD returned contributions
SAL campaign workers' salaries
TEL t.v. or cable airtime and production costs
TRC candidate travel, lodging, and meals
TRS staff/spouse travel, lodging, and meals
TSF transfer between committees of the same candidate/sponsor
VOT voter registration
WEB information technology costs (internet, e-mail)

NAME AND ADDRESS OF PAYEE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CODE	OR DESCRIPTION OF PAYMENT	AMOUNT PAID
Del Norte County Independent Central Committee (ID 11852XX) 18885 Ocean Blvd. Crescent City, CA 95531	CTB		$500
Manuel Alvarez 4245 McDow Street Oakmont, CA 95443		Reimbursement of filing fee	$1,500
Nelson Legal Group, LLC 4950 Professional Blvd. Crescent City, CA 95531	PRO		$200

M. Completing the Form 460 Schedule E (Payments Made)

1 Name and Address of Payee

Itemize each payment of $100 or more made to a single payee during the reporting period, and any payments totaling $100 or more made during the period for a single product of service. Include the name, street address, city, state, and zip code of the payee. Do not use a post office box number when reporting the address of a payee or creditor.

> **QUICK TIP:** The spouse or registered domestic partner of an elected officer or a candidate for elective office may not receive, in exchange for any services rendered, compensation from campaign funds held by a controlled committee of the officer or candidate. QUICK TIP: The spouse or registered domestic partner of an elected officer or a candidate for elective office may not receive, in exchange for any services rendered, compensation from campaign funds held by a controlled committee of the officer or candidate.

2 Code or Description of Payment

When itemizing payments, provide either a code or a description of the payment. Expenditure codes are explained in detail in the Form 460, Schedule E instructions. If none of the codes listed on Schedule E fully explains the expenditure, leave the code column blank and provide a brief description of the goods or services purchased.

> **QUICK TIP:** Campaign funds may be used only for certain types of legal payments. See Chapter 5 for information about the permissible uses of campaign funds.

If several expenditures are made to one vendor during the same reporting period, all of the payments to the vendor may be reported in a single record. When coding the expenditures, use the code that represents the largest share of the expenditures, and the description field for the other codes or a description. Alternatively, each expenditure may be reported separately by category.

For expenditures that are nonmonetary contributions or independent expenditures, provide the applicable code ("CTB" or "IND") and disclose the name of the candidate or committee that received the contribution, or the name of the candidate or ballot measure supported or opposed by the independent expenditure. Also include a brief description of the contribution or independent expenditure. These expenditures must also be disclosed on Schedule D.

3 Amount Paid

Enter the total amount paid to the payee during the reporting period.

Payment of Accrued Expenses

When paying for accrued expenses previously reported on Schedule F, report all payments on Schedule E, itemizing each payment of $100 or more. Subvendor information does not need to be reitemized if it was disclosed on Schedule F of a previous statement.

4 Schedule E Summary

Complete the Schedule E Summary by entering the total amount of itemized payments of $100 or more (Line 1) and the total amount of unitemized payments of less than $100 (Line 2). If the committee is paying interest on loans, enter the amount from Schedule B, Part 1, Column (e) on Line 3. The total amount of all payments made is entered on Line 4. The amount on Line 4 is carried forward to the overall Summary Page, Column A, Line 6.

SCHEDULE F

Schedule F
Accrued Expenses (Unpaid Bills)

Amounts may be rounded to whole dollars.

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM 460

Page XX of XX

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER
Manuel Alvarez for Mayor 20XX

I.D. NUMBER
12344XX

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

CMP	campaign paraphernalia/misc.	MBR	member communications	RAD	radio airtime and production costs
CNS	campaign consultants	MTG	meetings and appearances	RFD	returned contributions
CTB	contribution (explain nonmonetary)*	OFC	office expenses	SAL	campaign workers' salaries
CVC	civic donations	PET	petition circulating	TEL	t.v. or cable airtime and production costs
FIL	candidate filing/ballot fees	PHO	phone banks	TRC	candidate travel, lodging, and meals
FND	fundraising events	POL	polling and survey research	TRS	staff/spouse travel, lodging, and meals
IND	independent expenditure supporting/opposing others (explain)*	POS	postage, delivery and messenger services	TSF	transfer between committees of the same candidate/sponsor
LEG	legal defense	PRO	professional services (legal, accounting)	VOT	voter registration
LIT	campaign literature and mailings	PRT	print ads	WEB	information technology costs (internet, e-mail)

1 NAME AND ADDRESS OF CREDITOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	2 CODE OR DESCRIPTION OF PAYMENT	3 (a) OUTSTANDING BALANCE BEGINNING OF THIS PERIOD	(b) AMOUNT INCURRED THIS PERIOD	(c) AMOUNT PAID THIS PERIOD (ALSO REPORT ON E)	(d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD
Nelson Legal Group, LLC 4950 Professional Blvd. Crescent City, CA 95531	PRO	$2,000	0	$200	$1,800
Tri Cities Bank (Mastercard) 9650 Main Street Crescent City, CA 95531		0	$1,750	0	$1,750
Subvendor: Home Depot $750 750 Industrial Way, Oakmont, CA 95443	CMP				
* Payments that are contributions or independent expenditures must also be summarized on Schedule D.	**SUBTOTALS** $	2,000	$ 1,750	$ 200	$ 3,550

4 Schedule F Summary

1. Total accrued expenses incurred this period. (Include all Schedule F, Column (b) subtotals for accrued expenses of $100 or more, plus total unitemized accrued expenses under $100.) ..... **INCURRED TOTALS $** 1,750
2. Total accrued expenses paid this period. (Include all Schedule F, Column (c) subtotals for payments on accrued expenses of $100 or more, plus total unitemized payments on accrued expenses under $100.) ..... **PAID TOTALS $** 200
3. Net change this period. (**Subtract** Line 2 from Line 1. Enter the difference here and on the Summary Page, Column A, Line 9.) ..... **NET $** 1,550 (May be a negative number)

N. Completing the Form 460 Schedule F – Accrued Expenses (Unpaid Bills)

1 Name and Address of Creditor

Itemize each accrued expense of $100 or more owed to a single creditor. Provide the name, street address, city, state, and zip code of the creditor. Do not use post office box numbers. Continue to list an unpaid bill until it is paid off.

2 Code or Description of Payment

When itemizing accrued expenses, provide either a code or a description of the outstanding payment. Expenditure codes are explained in detail in the Form 460, Schedule E instructions. If none of

the codes listed on Schedule F fully explains the outstanding payment, leave the code column blank and provide a brief description of the goods or services.

If several accrued expenses are owed to one vendor during the same reporting period, all of the accrued expenses to the vendor may be reported in a single record. The code that represents the largest share of the accrued expenses should be used, and the description field may be used for other codes or descriptions. Alternatively, each accrued expense may be reported separately by category.

For accrued expenses in connection with nonmonetary contributions or independent expenditures, provide the applicable code ("CTB" or "IND") and disclose the name of the candidate or committee that received the contribution, or the name of the candidate or ballot measure supported or opposed by the independent expenditure. Also include a brief description of the contribution or independent expenditure. **These expenditures also must be disclosed on Schedule D.**

3 Amount Columns

For each itemized accrued expense, report any outstanding balance remaining for the accrued expense from the previous period in column (a), the amount of new accrued expenses incurred this period in column (b), the amount paid this period in column (c), and any outstanding balance at the close of the period in column (d).

When payments on accrued expenses are made, in addition to itemizing payments of $100 or more on Schedule F, **itemize the payments on Schedule E.** Include unitemized payments on accrued expenses on Line 2 of the summary section of Schedule E.

Estimating Accrued Expenses

If the exact amount of a debt or obligation is unknown, an estimate may be reported. When the committee is made aware of the exact amount, the committee must 1) amend the statement on which the estimated amount was reported; or 2) make an adjustment on the next campaign statement by showing the difference between the estimated amount and the actual amount in column (b), "Amount Incurred This

Period." If the actual amount is less than the estimate, the amount listed in column (b) should be a negative number and subtracted from the totals. When reporting estimated amounts or corrections to estimated amounts, note that fact on the campaign statement.

> **Ex 9.16 -** On its second preelection statement, the committee's treasurer reported an estimated accrued expense of $5,000 owed to ABC Printing. An invoice was received during the next reporting period showing the actual amount owed as $4,500. On Schedule F, column (a) of its next statement, the committee will report an outstanding accrued expense of $5,000. In column (b), the amount incurred this period will be a negative $500. The committee paid the entire bill and therefore will report $4,500 as the amount paid this period in column (c), with a zero balance in column (d).

Forgiven Accrued Expenses or Third Party Payments

If a creditor reduces or forgives a debt previously reported on Schedule F, or if another person pays a debt for the committee:

- Indicate that the debt was forgiven, reduced, or paid by a third party and enter "see Schedule C" in the "Description of Payment" column. Also report the creditor or payor and the amount as a nonmonetary contribution on Schedule C.

- Report the amount forgiven, reduced, or paid by a third party in the "Amount Paid This Period" column and indicate that it was a forgiveness or third party payment **or** report the amount as a negative number in the "Amount Incurred This Period" column. Do not report the amount on Schedule E.

If the decision to forgive or reduce the debt is based on a bona fide business judgment that all or part of the debt is uncollectible, the creditor may not be making a contribution. Contact the FPPC for assistance.

4 Schedule F Summary

Complete the Schedule F Summary by entering the total amount of accrued expenses **incurred** on Line 1 and the total amount of accrued expenses **paid** on Line 2. Subtract Line 2 from Line 1 and enter the

difference (net change this period) on Line 3. The amount on Line 3 will be a negative amount when the accrued expenses paid are more than the amount of new accrued expenses. The amount on Line 3 is carried forward to the overall Summary Page, Column A, Line 9.

Outstanding Accrued Expenses (Summary Page, Column B, Line

Accrued expenses are carried forward on future statements until they are paid off. To determine the amount for Column B, Line 9 of the overall Summary Page, add the amount from Column A, Line 9 of the current statement to the amount of Column B, Line 9 of the previous statement. If the amount in Column A, Line 9 is a negative number, subtract it from the amount in Column B, Line 9 of the previous statement.

Answering Your Accrued Expenses Questions

A. When are unpaid bills reportable as accrued expenses?

The basic rule is that you must report an accrued expense any time you have received goods or services but have not paid for them by the end of the reporting period.

B. What if our committee has not yet received an invoice from the vendor?

If you have received the goods or services, you must report the accrued expense on Schedule F even if you have not received an invoice. If you do not know the actual amount, you may report an estimate. Once the committee is made aware of the actual amount, the committee must either amend the statement on which the estimated amount was reported or make an adjustment on the next campaign statement by showing the difference between the estimated amount and the actual amount. When reporting estimated amounts or corrections to estimated amounts, note that fact on Schedule F.

C. We have a contract to pay our campaign consultant $1,000 per month. If the closing date of the campaign statement falls during the middle of the month, for example March 17, must we report an accrued expense for the period of March 1 through March 17?

No. When you have agreed in writing to pay a contractor a set amount at regular intervals, it is not necessary to prorate the amount owed to the contractor if the reporting period closes before the end of the contract period. The payment will be reported on the campaign statement for the period in which the payment is made.

D. When an accrued expense is owed and there are subvendor payments, when are the subvendors reported? For example, if we report an accrued expense owed on a credit card and list the subvendors, must we reitemize the subvendors again on Schedules E and F when the accrued expense is paid?

No. It is not necessary to reitemize subvendors when payments are made on accrued expenses, or if an accrued expense is reported on more than one statement. In this example, the subvendors must be reported on the first statement disclosing the accrued expense owed to the credit card company. On subsequent statements, only the credit card company must be itemized.

E. Prior to attending an FPPC webinar and learning that it was not permitted, I used personal funds to pay for some of my campaign expenses before I opened a campaign bank account. How do I report these expenditures on the Form 460?

So that the activity is properly disclosed, you should report the amount of personal funds used on Schedule A as a contribution and Schedule E as an expenditure (itemizing subvendors of $100 or more). If you wish to be reimbursed by the committee, you may report the amount on Schedule F as an accrued expense. If you have already been reimbursed by the committee, you will report the amount on Schedule E as an expenditure itemizing subvendors of $100 or more. Non-disclosure of the payments is a violation of the Act. All future payments must be made from the campaign bank account; personal funds must be deposited into the account before making expenditures.

O. General Rules for Reporting Payments Made by an Agent or Independent Contractor on Schedule G

Schedule G is used to report payments made by agents (such as campaign workers) and independent contractors (such as consulting firms or advertising agencies) on behalf of the committee. This schedule may be used in lieu of itemizing these amounts on Schedule E or F. See the general rules for Schedules E and F for additional information.

> **QUICK TIP:** When reporting an agent or independent contractor's expenditure to an individual for conducting signature gathering, door-to-door solicitations, or canvassing, a committee is not required to name the individual, nor is the agent or contractor required to name the individual when providing information to the committee. For more information, please see Regulation 18431(e).

Schedule G may be completed by the committee from information provided by the agent or independent contractor or it may be completed by the agent or independent contractor. Agents and independent contractors must provide the committee with the required payment information **no later than three working days prior to the filing deadline** of the campaign statement. If an agent or independent contractor makes an expenditure of $1,000 or more for a contribution or independent expenditure in the 90 days before an election, including the date of the election, they must provide the committee with the required payment information **within 24 hours.**

Schedule G
Payments Made by an Agent or Independent Contractor (on Behalf of This Committee)

Amounts may be rounded to whole dollars.

SCHEDULE G

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM 460

Page XX of XX

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER
Manuel Alvarez for Mayor 20XX

I.D. NUMBER
12344XX

NAME OF AGENT OR INDEPENDENT CONTRACTOR
Lam and Pettit Consultants

CODES: If one of the following codes accurately describes the payment, you may enter the code. Otherwise, describe the payment.

CMP	campaign paraphernalia/misc.	MBR	member communications	RAD	radio airtime and production costs
CNS	campaign consultants	MTG	meetings and appearances	RFD	returned contributions
CTB	contribution (explain nonmonetary)*	OFC	office expenses	SAL	campaign workers' salaries
CVC	civic donations	PET	petition circulating	TEL	t.v. or cable airtime and production costs
FIL	candidate filing/ballot fees	PHO	phone banks	TRC	candidate travel, lodging, and meals
FND	fundraising events	POL	polling and survey research	TRS	staff/spouse travel, lodging, and meals
IND	independent expenditure supporting/opposing others (explain)*	POS	postage, delivery and messenger services	TSF	transfer between committees of the same candidate/sponsor
LEG	legal defense	PRO	professional services (legal, accounting)	VOT	voter registration
LIT	campaign literature and mailings	PRT	print ads	WEB	information technology costs (internet, e-mail)

* Payments that are contributions or independent expenditures must also be summarized on Schedule D.

1 NAME AND ADDRESS OF PAYEE OR CREDITOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	2 CODE	OR DESCRIPTION OF PAYMENT	3 AMOUNT PAID
KXTL Radio 5656 Westside Way Oakmont, CA 95443	RAD		$2,000
Good Day Oakmont 2620 H Street Oakmont, CA 95443	TEL		$7,000
Northwest Airlines 2500 Crosby Circle Chicago, IL 60606	TRC	10/15/XX: Sacramento, Airfare to Attend Meeting (1, Consultant)	$155
Albino's Italian Eats 1325 Sicily Street Oakmont, CA 95443	MTG	7/10/XX: Committee Staff Meeting (4, Candidate and Treasurer)	$125

Attach additional information on appropriately labeled continuation sheets.

TOTAL* $ 9,280

P. Completing Form 460 Schedule G (Payments Made by an Agent or Independent Contractor)

1 Name and Address of Payee or Creditor

Itemize each payment of $500 or more made by the agent or independent contractor. Provide the name, street address, city, state, and zip code of the payee or creditor. Do not use a post office box number.

2 Code or Description of Payment

When itemizing each payment, provide either a code or a description of the payment. If none of the codes listed on Schedule G fully explains the payment, leave the code column blank and provide a brief description of the payment. Payments that are contributions or independent expenditures must also be reported on Schedule D.

3 Amount Paid

Enter the total amount paid to the payee during the reporting period.

Schedule G totals are not transferred to any other schedule or to the Summary Page.

Q. General Rules for Reporting Loans Made to Others on Schedule H

Schedule H is for reporting loans **made** by the committee. Campaign funds may be used to make loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations, so long as the loan does not personally benefit the officeholder, candidate, committee treasurer, or any individual with authority to approve the expenditure of campaign funds, or any such person's immediate family member. The loan must be reasonably related to a political, legislative, or governmental purpose.

> **QUICK TIP:** Most local committees will not make loans to others. If there is nothing to report on Schedule H, the schedule does not need to be included with the Form 460. Simply enter a zero or the word "none" on Line 7 of the overall Summary Page.

Because a loan is considered a contribution, loans to other candidates and committees are subject to applicable state or local contribution limits. Loans to other candidates and committees must also be reported on Schedule D.

Outstanding loans are reported on each campaign statement until they are paid.

> **QUICK TIP:** If a primarily formed committee makes contributions (including loans) to candidates, officeholders, or committees (other than to the candidate for which the committee is primarily formed), it may qualify as a different type of committee with different reporting obligations. Contact the FPPC for assistance.

SCHEDULE H

Schedule H
Loans Made to Others*

Amounts may be rounded to whole dollars.

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM **460**

Page XX of XX

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER
Manuel Alvarez for Mayor 20XX

I.D. NUMBER
12344XX

1

FULL NAME, STREET ADDRESS AND ZIP CODE OF RECIPIENT (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	a (a) OUTSTANDING BALANCE BEGINNING THIS PERIOD	b (b) AMOUNT LOANED THIS PERIOD	c (c) REPAYMENT OR FORGIVENESS THIS PERIOD*	d (d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD	e (e) INTEREST RECEIVED	f (f) ORIGINAL AMOUNT OF LOAN	g (g) CUMULATIVE LOANS TO DATE
Committee for Bike Lanes in Oakmont, Yes on Measure E (ID 12456XX) 1500 D Street Oakmont, CA 95443		$ 0	$ 1,000	☐ PAID $ 0 ☐ FORGIVEN $ 0	$ 1,000 None DATE DUE	5 % RATE $ 0	$ 1,000 7/15/XX DATE INCURRED	CALENDAR YEAR $ 1,000 PER ELECTION** $ N/A
*Loans that are contributions to another candidate or committee must also be summarized on Schedule D. Loans forgiven must also be reported on Schedule E.	SUBTOTALS	$ 1,000	$ 0		$ 1,000	$ 0 (Enter (e) on Schedule I, Line 3)		

2

Schedule H Summary

1. Loans made this period ..... $ 1,000
   (Total Column (b) plus unitemized loans of less than $100.)
2. Payments received on loans ..... $ 0
   (Total Column (c) plus unitemized payments of less than $100.)
3. Net change this period. (**Subtract** Line 2 from Line 1.) ..... NET $ 1,000
   (Enter the net here and on the Summary Page, Column A, Line 7.) (May be a negative number)

**If Required

R. Completing the Form 460 Schedule H (Loans Made to Others)

1 Recipient Information

For each loan of $100 or more that was made or outstanding during the reporting period, provide the recipient's full name and street address, including the zip code. If the recipient is an individual, provide the individual's occupation and the name of their employer. If the individual is self-employed, provide the name of their business.

Loan Amounts

a Outstanding Balance Beginning This Period

Enter the outstanding loan balance at the beginning of this reporting period (Column (d) of the last report filed). If the loan was received this period, Column (a) should be left blank.

b Amount Loaned This Period

Enter the amount loaned to the recipient during this reporting period. If the loan was made in a previous reporting period, Column (b) should be left blank.

c Repayment or Forgiveness This Period

Enter the amount of any reduction of the loan during this reporting period. Indicate whether the loan was paid or forgiven. If the committee forgives a loan, also report the transaction on Schedule E and, if the recipient of the loan is a candidate or committee, report the forgiveness as a contribution on Schedule D.

d Outstanding Balance at Close of This Period

Enter the outstanding balance of the loan at the close of this reporting period. Enter the due date, if any.

e Interest Received

Enter the interest rate and amount of interest received on the loan during this reporting period. Interest received is reported separately from payments received on the loan principal. Interest received is also transferred to the Schedule I Summary.

f Original Amount of Loan

Enter the original amount of the loan and the date it was made. If this is the first time the loan is being reported, this will be the same amount as reported in Column (b).

g Cumulative Loans to Date

For each loan that is a contribution, enter the cumulative amount of contributions (including loans, loan guarantees, monetary and nonmonetary contributions) made to the recipient during the calendar year covered by the statement. If the recipient is subject to state contribution limits, also enter the total amount contributed in connection with each election and identify the election year. Because loans are contributions, the total amount of contributions made to a state candidate's committee, including loans, may not exceed the applicable limit. (Loans to candidates or other committees must also be reported on Schedule D.)

2 Schedule H Summary

Complete the Schedule H Summary by entering the total amount of loans **made** on Line 1 and the total amount of loan payments **received** on Line 2. Subtract Line 2 from Line 1 and enter the difference (net change this period) on Line 3. The amount on Line 3 will be a negative amount when the loan payments received this period are more than the amount of new loans made. The amount on Line 3 is carried forward to the overall Summary Page, Column A, Line 7.

Outstanding Loans Made (Summary Page – Column B, Line 7)

Loans made are carried forward on future statements until they are paid off. To determine the amount for Column B, Line 7 of the overall Summary Page, add the amount from Column A, Line 7 of this statement to the amount of Column B, Line 7 of the previous statement. If the amount in Column A, Line 7 is a negative number, subtract it from the amount in Column B, Line 7 of the previous statement.

S. General Rules for Reporting Miscellaneous Increases to Cash on Schedule I

Schedule I is used to report increases to the committee's cash position that are not monetary contributions, loans, or repayments of loans made to others. Examples include:

- Proceeds, up to the fair market value, of items sold at a garage sale or auction.
- Contributions returned to the committee.
- Refunds received on deposits, such as a telephone or room rental deposit or from over-payment of bills.
- Interest received or credited to a checking or savings account or other time deposit.
- Interest payments received on loans made to others.
- Receipts from the sale of committee assets.

- Transfers of funds received by a controlled committee from another committee controlled by the same candidate. There are special rules for transferring funds to a committee for state office. (See Campaign Disclosure Manual 1.)

- Receipt of earmarked funds when acting as an intermediary. (See Chapter 8.)

Donated Items

When reporting sources who have purchased donated items (e.g., items sold at an auction), report the amount received, up to the fair market value, on Schedule I. Any amount in excess of the fair market value is reported as a contribution on Schedule A.

> **Ex 9.17 -** A television was donated by Seaside TV Sales for your committee's auction. The television's fair market value was $1,000. A person paid $1,500 for the television. Report the purchaser information and report $1,000 in the amount column of Schedule I. On Schedule A also report the purchaser as a contributor of $500, the amount over the fair market value. Seaside will be reported as a contributor of $1,000 on Schedule C for the nonmonetary contribution of the television.

Uncashed Checks

If the committee writes a check that is never deposited or negotiated, report the amount of the uncashed check on Schedule I.

Decreases to Cash

All decreases to cash must be reported as expenditures on Schedule E or H.

Schedule I
Miscellaneous Increases to Cash

Amounts may be rounded to whole dollars.

SCHEDULE I

Statement covers period
from 7/1/XX
through 12/31/XX

CALIFORNIA FORM 460

Page XX of XX

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

Manuel Alv[illegible] for Mayor 20XX

I.D. NUMBER

12344XX

1 DATE RECEIVED	2 FULL NAME AND ADDRESS OF SOURCE (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	3 DESCRIPTION OF RECEIPT	4 AMOUNT OF INCREASE TO CASH
7/5/XX	Alvarez for City Council 20XX 225 Presley Street Oakmont, CA 95443	Transferred funds (ID 12257XX)	$3,000

Attach additional information on appropriately labeled continuation sheets.

SUBTOTAL $ 3,000

5 Schedule I Summary

1. Itemized increases to cash this period. ..... $ 3,000
2. Unitemized increases to cash of under $100 this period. ..... $ 0
3. Total of all interest received this period on loans made to others. (Schedule H, Column (e).) ..... $ 0
4. Total miscellaneous increases to cash this period. (Add Lines 1, 2, and 3. Enter here and on the Summary Page, Line 14.) ..... **TOTAL** $ 3,000

T. Completing the Form 460 Schedule I (Miscellaneous Increases to Cash)

1 Date Received

Report the date the committee received the miscellaneous receipt.

2 Source Information

Itemize sources of $100 or more. Provide the full name, street address, city, state, and zip code of the source. Post office box numbers are not acceptable.

3 Description of Receipt

Provide a description of the receipt (e.g., refund on room deposit for fundraiser, interest earned on loans made to others).

4 Amount of Increase

Enter the amount of the receipt.

5 Schedule I Summary

Complete the Schedule I Summary by entering the total amount of itemized increases to cash of $100 or more on Line 1 and the total amount of unitemized increases to cash on Line 2. Enter the total of all interest received this period on loans made to others (from Schedule H, Column (e)) on Line 3. Add Lines 1,2, and 3 to determine the total miscellaneous increases to cash this period and enter the amount on Line 4. The amount on Line 4 is carried forward to the overall Summary Page, Line 14.

U. Amending the Form 460

To change or provide information missing from a previously filed Form 460, complete a new Cover Page and check the “Amendment” box under “Type of Statement.” Also check the box indicating the type of statement being amended (e.g., semi-annual, preelection) and enter the period covered by the statement being amended. Provide a brief explanation of the reason for the amendment and attach the schedule(s) being amended, including the Summary Page, if applicable. The amendment is filed with each of the filing officers that received the original filing.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

81004	Reports and Statements; Perjury; Verification.
81004.5	Reports and Statements; Amendments.
82013	Committee.
82015	Contribution.
82015.5	Contribution; Aggregation.
82018	Cumulative Amount.
82025	Expenditure.
82025.5	Fair Market Value.
82044	Payment.
82047.6	Principal Officer.
84105	Notification of Contributors.
84203	Late Contribution; Reports.
84211	Contents of Campaign Statement.
84212	Forms; Loans.
84213	Verification.
84216	Loans.
84216.5	Loans Made by a Candidate or Committee.
84302	Contributions by Intermediary or Agent.
84303	Expenditures by Agent or Independent Contractor.
84306	Contributions Received by Agents of Candidates and Committees.
84615	Campaign Reports and Statements – Electronic Filing for Local Agencies.
85201	Campaign Bank Account.
85700	Donor Information Requirements; Return of Contributions.
89511.5	Use of Personal Funds for Incumbent Elected Officers.
89515	Use of Campaign Funds for Donations and Loans.

Title 2 Regulations

18215	Contribution.
18216	Enforceable Promise to Make a Payment.
18250	Street Address.
18401	Required Recordkeeping for Chapters 4 & 5.
18402.2	Limited Liability Companies, Responsible Officer.
18421	Cash Equivalents.
18421.1	Disclosure of the Making and Receipt of Contributions.
18421.3	Reporting of Contributions and Expenditures Collected by Contract Vendors or Collecting Agents.
18421.5	Reporting an Expenditure for Paid Online Communications.
18421.6	Reporting Accrued Expenses.
18421.7	Reporting an Expenditure for a Gift, a Meal or Travel.
18421.9	Reporting Expenditures Charged to a Credit, Debit or Charge Card by a Candidate or Committee.
18421.10	Reporting Contributions from Limited Liability Companies.
18423	Payments for Personal Services as Contributions and Expenditures.
18427	Duties of Treasurers and Candidates with Respect to Campaign Statements.
18427.1	Notification to Contributors of Filing Obligations.
18428	Reporting of Contributions and Independent Expenditures Required to be Aggregated.
18431	Reporting of Expenditures by an Agent or Independent Contractor.
18432.5	Intermediary and Earmarked Funds Disclosure.
18526	Reimbursement of Expenditures.
18533	Contributions from Joint Checking Accounts.
18570	Return of Contributions with Insufficient Donor Information.

CHAPTER 10

When and Where to File the Form 460

This chapter reviews when and where committees file the Recipient Committee Campaign Statement (Form 460). The Form 460 is the comprehensive report that discloses all receipts and expenditures of a committee. The Form 460 includes payments previously reported on forms such as the 24-Hour/10-Day Contribution Report (Form 497). All reports and statements filed under the Political Reform Act (Act) are public records available for public inspection.

Candidates and officeholders who do not have an open committee during a calendar year are not required to file the Form 460, but may be required to file the Officeholder/Candidate Campaign Statement—Short Form (Form 470). Review Chapter 1 for information about the Form 470, including when and where to file.

Primarily formed committees that have minimal activity in a reporting period may be eligible to use the Recipient Committee Campaign Statement—Short Form (Form 450) or the Semi-Annual Statement of No Activity (Form 425) instead of the Form 460. These forms are filed at the same time and locations as the Form 460.

A. General Information

Filing Schedules: The FPPC posts on its website filing schedules for specific election dates (e.g., June and November elections). In addition, county elections offices and city clerks often post filing schedules. Local candidates and committees should contact their local filing officer as some local jurisdictions may require filings in addition to what is required by the Act.

> **QUICK TIP:** If the FPPC's website does not have a filing schedule for your specific election date, contact your local elections office for information about the filing deadlines.

The committee treasurer is responsible for meeting all applicable filing deadlines. Filing officers are not required to send reminder notices about upcoming deadlines; however, they are required to notify committees that have missed a filing deadline.

Deadlines: Except where noted, statements filed on paper must be hand-delivered or postmarked by the due date. Deadlines that fall on a Saturday, Sunday, or official state holiday are extended to the next business day; however, this extension does not apply to the 24-Hour/10-Day Independent Expenditure Reports (Form 496) or to the 24-Hour/10-Day Contribution Reports (Form 497) required the weekend before an election. For example, if a committee receives a $1,000 contribution on the Saturday before the election, the deadline is not extended to the next business day. The committee must file a Form 497 within 24 hours. There are no other provisions for extending a deadline.

Late Fines: A late filing penalty of up to $10 per day may be assessed for each day the statement is late. The FPPC or a local filing officer cannot extend a filing deadline. A committee may request a waiver of late fines assessed by the local filing officer or the Secretary of State.

Failure to File: Filing officers must refer committees to the FPPC or another enforcement agency if a committee fails to file a campaign statement. Administrative penalties of up to $5,000 per violation may be assessed. (See Government Code Section 83116.) Committees fined by the FPPC Enforcement Division are listed on the FPPC website.

B. When to File

Semi-Annual Statements

Most committees file a semi-annual statement for each half of the year, whether or not they receive contributions or make expenditures during the six-month period. An existing committee or a committee newly formed during the first six months of the year must file a semi-annual statement due on or before July 31 for the period covering January 1 through June 30.

Ex 10.1 - A county supervisor has a controlled committee. The supervisor is not seeking reelection and the committee did not raise or spend any funds during the calendar year. The committee must file a semi-annual statement for the period covering January 1 through June 30, due on or before July 31, and a semi-annual statement for the period July 1 through December 31, due on or before January 31.

Ex 10.2 - A primarily formed committee is formed in May to support a city council candidate in the November election. The committee must file a semi-annual statement for the period covering January 1 through June 30, due on or before July 31. In October, the committee must file the two required preelection statements (due dates and periods covered are listed on the filing schedule). The committee must continue to file semi-annual statements until it terminates.

Committees must also file a semi-annual statement due on or before January 31 of the following year for the period covering July 1 through December 31. The period covered for a committee newly formed during the last six months of the year will be January 1 through December 31.

Exception: Unpaid Elected Officeholders, Judges, and Judicial Candidates

Unpaid officeholders (defined in the Act as those who receive less than $200 per month for serving in office) and judges are not required to file semi-annual statements (i.e., Form 460 or Form 470) during any six-month period in which they have not received any contributions or made any expenditures.

To determine whether $200 has been received, only the elected official's fixed compensation for services (i.e., salary) need be counted. Payments for health benefits, reimbursement of expenses (including travel expenses), or per diem received from the elected official's agency are not counted.

Non-incumbent judicial candidates that will not be listed on a ballot and incumbent judges that will not be listed on a ballot who do not receive any contributions or make any expenditures in a six-month period are not required to file the Form 460 or Form 470.

Preelection Statements

In addition to semi-annual statements, candidate controlled committees and primarily formed committees must file two preelection statements before the election in which the candidate is listed on the ballot. For specific reporting periods and filing deadlines, refer to the filing schedules on the FPPC's website or contact the local filing officer. The second preelection statement must be filed by personal delivery or guaranteed overnight delivery.

> **QUICK TIP:** Candidate controlled and primarily formed committees must file their second preelection statements by personal delivery or guaranteed overnight delivery (or online transmission, if available).

> **QUICK TIP:** Some local agencies require additional statements before and after an election. Local committees should contact the county elections office or city clerk to determine if additional statements are required. Local campaign ordinances are also posted on the FPPC website.

Exception: Candidates Not on a Ballot

A candidate who will not appear on the ballot because they are running unopposed is not required to file preelection statements. In addition, a candidate who withdraws from an election and will not be listed on the ballot is not required to file preelection statements.

Recall Elections – Quarterly Reports

A committee established by an officeholder who is the subject of a recall election must file campaign statements (Form 460) on a quarterly basis until the semi-annual period in which the recall election is held. The quarterly filing schedule is:

Period Covered	Filing Deadline
January 1 - March 31	April 30
April 1 - June 30	July 31
July 1 - September 30	October 31
October 1 - December 31	January 31

During the semi-annual period in which the recall election is held, the committee must file two preelection statements and a semi-annual statement on the schedule provided by the filing officer.

> **Ex 10.3 -** The local district attorney is the subject of a recall election being held in September. In March, they formed a separate committee to oppose the recall. The committee must file quarterly statements on April 30 and July 31. During the period covering July 1 through December 31, the committee must file two preelection statements in connection with the election, and a semi-annual statement for the period ending December 31, due on or before January 31 of the following year. After the January 31 filing, the committee will file semi-annual statements until it terminates.

Amendments

Except for amendments required to provide missing contributor information (see Chapter 2), there is no specified deadline for filing amendments to campaign statements. However, amendments should be filed as soon as practicable in the same location(s) as the original.

Faxing and Emailing Statements

Campaign statements that contain 30 pages or less may be faxed or emailed (if the local filing officer will accept an emailed statement) provided that the transmitted copy of the campaign statement is the exact copy of the original version. The original statement (with an original signature) must be sent by first-class mail, guaranteed overnight delivery, or personal delivery within 24 hours of the filing deadline.

C. Where to File

Candidates, candidate controlled committees, and primarily formed committees file statements based on the office sought by the candidate. The following chart summarizes the locations where campaign statements (i.e., Forms 450, 460, 470) are generally filed. Certain campaign activity may trigger reports that must be filed in another location (see Chapter 10.) An "original" campaign statement is one containing the original signature of the officeholder or candidate and/or the treasurer or assistant treasurer.

Candidate/Officeholder/ Primarily Formed Committee	Where to File	What to File
City Offices	City Clerk	Original and one copy
County Offices	County Elections Offices	Original and one copy
Multi-County Offices Local agencies with jurisdiction in more than one county	County with the largest number of registered voters in the jurisdiction County of Domicile, if different	Original and one copy One copy
Judges and Judicial Candidates	**Electronic Filers** Secretary of State **Non-Electronic Filers** Secretary of State County of Domicile	 Electronically and one paper original* Original and one copy* One copy

*Effective, January 1, 2023, filers required to file a report or statement by paper **with the Secretary of State** may instead file the paper report or statement by email. All statements must be signed using a verified digital signature. Please access the Secretary of State's website for more information on how to file with a digital signature.

Electronic Filing

Judges and judicial candidates (including Superior Court judges and candidates) that have raised or spent $25,000 or more must file electronically with the Secretary of State. The Act does not require other local candidates and committees to file electronically with their local jurisdictions. Some local agencies may require that campaign statements be filed electronically pursuant to a local ordinance. In those jurisdictions, paper copies may not be required, but most committees must submit a paper copy with a "wet signature" to the filing officer.

Multiple Controlled Committees in Same Jurisdiction

In general, a candidate or elected officer may only control one committee and have one bank account per election under the Act's one bank account rule. (See Chapter 1.) However, if a candidate or elected officer controls more than one committee in the same jurisdiction (i.e., different terms of the same elective office, officeholder account, legal defense fund, or ballot measure committee), each of the committees must file preelection statements on the dates the candidate or elected officer is required to file in connection with their election. (See FPPC Regulation 18405.) This provides the voters with a complete summary of the contributions received and expenditures made by the candidate.

Note: A candidate's election committee is not required to file based on the ballot measure committee schedule if they are not also being voted on in the election.

Multiple Controlled Committees in Different Jurisdictions

When an individual is simultaneously a candidate for elective state office and elective local office, or for elective office in two different local jurisdictions, they must file campaign statements for all committees they control with both jurisdictions on the dates the candidate is required to file semi-annual and preelection statements. The original statement should be filed with the relevant jurisdiction and a copy with the other jurisdiction. If a local candidate or officeholder also controls a state committee that is required to file electronically, the local committee must file the Form 460 electronically with the Secretary of State each time the Form 460 is due for either committee.

Ex 10.4 - A school board member has an open committee from the school board election. The school board member opens a committee to run for mayor in their city. As an incumbent school board member and a candidate for mayor, they must file campaign statements for both committees with both the county elections office and the city clerk. Preelection statements and semi-annual statements required to be filed in connection with the mayoral election are filed as follows:

- Mayoral Committee
    - City Clerk – Original and one copy
    - County Elections Office – One copy

Ex 10.5 - A city council member has an open committee from the city council election. The council member opens a committee to run for State Assembly. Semi-annual and preelection statements required in connection with the State Assembly election are filed as follows:

- Assembly Committee
    - Electronic Filers: Secretary of State only – Electronically and one paper original
    - Non-Electronic Filers: Secretary of State – Original and one copy City Clerk – One copy
- City Council Committee
    - City Clerk – Original and one copy

An officeholder who does not have a controlled committee may file the Form 470 by July 31 for the position held. If the officeholder subsequently opens a committee to run for a different office, they must file the Form 460 for the required preelection and semi-annual statements. Since the Form 470 was filed in connection with a position for which the candidate does not have a committee, a Form 470 Supplement is not required. However, if the officeholder opens a committee prior to June 30 for election to a different office, the Form 460 must be filed by July 31 for both the position held and the office sought. The officeholder may file one Form 460 and list both the position held and the office sought on the Cover Page, Part 5.

Answering Your Questions

A. I am currently a city council member without a campaign committee. I intend to run for the board of supervisors in the November election and will open a committee in July for that race. When must I file the first Form 460?

As a city council member, you must file a semi-annual statement for the period January 1 through June 30 on or before July 31. Since you do not have an open city council committee, you may file the Form 470 instead of the Form 460. By the first preelection deadline for the county election, file the Form 460 with the county elections officer, as well as a copy with the city clerk.

B. In June, I was elected to the city council. After filing the semi-annual statement due on July 31, I paid off my remaining bills and terminated my committee in August by filing a terminating Form 410 and Form 460. I will not engage in any further campaign activities. Am I required to file another Form 460 by January 31 of the following year as a semi-annual statement?

As an elected officer, you must file semi-annual statements each year. You may designate the Form 460 you file in August as a terminating statement and a semi-annual statement, covering the period through December 31. However, if you subsequently receive any contributions or make any expenditures through December 31, file an amendment to your statement no later than January 31 of the following year. If you receive $200 or more in a calendar month for your elected position, you will be required to file the Form 470 by July 31 every year, even though you have terminated your committee.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

81004.5	Reports and Statements; Amendments.
81005	Reports and Statements; Filing Deadline on Weekend or Holiday.
81007	Mailing of Report or Statement.
81007.5	Faxing of Report or Statement.
81008	Public Records; Inspection; Reproduction; Time; Charges.
82027	Filing Officer.
83116	Violation of Title.
84200	Semi-Annual Statements.
84200.5	Preelection Statements.
84200.8	Time for Filing Preelection Statements for Elections Not Held in June or November of an Even-Numbered Year.
84206	Candidates Who Receive or Spend Less Than $2,000.
84215	Campaign Reports and Statements; Where to File.
84605	Who Shall File Online.
84615	Electronic Filing for Local Agencies.
91013	Late Filing of Statement or Report; Fees.

Title 2 Regulations

18110	Duties of Filing Officers – Campaign Statements.
18405	Candidates with Multiple Controlled Committees.
18406	Short Form for Candidates or Officeholders Who Receive and Spend Less than $2,000 in a Calendar Year.
18426	Semi-Annual Statement Early Filing.
18531.5	Recall Elections.

Additional Reports

In addition to the forms associated with starting a campaign (Forms 501 and 410) and the main campaign disclosure form (Form 460), there are several other forms that may be required, depending on the committee's activity. For example, most committees must file the 24-Hour/10-Day Contribution Report (Form 497).

Primarily formed committees making independent expenditures must file the independent expenditure reports discussed below. A candidate's controlled committee for their election will likely not be filing independent expenditure reports because it is making direct campaign expenditures for the candidate's election to office.

This chapter reviews the following special reports that may be required.

- 24-Hour/10-Day Contribution Reports (Form 497)
- 24-Hour/10-Day Independent Expenditure Reports (Form 496)
- Verification of Independent Expenditures (Form 462)
- Special Odd-Year Reports (Form 460)
- Paid Spokesperson Reports (Form 511)
- Reports of Communications Identifying State Candidates (Form E-530)

FPPC Reporting Forms

Your Committee	File
Receives Contributions:	
Receives contributions totaling $1,000 or more from a single source during the 90 days before the election or on the date of the election	Form 497
Makes Independent Expenditures:	
Makes independent expenditures totaling $1,000 or more to support or oppose a single candidate or ballot measure during the 90 days before the candidate or measure's election or on the date of the election	Form 496
Makes independent expenditures totaling $5,000 or more to support or oppose the **qualification** of a single local measure	Form 496
Makes independent expenditures totaling $1,000 or more to support or oppose a single candidate or ballot measure	Form 462
Makes Payments:	
Makes contribution(s) totaling $10,000 or more to **state** officeholders during the first or third quarter of an odd-numbered year	Form 460
Makes contributions totaling $1,000 or more to another candidate or ballot measure committee during the 90 days before the candidate or measure's election or on the date of the election, or to a state or county political party committee during the 90 days before any state election or on the date of the election	Form 497
Makes contributions totaling $5,000 or more to support or oppose the **qualification** of a single local measure	Form 497
Makes expenditures for an individual to appear in a ballot measure advertisement	Form 511
Makes payments of $50,000 or more to "feature" a **state** candidate within 45 days before the candidate's election	Form E-530

A. 24-Hour/10-Day Contribution Report (Form 497)

The 24-Hour/10-Day contribution report provides immediate reporting of contributions received or made near or on the election date. The Form 497 must be filed if a candidate controlled committee or a primarily formed committee:

QUICK TIP: When aggregating contributions from a single source, monetary contributions, nonmonetary contributions, and loans are included.

- **Receives** contributions that total in the aggregate $1,000 or more from a single source during the 90 days before the candidate's election, including the date of the election; or

- **Makes** contributions that total in the aggregate $1,000 or more to a candidate or a committee primarily formed to support a candidate(s) or ballot measure(s) during the 90 days before the candidate's or measure's election, including the date of the election; or

- **Makes** contributions that total in the aggregate $1,000 or more to a state or county political party committee during the 90 days before any state election, including the date of the election.

- **Makes** contributions that total in the aggregate $5,000 or more to support or oppose the **qualification** of a single local initiative or referendum ballot measure.

  This Form 497 is required to be filed within 10 business days in the place(s) where the committee would be required to file campaign statements as if it were formed or existing primarily to support or oppose the local initiative or referendum ballot measure.

Contributions reported on the Form 497 must also be reported on the committee's next Form 460.

Ex 11.1 - Thirty days before the candidate's election, the candidate's committee received a $500 contribution. Four days later, the same person contributed $600. The candidate's committee must file a Form 497 since $1,000 or more was received from a single source during the 90-day period before the election. The same person must contribute another $1,000 or more in order for a subsequent Form 497 to be required.

QUICK TIP: If a committee makes a nonmonetary contribution, it must notify the recipient of the contribution's value within 24 hours.

Ex 11.2 - In June, the candidate's election committee for a November election received a contribution of $2,000. The Form 497 is not required because it was not received during the 90-day period before the November election. In October, the same person made a contribution of $600 to the candidate's committee. The Form 497 is not required until that person contributes $1,000 or more in the 90 days before or on the date of the November election. Contributions received prior to the 90 days before the November election are not aggregated with contributions received during the 90-day period.

QUICK TIP: The 90-day, 24-Hour/10-Day reporting period includes the date of the election.

In some local elections, a candidate's name will not appear on a ballot if no other individual runs for that office. Following the determination by the elections official that the candidate's name will not appear on the ballot, the Form 497 is not required to be filed by the candidate even if the candidate's committee receives $1,000 or more during the 90 days before the election, including the date of the election.

When and Where to File the Form 497

The Form 497 must be filed **within 24 hours** of **receiving or making** contributions as described above. A contribution is received on the date the candidate, committee, or an agent of the committee obtains possession or control of the check or nonmonetary item that constitutes a contribution. (See Chapter 2.) A contribution is made on the date it is mailed, delivered, or otherwise transmitted. A committee that makes a nonmonetary contribution must notify the recipient of the contribution's value within 24 hours by personal delivery, fax, or guaranteed overnight delivery.

QUICK TIP: A candidate who loans or makes contributions to their own campaign, in the aggregate of $1000 or more, within the 90 days before an election, plus the date of the election, must file a Form 497.

QUICK TIP: If a candidate receives a contribution of $1,000 or more, from a single source, in the 90 days before an election, plus the day of the election, they must file a Form 497, even if they have not been required to open a committee.

QUICK TIP: Contributions reported on the Form 497 must also be disclosed on the committee's next regular campaign statement (Form 460 or Form 450).

Exceptions:

- The Form 497 must be filed **within 48 hours** of **receiving** a nonmonetary contribution.

- The Form 497 must be filed within 10 business days when contributions that total $5,000 are made to support or oppose the qualification of a single local measure.

Filing deadlines are extended to the next business day when they fall on a Saturday, Sunday, or official state holiday. However, the extension does not apply on the Saturday, Sunday, or an official state holiday immediately prior to an election. For example, a fundraiser held on a Friday evening results in several individuals making contributions of $1,000 or more. Generally, the committee must file the Form 497 on the following Monday. However, if the fundraiser is held the Friday evening of the week before the election, the "next business day" deadline extension does not apply, so the Form 497 must be filed within 24 hours.

Except for the Form 497 triggered at $5,000, the Form 497 is filed in the same location the committee files its regular campaign statements (Form 460 or Form 450) and must be filed by fax, guaranteed overnight delivery service, or personal delivery. Regular mail may not be used. Some local agencies may have an electronic filing system or may accept the Form 497 via email.

Reporting Multiple Nonmonetary Contributions

If a committee anticipates that more than one nonmonetary contribution will be made to another committee or received from a single contributor during the 90 days before the election (including the date of the election), it may, on or before the deadline, file a single Form 497 covering the period in which the nonmonetary contributions will be made or received. The report must disclose the total value of nonmonetary contributions that will be made, or, if the actual value of nonmonetary contributions is not known at the time of filing, a good faith estimate of the value. If an estimated value differs from the reported amount by 20 percent or more, the committee must amend the Form 497 within 24 hours from the time the committee knows that the estimated value is incorrect.

497 Contribution Report

Amounts may be rounded to whole dollars.

A

NAME OF FILER
Manuel Alvarez for Mayor 20XX

AREA CODE/PHONE NUMBER
707-555-6868

I.D. NUMBER *(if applicable)*
12344XX

STREET ADDRESS
225 Presley Street

CITY
Oakmont

STATE
CA

ZIP CODE
95443

B

Date of This Filing: 11/01/20XX

Report No.: 1

☐ Amendment to Report No. _____ (explain below)

No. of Pages: 1

Date Stamp

CALIFORNIA FORM 497

For Official Use Only

1 Contribution(s) Received

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE*	TYPE OF CONTRIBUTION	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED	TYPE OF ELECTION	CUMULATIVE AMOUNT
10/30/XX	Loretta Stone 28 Hemlock Street Oakmont, CA 95434	☑ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC	☑ MONETARY ☐ NON - MONETARY	Nurse - Oakmont Hospital	$2,000 ☐ Check if Loan _____% Provide interest rate	☑ GENERAL ☐ PRIMARY ☐ OTHER	$2,000
10/30/XX	ABC Company 220 R Street Oakmont, CA 95434	☐ IND ☐ COM ☑ OTH ☐ PTY ☐ SCC	☑ MONETARY ☐ NON - MONETARY		$3,000 ☐ Check if Loan _____% Provide interest rate	☑ GENERAL ☐ PRIMARY ☐ OTHER	$3,000

Completing the Form 497

A Filer Information

Provide the committee's full name, telephone number, street address, city, state, zip code, and committee ID number.

B Date, Report Number, Number of Pages

Indicate the date the report is being filed; assign a unique number to each Form 497, such as 1, 2, 3, PR-1, PR-2, PR-3, etc.; and, indicate the number of pages included in the report.

1 Contributions Received

For contributions received, provide:

- The date received.
- The contributor's full name, street address, and zip code; for contributions of $100 or more from a limited liability company (LLC) that has qualified as an independent expenditure committee or major donor, include the name of the LLC and the full legal name of the LLC's responsible officer as defined in Regulation 18402.2. If the contributor is an LLC that has qualified as a recipient committee, include the name of the committee and its principal officer as defined in Section 82047.6, for contributions of $100 or more. For an LLC that has not qualified as a committee, include the name of the LLC and the full legal name of the individual primarily responsible for approving the contribution.
- The contributor code. For each itemized contributor, check the box indicating whether the contributor is an individual, a committee, "other" (such as a business entity), a political party, or a small contributor committee.
- If the contributor is an individual, their occupation and employer must be provided. If the individual is self-employed, the name of the business must be provided.
- The amount of the contribution. Check the box if it was a loan.

Contributions Made

For contributions made, provide:

- The date made.
- The recipient's full name, street address, and zip code.
- The office sought or held (if the contribution is made to a candidate).
- The ballot measure number or letter and jurisdiction (if the contribution is made to a ballot measure committee).

- The amount of the contribution.
- The date of election.

Amending the Form 497

To amend a previously filed Form 497, file another Form 497 with the corrected or missing information, assign a new unique identifying number as the Report Number, check the "Amendment" box, and enter the identifying number of the report being amended. Describe the reason for the amendment in the space provided at the bottom of the form. There is no specified deadline for filing amendments; however, amendments should be filed as soon as practicable. Amendments are filed in the same location as the original.

Answering Your Form 497 Questions

A. Must a candidate file a Form 497 if, during the 90 days before the election, or on the date of the election, they loan their campaign committee $1,000?

Yes. A candidate's personal funds that are loaned to or contributed to the committee trigger the Form 497 requirement.

B. Must a candidate file a Form 497 if, during the 90 days before the election (or on the date of the election), they transfer campaign funds totaling $1,000 or more from a campaign committee established for a prior office to the campaign committee established for the office they are currently seeking election to?

No. Transfers among a candidate's own local campaign election committees are reported as miscellaneous increases to cash, not as contributions.

C. A committee will receive nonmonetary contributions from a single source during the 90 days before the election, including the date of the election. The contributions involve several days of telephone banking by paid individuals. Rather than filing several reports, may the committee file one Form 497 with an estimated value of the nonmonetary contributions anticipated to be received from this source during the 90 days before the election?

Yes. The committee may make a good faith estimate of the value that will be received during the period. The Form 497 must be filed within 48 hours of receiving the first $1,000 in nonmonetary contributions. If the actual value differs from the estimated amount by 20 percent or more, the estimated report must be amended within 24 hours of determining the correct amount.

D. Must a committee file a Form 497 when a contributor forgives a loan of $1,000 or more during the 90 days before the election, including the date of the election?

Yes. A loan forgiveness is reported as a contribution and triggers the Form 497 requirement.

E. A candidate has one open committee for a past election and one for the current election. If the committee for the past election receives $1,000 or more from a single source in the 90-day, 24-Hour/10-Day reporting period for the current committee, must the committee for the past election file a Form 497?

Yes. When a candidate is in a 90-day reporting period, contributions totaling $1,000 or more to any of the candidate's committees trigger the Form 497 requirement.

Ex 11.3 - City council candidate Martinez's controlled committee for election to office does not file independent expenditure reports when it pays for mailers for the candidate's election, because these payments are direct campaign expenditures made by the candidate. An independent group sending mailers attacking council candidate Martinez's opponent, without the cooperation, knowledge or consent of council candidate Martinez, will file independent expenditure reports.

B. Independent Expenditure Reporting

As described in Chapter 6, a payment for a communication that expressly advocates support of or opposition to a candidate or ballot measure, which is not made at the behest of the candidate or measure committee, is an "independent expenditure." Chapter 6 defines in detail "expressly advocates" and "made at the behest of" and provides examples to assist committees in determining whether a payment made for a communication is considered an independent expenditure.

The Act requires committees making independent expenditures to file several forms so that voters are fully informed about who is paying for the communications that urge voters to support or oppose a particular candidate or ballot measure. Because the affected candidate or measure committee will not report the expenditures, the committee making the independent expenditures must file certain forms at the same time the candidate is required to file. In addition, a verification form that identifies an individual who is responsible for ensuring that the campaign committee's independent expenditures were not coordinated with the listed candidate or ballot measure (or the opponent) must be filed.

A committee that makes an independent expenditure of $1,000 or more must also file the forms 496 (24-Hour/10-Day Independent Expenditure Report)listed below.

- Form 496 (24-Hour/10-Day Independent Expenditure Report)
- Form 462 (Verification of Independent Expenditures)

What is the Date an Independent Expenditure is Made?

A payment made in connection with the development, production, or dissemination of a communication that is an independent expenditure must be reported no later than the date the communication is mailed, broadcast, or otherwise disseminated to the public. If the communication is never disseminated to the public, it need not be reported.

Candidate Controlled Election Committees

Communications paid for by a candidate's controlled committee to support their own election, or to oppose their opponent, are direct campaign expenditures, not contributions or independent expenditures.

If a candidate pays for a communication supporting their own candidacy that also supports or opposes a ballot measure, the payment is not considered a contribution or independent expenditure made in connection with the ballot measure.

If a candidate pays for a communication that supports another candidate, and the payment is not made at the behest of the endorsed candidate, the payment is not considered to be an independent expenditure if: (1) the candidate paying for the communication also is included in the communication; (2) the non-paying candidate is listed on the same ballot as the paying candidate: and (3) the communication is targeted only to the potential voters in the paying candidate's district.

Primarily Formed Committees

A committee that is primarily formed to support or oppose a candidate is not associated with the candidate. Therefore, payments made for communications that expressly advocate support or opposition of the candidate are considered to be independent expenditures because they are not made at the behest of the candidate.

Ex 11.4 - A committee is primarily formed to support a mayoral candidate. The committee must act totally independent of the mayoral candidate's campaign. Seven days before the election, the committee paid $5,000 for an advertisement in a local newspaper urging voters to support the candidate. The primarily formed committee must file the Form 496.

Filing Deadlines for Independent Expenditure Forms

This chart summarizes the deadlines and filing locations for each of the independent expenditure forms. Each of the forms is discussed in detail below.

Deadline	Form	Filing Location
Within 24 hours	496	Filing officer where election is held
10 days after first independent expenditure	462	FPPC

Ex 11.5 - Ten days before an election, a committee spent $1,700 on a mailing that equally advocated support of two candidates. The mailing was done completely independent of the candidates. Since the value to each candidate was only $850 (less than $1,000), the committee is not required to file the Form 496 for either candidate.

Three days before the election, the committee independently spent $400 for lawn signs advocating support of one of the candidates included in the earlier mailing. Because the total spent on behalf of this candidate is now $1,000 or more in the 90 days before the election including the date of the election, the committee must file the Form 496 in connection with this candidate.

24-Hour/10-Day Independent Expenditure Report (Form 496)

The 24-Hour/10-Day Independent Expenditure Report provides immediate disclosure of independent expenditures made near or on the election date. The Form 496 must be filed if a committee makes independent expenditures totaling $1,000 or more to support or oppose a single candidate or a single ballot measure during the 90 days before the candidate's or measure's election, including the date of the election.

Note: The Sacramento Superior Court ruled in *Charles R. "Chuck" Reed v. Fair Political Practices Commission* that San Jose Mayor Reed was not subject to independent expenditure restrictions. For more information, contact the FPPC's Legal Division.

Expenditures reported on the Form 496 must also be reported on the committee's next regular campaign statement (Form 460). The Form 462 (Verification of Independent Expenditures) must also be filed.

When and Where to File the Form 496

The Form 496 must be filed **within 24 hours** of making an independent expenditure of $1,000 or more **during the 90 days** preceding the election, including the date of the election, in which the candidate or measure will be voted on. An independent expenditure is made when the communication is disseminated to the public. There is no deadline extension for filing the Form 496. It must be filed within 24 hours regardless of the day of the week. A separate Form 496 must be filed for each candidate or ballot measure supported or opposed.

The Form 496 is filed with the filing officer that receives the campaign statements for the candidate or measure supported or opposed. (See the chart below.) This allows voters in the affected jurisdiction to have access to reports disclosing who is spending funds attempting to influence them.

Local Elections: The Form 496 must be filed by fax, guaranteed overnight delivery, personal delivery, or email, if available. Regular mail may not be used. A local ordinance may require that the form be filed electronically. Contact the local filing officer to determine if electronic filing or email is available.

Location of Filing Form 496

State Elections: The Form 496 must be filed electronically with the Secretary of State's office when it is filed in connection with a state candidate or measure. No paper copies are accepted. If the Form 496 is filed in connection with a CalPERS or CalSTRS election, a copy must also be filed with the relevant board's office.

> **Ex 11.6 -** A city councilmember's election committee made an independent expenditure of $8,000 to support a county ballot measure. The Form 496 must be filed with the county elections office.

10-day Independent Expenditure Report (Form 496)

Additionally, a Form 496 is required to be filed within 10 business days when a committee makes independent expenditures that total in the aggregate $5,000 or more to support or oppose the **qualification** of a single local initiative or referendum ballot measure.

> **Ex 11.7 -** A county supervisor's election committee made an independent expenditure of $10,000 to support a state ballot measure. The Form 496 must be filed electronically with the Secretary of State's office.

496 Independent Expenditure Report

Amounts may be rounded to whole dollars.

A

NAME OF FILER
Friends Supporting Alvarez for Mayor 20XX

AREA CODE/PHONE NUMBER	I.D. NUMBER *(if applicable)*
707-111-2222	12399XX

STREET ADDRESS
10 Main Street

CITY	STATE	ZIP CODE
Oakmont	CA	95443

B

Date of This Filing 11/1/20XX

Report No. 2

☐ **Amendment to Report No.** _____
(explain below)

No. of Pages _____

Date Stamp

CALIFORNIA FORM 496

For Official Use Only

1 List Only One Candidate or Ballot Measure

NAME OF CANDIDATE SUPPORTED OR OPPOSED			
Manuel Alvarez			
OFFICE SOUGHT OR HELD	DISTRICT NO.	SUPPORT	OPPOSE
Mayor		X	

NAME OF BALLOT MEASURE SUPPORTED OR OPPOSED			
BALLOT NO./LETTER	JURISDICTION	SUPPORT	OPPOSE

2 Independent Expenditures Made ***Attach additional information on appropriately labeled continuation sheets.***

DATE	DESCRIPTION OF EXPENDITURE	AMOUNT
10/31/20XX	Newspaper Advertisement (cumulative total: $6,000)	$2,000

3 Contributions of $100 or More Received*

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE **	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED	INTEREST RATES
10/28/20XX	Joe Brown 1800 Second Street Oakmont, CA 95443	☒ IND ☐ COM ☐ OTH ☐ PTY ☐ SCC	Retired	$200	If loan, enter interest rate, if any _____%

Jurisdiction of Candidate or Measure Supported/Opposed	
Statewide	Secretary of State – Electronically only
Senate or Assembly District	Secretary of State – Electronically only
CalPERS/CalSTRS	Secretary of State – Electronically only Also file a copy at CalPERS/CalSTRS board office
Multi-County	County with the largest number of registered voters in the jurisdiction
County	County in which the candidate or measure will appear on the ballot. LAFCO proposals: County where measure likely to appear on the ballot and the LAFCO.
City	City in which the candidate or measure will appear on the ballot

Completing the Form 496

A Filer Information

Provide the committee's name, street address, city, state, zip code, telephone number, and committee ID number.

B Date, Report Number, Number of Pages

Indicate the date the report is being filed; assign a unique number to each Form 496, such as 1, 2, 3, PR-1, PR-2, PR-3, etc.; and, indicate the number of pages included in the report.

> **QUICK TIP:** Generally, the "cumulative amount" means the amount of independent expenditures made in the current calendar year.

1 Name of Candidate or Ballot Measure Supported or Opposed

Provide the name of the candidate supported or opposed and the office sought or held (and district, if applicable). Or, provide the name of the ballot measure supported or opposed, the jurisdiction in which the measure is being voted upon, and its number or letter if it has been assigned. Indicate whether the independent expenditure supported or opposed the candidate or ballot measure.

2 Independent Expenditures Made

Provide the date the committee made the independent expenditure. In the "Description of Expenditure" field, include a description of the independent expenditure (e.g., radio advertisement, billboard, mailing) and the cumulative-to-date total for independent expenditures relating to each candidate or measure. List the amount of the specific expenditure in the "Amount" column.

3 Contributions of $100 or More Received

Disclose contributions of $100 or more received since the closing date of the last campaign statement filed through the date of the independent expenditure. If no previous campaign statement has been filed, disclose contributions of $100 or more received since January 1 of the current calendar year.

Disclose the name and street address of the contributor and, if the contributor is an individual, their occupation and the name of their employer. If the individual is self-employed, disclose the name of the business. Also disclose the date and amount of the contribution, the contributor code, and type of contribution. If the contribution is a loan, enter the interest rate. Once you have disclosed a contribution on the Form 496, it is not necessary to report that contribution on any additional Form 496 filings; however, it must be reported on the committee's next regular campaign statement (Form 460 or Form 450).

For contributions of $100 or more received from a limited liability company (LLC) that has qualified as an independent expenditure committee or major donor, include the name of the LLC and the full legal name of the LLC's responsible officer as defined in Regulation 18402.2. For contributions of $100 or more received from an LLC that has qualified as a recipient committee, include the name of the committee and its principal officer as defined in Section 82047.6. For an LLC that has not qualified as a committee, include the name of the LLC and the full legal name of the individual primarily responsible for approving the contribution. If more than one individual shares in the primary responsibility of approving a contribution, at least one such individual must be identified.

Amending the Form 496

To amend a previously filed Form 496, file another Form 496 with the corrected or missing information, assign a new unique identifying number as the Report Number, check the "Amendment" box, and enter the identifying number of the report being amended. Describe the reason for the amendment in the space provided at the bottom of the form. There is no specified deadline for filing amendments; however, amendments should be filed as soon as practicable. Amendments are filed in the same location as the original.

Ex 11.8 - A committee primarily formed to oppose a candidate made independent expenditures of $20,000 to oppose the candidate in the primary election. A Form 462 is required for the primary election. If the committee makes independent expenditures of $1,000 or more to oppose the candidate in the general election, another Form 462 must be filed.

Verification of Independent Expenditures (Form 462)

The Form 462 must be filed if the committee makes an independent expenditure of $1,000 or more in a calendar year to support or oppose a single candidate or a single ballot measure. The purpose of the Form 462 is for officers of the committee making the independent expenditure to verify that the committee's expenditures are indeed independent and have not been coordinated with the affected candidate or ballot measure committee (or the opponent). The form also verifies that the committee has not received any unreported contributions or reimbursements to make the independent expenditures.

Ex 11.9 - A committee primarily formed to support a candidate on a November ballot made its first independent expenditure of $1,000 or more in September and filed the Form 462 listing the candidate. In October, the committee made several more independent expenditures to support the candidate. No additional Form 462s are required for that candidate for the November election.

When and Where to File the Form 462

The Form 462 must be filed within 10 days from the date of the committee's first independent expenditure of $1,000 or more to support or oppose a candidate or measure in a calendar year. An independent expenditure is made when the communication is disseminated to the public. A candidate or measure is listed only once for each election. Primary, general, and runoff elections are considered separate elections.

The Form 462 must be filed via email with the FPPC (form462@fppc.ca.gov). The originally signed form must be maintained with the committee's campaign records for four years.

Form 462
Verification of Independent Expenditures

CALIFORNIA FORM 462

This verification form identifies the individual responsible for ensuring that a campaign committee's independent expenditures were not coordinated with the listed candidate (or the opponent) or measure committee and that the committee will report all contributions and reimbursements as required by law. An independent expenditure is not subject to state or local contribution limits.

☐ Amendment (Explain)

1. Name of Committee:

NAME OF RECIPIENT COMMITTEE, ENTITY OR INDIVIDUAL			COMMITTEE ID #
Friends Supporting Alvarez for Mayor 20XX			12399XX
STREET ADDRESS		CITY	
10 Main Street		Oakmont	
STATE	ZIP CODE	E-MAIL	TELEPHONE NUMBER
CA	95443	kluuci@hotmail.com	(707) 111-2222

2. Candidate or Measures:

This committee has reported an independent expenditure(s) to support or oppose the candidate(s) or measure(s) listed on a ballot for the election date identified below. (Note: The reporting of an independent expenditure may occur after this form is filed if an independent expenditure is made before the 90 day, 24-hour reporting period of Government Code Sections 84204 and 85500.)

NAME OF CANDIDATE (First/Last) OR BALLOT MEASURE	SUPPORT	OPPOSE	OFFICE SOUGHT OR HELD/ BALLOT NO./LETTER	JURISDICTION AND DISTRICT, IF ANY	ELECTION DATE
Manuel Alvarez	✓		Mayor	Oakmont	11/4/20XX

3. Verification:

I have not received any unreported contributions or reimbursements to make these independent expenditures. I have not coordinated any expenditure made during this reporting period with the candidate or the opponent of the candidate who is the subject of the expenditure, with the proponent or the opponent of the state measure that is the subject of the expenditure, or with the agents of the candidate or the opponent of the candidate or the state measure proponent or opponent. I certify under penalty of perjury under the laws of the State of California that the following is true and correct.

Signature [Signature Required] **Printed Name** Karen Lucci **Signed on** [Date Required] *(month, day, year)*

(Check One): ☑ **Principal Officer** ☐ **Candidate/Officeholder** ☐ **State Ballot Measure Proponent** **FPPC Form 462 (Aug/2016)**

Completing the Form 462

1 Name of Committee

Enter the name and street address of the committee that is making the independent expenditure(s). The address should be the same as the address listed on the committee's Statement of Organization (Form 410). Provide the committee's assigned committee ID number.

2 Candidates or Measures

List the name of the candidate(s) or ballot measure(s) and mark the applicable support or oppose box. For candidates, list the office sought or held. The candidate's or measure's jurisdiction (and district if applicable) and the date of the election must also be listed.

3 Verification

The form must be reviewed and signed by the committee's principal officer. A principal officer is an individual primarily responsible for approving the political activity of the committee. (See Chapter 1.) If the committee has more than one principal officer, only one individual must sign the Form 462. The individual must be listed on the committee's Statement of Organization (Form 410). The same individual is not required to sign each Form 462. In the case of a controlled committee, the candidate or officeholder must sign the form.

Amending the Form 462

To amend a previously filed Form 462, file another Form 462 with the corrected or missing information, check the "Amendment" box, and describe the reason for the amendment in the space provided. Amendments to the Form 462 must be filed within 10 days of the change. Like the original, the amendment must be signed and dated and filed via email with the FPPC (form462@fppc.ca.gov).

Answering Your Independent Expenditure Questions

A. How frequently must the Form 462 be filed?

The Form 462 is required to identify the candidate or measure supported or opposed only once for each election. Once a candidate or measure is listed on the Form 462, no further filings are required for that candidate or measure for that election. If a committee makes independent expenditures related to a candidate in the primary election and later makes independent expenditures related to the same candidate in the runoff election, two Form 462s must be filed as they are separate elections.

B. Is an independent expenditure reportable by the committee for the candidate or the ballot measure named in the communication?

No. Because the communication is not made at the behest of the candidate or ballot measure committee, the expenditure for the communication is not reported by the affected candidate or measure committee. The person making the independent expenditure has the reporting obligations.

C. Is a candidate's controlled committee making an independent expenditure when it pays for a communication that supports the controlling candidate and supports or opposes a ballot measure listed on the same ballot?

No. This type of expenditure considered to be a direct campaign expenditure to promote one's own election.

D. May a committee pro-rate the value of a communication that contains both an independent expenditure and a non-political message?

Yes. The committee should value the independent expenditure as the portion of the costs directly associated with sending the message that expressly advocates support or opposition of a candidate or ballot measure.

C. Special Odd-Year Report (Form 460 or 450)

The odd-year report is designed to timely show if a committee is making large contributions to a number of state legislators or elected state officers during an off-election year when important issues such as the state budget or controversial legislation is being considered. The odd-year report must be filed, if during any odd-numbered year, the committee makes contributions totaling $10,000 or more to **elected state officers**, their controlled committees, or committees primarily formed to support or oppose any elected state officer during the first and third quarters of the year.

> **Ex 11.10** - Between July 1 and September 30 of an odd-numbered year, a local candidate's election committee contributes $6,000 to the Governor's ballot measure committee and $6,000 to the Secretary of State's election committee. The local committee must file a special odd-year report covering the period July 1 through September 30, by October 31.

The special odd-year report is completed in the same manner as a regular preelection or semi-annual statement (see Chapter 8) and includes all of the committee's activity during the reporting period, not just contributions to elected state officers.

When and Where to File the Special Odd-Year Report

The special odd-year report is filed where the committee files its regular campaign statements and is filed on the committee's regular campaign disclosure statement (Form 460 or Form 450).

Period Covered	Filing Deadline
January 1 through March 31	April 30
July 1 through September 30	October 31

D. Advertisement Reports

Paid Spokesperson Report (Form 511)

Promoting "truth in advertising," the Act requires that when a teacher, firefighter, doctor, or other person is in a ballot measure advertisement giving their expert views for or against the measure, the advertisement must disclose if the person has been paid. The Form 511 must be filed if a committee pays an individual for their appearance in a ballot measure advertisement in the following situations:

> **Ex 11.11** - In support of a local ballot measure, a committee hires a public relations firm to produce a television advertisement. A local celebrity is paid $5,000 or more to appear in the ad. The committee must include the ad disclosure described in Chapter 7 and must file the Form 511.

Payments of $5,000 or More: The committee makes expenditures totaling $5,000 or more to an individual for their appearance in an advertisement to support or oppose the qualification, passage, or defeat of a state or local ballot measure.

> **Ex 11.12** - A committee pays $200 for a doctor to appear in a television advertisement supporting a local ballot measure. The ad will clearly identify the individual as a doctor. The committee is not required to include an ad disclosure, but it must file the Form 511.

Payments of Any Amount: The committee makes expenditures of any amount to an individual for their appearance in an advertisement to support or oppose the qualification, passage, or defeat of a state or local ballot measure and the advertisement states or suggests that the individual is a member of an occupation that requires licensure or certification or other specialized documented training as a prerequisite to engage in that occupation (nurse, doctor, firefighter, scientist, engineer, lawyer, etc.).

QUICK TIP: Chapter 7 contains the requirements for advertisement disclosures, including the specific disclosures that may be required if a committee pays a spokesperson to appear in a ballot measure advertisement.

Committees that pay a spokesperson to appear in a ballot measure advertisement may be required to include specific disclosures on the advertisements. (See Chapter 7.)

When and Where to File the Form 511

The Form 511 must be filed within 10 days of making an expenditure identified above. An expenditure is made on the date the payment is made or the date the services are received, whichever is earlier. The Form 511 is filed in the same location the committee files its regular campaign statements (Form 460 or Form 450). Instructions for completing the Form 511 are provided on the FPPC's website.

Communications Identifying State Candidates (Form E-530)

The Act requires reporting of electioneering communications for state candidates, such as billboards on Interstate 5 saying "Thank you Senator Kim for your support of Central Valley Agriculture" placed right before the election. The Form E-530 must be filed if a committee makes a payment or a promise of a payment totaling $50,000 or more for a communication disseminated within 45 days of an election that clearly identifies a candidate for elective state office, but does not expressly advocate the election or defeat of the candidate.

The report must disclose the amount and date of the payment(s), and the name of and office sought by the candidate(s) identified in the communication. In addition, if $5,000 or more was received or promised from a single source to pay for the communication, the report must include the name and address of the contributor, as well as the date and amount received or promised. If the contributor is an individual, the individual's occupation and employer must also be included.

The report must be verified by a written "electronic filing declaration" signed, dated, and verified on the same date the report is transmitted to the Secretary of State. This declaration must be retained in the committee's records for five years following the date that the campaign report to which it relates is filed. The statement must include the following language:

> "I have used all reasonable diligence in preparing this report and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

When and Where to File the Form E-530

The Form E-530 must be filed electronically with the Secretary of State **within 48 hours** of making or promising to make a payment of $50,000 or more. There is no paper version of the Form E-530. To access the online form, go to the Secretary of State's website (www.sos.ca.gov). If the committee has not previously filed electronically with the Secretary of State, the committee will need to request a filer ID and password. The request form (Electronic Filing Password Request) is located on the Secretary of State's website under Campaign Finance.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

81004.5	Reports and Statements; Amendments.
81005	Reports and Statements; Filing Deadline on Weekend or Holiday.
82025	Expenditure.
82031	Independent Expenditure.
82036	Late Contribution.
82036.5	Late Independent Expenditure.
82044	Payment.
82047.6	Principal Officer.
84200.6	Special Campaign Statements and Reports.
84202.7	Time for Filing by Committees of Odd-Numbered Year Reports.
84203	Late Contribution; Reports.
84203.3	Late In-Kind Contributions.
84204	Late Independent Expenditures; Reports.
84204.5	Ballot Measure Contributions and Expenditures; Reports.
84213	Verification.
84511	Ballot Measure Ads; Paid Spokesperson Disclosure.
85310	Communications Identifying State Candidates.
85501	Prohibition on Independent Expenditures by Candidate Controlled Committees.

Title 2 Regulations

18250	Street Address.
18402.2	Limited Liability Companies, Responsible Officer.
18421.1	Disclosure of the Making and Receipt of Contributions.
18421.10	Reporting Contributions from Limited Liability Companies.
18425	24-Hour Contribution Reports.
18428	Reporting of Contributions and Independent Expenditures Required to be Aggregated.
18450.11	Spokesperson Disclosure.
18531.10	Communications Identifying State Candidates.
18539.2	Reporting Payments Pursuant to Government Code Section 85310.
18550	24-Hour Independent Expenditure Reports.

CHAPTER 12

Filing Obligations After the Election and Terminating the Committee

After the election, a candidate's future filing obligations are determined by whether they were elected to office or not. Generally, a committee primarily formed to support or oppose a candidate will terminate after the election. The Political Reform Act (Act) does not require any local candidate or primarily formed committee to terminate; however, campaign statements must continue to be filed as long as the committee remains open. In addition, the $50 annual fee must be paid to the Secretary of State.

This chapter addresses the reporting requirements for successful candidates, defeated candidates, primarily formed committees, and the guidelines for terminating a campaign committee.

A. Successful Candidates

The requirements discussed below apply to candidates/officeholders immediately following the election and for subsequent non-election years. An officeholder retains their status as a "candidate" under the Act and must continue to file campaign reports – either the full Form 460 or the short Form 470 – until they have left elective office and terminated their committee. See "Candidates Using Campaign Funds for a Future Election" below to determine the requirements for a candidate/officeholder running for reelection or running for election to a different office.

Officeholders Who Filed Form 470 During Campaign

After the election, a candidate who filed the Form 470 (Officeholder and Candidate Campaign Statement – Short Form) in connection with the election has no additional filing obligations that calendar year provided $2,000 or more is not raised or spent during that calendar year. So long as a candidate/officeholder does not have an open committee, a Form 470 must be filed by July 31 of each subsequent non-election year.

Officeholders Who Filed Form 460 During Campaign

After the election, a successful candidate who filed the Form 460 (Recipient Committee Campaign Statement) in connection with the election must continue to file the Form 460 semi-annually as long as the committee remains open. In addition, other special reports may be required. The candidate/officeholder has the option of maintaining their committee and campaign bank account or terminating the campaign committee and closing the bank account. An officeholder who maintains a committee may:

- Continue to receive contributions;
- Use campaign funds to offset officeholder expenses; or
- Use funds for a future election. (See “Candidates Using Campaign Funds for a Future Election” below.)

Once an officeholder terminates the committee, they may be required to file the Form 470 the following year. However, if a candidate/officeholder has an open committee at any time during a calendar year, the Form 470 (short form) may not be filed instead of the Form 460.

Exception: Judges and Unpaid Officeholders

Unpaid officeholders (defined in the Act as those who receive less than $200 per month for serving in office) and judges are not required to file Form 460 or Form 470 for any semi-annual period in which they are not listed on a ballot and do not receive any contributions or make any expenditures. This exception applies even if a judge or unpaid officeholder has a controlled committee so long as the committee has not received any contributions or made any expenditures (excluding bank fees and interest).

To determine whether $200 has been received, only the elected officeholder’s fixed compensation (i.e., salary) is counted. Payments for health benefits, reimbursement for expenses (including travel expenses), or per diem received from the officeholder’s agency need not be counted toward the $200.

Judges and unpaid officeholders who are listed on a ballot must file the Form 470.

Behested Payment Reports (Form 803)

An elected officer who fundraises for worthy causes (such as for a local school, to build a new community center or restore a historic building) may have to file a "behested payments" report. Behested payments are payments made to a "payee," such as a charity or a government agency, by a third party "payor" at the request or suggestion of an elected officer for a legislative, governmental or charitable purpose. These behested payments do not include payments made principally for personal purposes (i.e., gifts) or campaign purposes (i.e., contributions).

A common example is when an elected officer co-sponsors a charitable, governmental, or legislative event, such as a job fair or a conference on public policy issues, with outside sources. Payments made by outside sources in connection with these events generally are considered behested payments.

Form 803 Filing Procedures:

- File the Form 803 when a person donates $5,000 or more in a calendar year to charitable organizations or events at the request of an elected officer.

- Once a source has made a behested payment(s) of $5,000 or more during the calendar year, subsequent payments of any amount from that source during the calendar year must be reported.

- An elected officer must disclose a relationship to a nonprofit organization recipient of a behested payment and any proceeding before their agency at the time of payment or within 12 months prior to the reported payment in which the payor is involved in the proceeding. See Regulation 18424 for additional information.

- File the Form 803 with the elected officer's agency within 30 days following the date of the payment.

- The elected officer's agency must forward the Form 803 to the filing officer who receives the elected officer's campaign statements within 30 days of receiving the form. The Form 803 is a public record. See the Form 803 example below.

QUICK TIP: Although behested payments are not considered gifts or contributions to the elected official, meals, lodging, and travel payments received by an official in connection with a co-sponsored event may be reportable gifts.

Ex 12.1 - At the mayor's request, a catering company donated refreshments valued at $5,000 for a city sponsored job fair. The mayor must file a Form 803 with the city clerk to report the behested payment.

Form 803 Exceptions:

- A Form 803 is not required of a non-elected officer.
- A payment is not subject to behested payment reporting if the elected officer makes a request for a payment from a local, state, or federal government agency.

Form 803 Reporting: Charitable Fundraising Solicitations Involving an Elected Officer

A payment is subject to behested payment reporting if the payment is made in response to a fundraising solicitation from a charitable organization where the solicitation meets the following:

- It was sent with the cooperation, control, or consent or at the suggestion or direction of the elected officer; and
- It "features" the elected officer.

A solicitation “features” an elected officer when it includes the officer’s photograph or signature, or singles out the elected officer **in the manner of display**. An elected officer is also featured in a solicitation if the roster or letterhead listing the governing body contains a majority of elected officers. See Regulation 18424.2 for additional information.

Behested Payment Report
A Public Document

Type or Print in Ink.

Amendment of Filing	Date Stamp (Agency)	CALIFORNIA FORM 803
☐ Check box if an Amendment / / (Month, Day, Year) #_____ Confirmation Number		

1. Elected Officer or CPUC Member *(Last name, First name)*

ELECTED OFFICER OR CPUC MEMBER:	AGENCY NAME:	AGENCY STREET ADDRESS:
Alvarez, Manuel	City of Oakmont	225 Presley Street, Oakmont, CA 95443
DESIGNATED CONTACT PERSON (NAME AND TITLE):	**AREA CODE/PHONE NUMBER:**	**E-MAIL:**
Madeline Richards	707-555-6868	mrichards@oakmontmail.com

2. Payor Information *(For additional payors, include an attachment with the names, addresses, and proceeding information)*

NAME:	ADDRESS:	CITY:	STATE:	ZIP CODE:
Wildwood Insurance Company	1022 Main Street	Oakmont	CA	95443

☐ Donor Advised Fund (DAF) (see instructions)	DAF NAME:	DONOR(S) AND DONOR'S ADVISOR: (SEE INSTRUCTIONS.)
☐ Payor is a named party or the subject of a proceeding before my agency.	BRIEF DESCRIPTION OF PROCEEDINGS:	

3. Payee Information *(For additional payees, include an attachment with the names, addresses and relationship information)*

NAME:	ADDRESS:	CITY:	STATE:	ZIP CODE:
Boys and Girls Club of America	555 10th Street	Sacramento	CA	95814

For a **nonprofit organization payee**, provide a brief description of any relationship to the official, official's immediate family member or staff member in the role of founder, salaried employee, decision-making capacity (board member or executive officer) or position on an honorary or advisory board.

NAME AND TITLE:	ROLE WITH THE NONPROFIT ORGANIZATION:	BRIEF DESCRIPTION:

4. Payment Information *(Complete all information. For estimated payment information check the box below.)*

DATE (MONTH/DAY/YEAR)	AMOUNT	PAYMENT TYPE	BRIEF DESCRIPTION OF IN-KIND PAYMENT	PURPOSE	DESCRIBE THE LEGISLATIVE, GOVERNMENTAL, CHARITABLE PURPOSE, OR EVENT:
6/24/xx	$5,000	☑ MONETARY DONATION ☐ IN-KIND GOODS OR SERVICES		☐ LEGISLATIVE ☐ GOVERNMENTAL ☑ CHARITABLE	Charitable fundraiser to support the Boys and Girls Club.
		☐ MONETARY DONATION ☐ IN-KIND GOODS OR SERVICES		☐ LEGISLATIVE ☐ GOVERNMENTAL ☐ CHARITABLE	

☐ The _____ (DATE/AMOUNT) is an estimate and reflects my best efforts at obtaining the accurate information.	REASON FOR ESTIMATE:

5. Amendment Description and/or Comments *(Provide date of original filing or confirmation number in Part 1.)*

6. Verification

I certify, under penalty of perjury under the laws of the State of California, that to the best of my knowledge, the information contained herein is true and complete.

Executed on 6/30/20xx (DATE) By *Manuel Alvarez* (SIGNATURE)

FPPC Form 803 (February/2022)
advice@fppc.ca.gov

Legal Defense Committees

The Act permits a local candidate or elected officer to establish a legal defense fund, if the candidate or officer is subject to civil, criminal or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental duties. Contributions raised for legal defense must be held in a separate account, they may be subject to contribution limits if provided by local ordinance, and they must be fully reported. Any funds raised may only be spent to defray attorneys fees and other related legal costs, as defined in the Act. (See Regulation 18530.45 for additional information.)

A candidate or officeholder may not use any funds to pay or be reimbursed for a penalty, judgement or settlement related to a claim of sexual assault, sexual abuse or sexual harassment filed against the candidate or officeholder in any civil, criminal or administrative proceeding.

A candidate or officeholder may use legal defense committee funds for *other* legal costs and expenses related to claims of sexual assault, sexual abuse or sexual harassment, but if the candidate or officeholder is held liable, the candidate or elected officer must reimburse the legal defense fund for all funds used in connection with those other legal costs and expenses.

"Sexual assault" and "sexual abuse" have the same meaning as provided in Penal Code Section 11165.1. "Sexual Harassment" has the same meaning as found in Government Code Section 12940(j).

Recall Elections

Under state law, an officeholder who is the subject of a recall may use an existing committee (set up for the office they currently hold) to receive contributions and make expenditures to oppose the qualification of the recall measure, and if the recall petition qualifies, the recall election.

An alternative option is to form a separate recall committee. A recall committee may be established once the officeholder receives a notice of intent to recall under Elections Code Section 11201. The committee must set up a separate bank account at a financial institution in California, file a Statement of Organization (Form 410), and, in addition to the officeholder's name, must include the word "recall" in the name of the committee. See Campaign Disclosure Manual 3 as a recall committee is considered a ballot measure committee. (FPPC Regulation 18531.5 contains specific guidance on recall elections.)

B. Defeated Candidates

Form 470 Filers

Following the election, a defeated candidate who filed the Form 470 (Officeholder and Candidate Campaign Statement – Short Form) has no further reporting obligations so long as less than $2,000 was raised or spent during the calendar year.

Form 460 Filers

Following the election, a defeated candidate must continue to file the Form 460 on a semi-annual basis and pay the annual committee fee as long as the committee remains open. In addition, other special reports may be required.

There is no deadline for terminating the committee or disposing of leftover funds; however, if there are leftover funds and the candidate wants to use the funds for a future election, the funds must be redesignated or transferred as discussed below. (Note: Candidates for a city or county office in a jurisdiction that has enacted a local contribution limit should check with the local jurisdiction to determine if there is a local ordinance that imposes additional provisions regarding terminating the committee.)

A defeated candidate in a city or county that has not enacted contribution limits, with no net debts outstanding must terminate their candidate controlled committee no later than 24 months after the candidate is defeated.

C. Candidates Using Leftover Campaign Funds for a Future Election

A local candidate or officeholder may use leftover campaign funds for a future election so long as the funds are not considered "surplus funds" and the requirements below are met. **Campaign funds become surplus on the 90th day after the closing date for the postelection reporting period or upon the 90th day after the date of leaving office, whichever occurs last.** Surplus campaign funds are subject to restrictions, as described in Chapter 5, and may not be used for a future election.

> **Ex 12.2 -** John Davis lost the city council election in November. John has $3,500 remaining in the campaign bank account and is considering seeking another city council position in two years. In order to use the remaining $3,500 for the future election, John must file a new Form 501 (Candidate Intention Statement) and redesignate the bank account to a future election by amending the Form 410 (Statement of Organization) to indicate the new office sought and year of election. This must be done within 90 days after the end of the postelection reporting period for the November election.

> **QUICK TIP:** Candidates should also check with the city or county to determine if there are local restrictions for redesignating or transferring campaign funds.

Running for the Same Office

To use money remaining in the campaign bank account for a future election to the **same office** before the funds become surplus, a local candidate **not subject to AB 571** may redesignate their committee and campaign bank account by:

- Filing a **new Form 501 (Candidate Intention Statement)** for the specific future election; and,
- Filing an **amended Form 410 (Statement of Organization)** to reflect the redesignation for the future election.

QUICK TIP: Candidates should check with the local jurisdiction to determine if there is a local ordinance with separate redesignation requirements.

Running for a Different Office

To use money remaining in the campaign bank account for a future election to a different office before the funds become surplus, a local candidate must:

- File a **new Form 501 (Candidate Intention Statement)** for the specific future election;
- File a **new Form 410 (Statement of Organization)**; and,
- Open a **new bank account**. So long as the funds are not surplus and there are no local restrictions, the campaign funds from the other account may be transferred to the new bank account.

Ex 12.3 - Jayna Chacon is a city council member who plans to run for county supervisor in the next election. Jayna would like to use the remaining funds in the city council committee bank account for the county election. Jayna must file a new Form 501 before soliciting or receiving contributions for the county supervisor election. Jayna must also file a new Form 410 and open a new bank account. The city council committee campaign funds must be transferred to the county supervisor campaign bank account within 90 days after the date Jayna leaves the city council position.

D. Primarily Formed Committees

Generally, a committee established primarily to support or oppose a particular candidate(s) will terminate after the election, but the committee may remain open to:

- Raise funds to pay debts.
- Support or oppose other candidates or measures. The committee will need to amend its Statement of Organization (Form 410) to reflect the change.

A primarily formed committee must continue to file semi-annual campaign statements (i.e., Form 460 or Form 450) and pay the annual committee fee as long as the committee remains open.

> **Ex 12.4 -** After the election, the committee primarily formed to support candidate Jones decides to support candidate Lopez in the next election. In order to do so, the committee must file an amended Form 410 (Statement of Organization) and will continue to file campaign statements.

E. Terminating the Committee

There is no deadline for terminating a committee controlled by a local candidate or officeholder in a city or county that has enacted contribution limits unless the controlling candidate/officeholder becomes a state officeholder. In that case, the candidate should refer to Campaign Disclosure Manual 1 for State Candidates for the termination requirements. (Note: Candidates for a city or county office in a jurisdiction that has enacted a local contribution limit should check with the local jurisdiction to determine if there is a local ordinance that imposes additional provisions regarding terminating the committee.)

However, a candidate in a city or county that has not enacted contribution limits must terminate their candidate controlled committee no later than 24 months after the earliest:

- The date the candidate is defeated;
- Leaves office;
- The term of office for which the committee was formed ends; or
- For withdrawn candidates, no later than 24 months after the election from which the candidate withdrew.

> **Ex 12.5 -** Blake Thomas is currently a city councilmember (elected in 2019) in a jurisdiction subject to AB 571. Blake runs and is reelected to that seat on November 7, 2023. Blake must terminate the candidate controlled city council committee from 2019 by no later than the term of office for which the committee was formed ends in 2023.

A primarily formed committee also does not have a deadline to terminate. However, the committee, by its nature, may need to change its committee status if it remains open after the election. A committee that remains open must continue to file semi-annual campaign statements (i.e., Form 460 or Form 450) and pay the annual fee, as described in Chapter 1, until it terminates. There are specific requirements that must be met in order for a committee to terminate.

A committee may terminate only if the committee:

- Has ceased receiving contributions or making expenditures and does not anticipate receiving contributions or making expenditures in the future;
- Has no remaining campaign funds;
- Has filed all required campaign statements, disclosing all reportable transactions, including the disposition of leftover funds; and
- Has eliminated all debts, or has no intention or ability to discharge debts.

A committee must file a Form 410 and a final Form 460 or Form 450. On the Form 410, the “Termination” box must be checked. List the committee’s identification number and the date of termination; the date of termination generally is the date all funds have been expended. Complete Section 1 and the treasurer or assistant treasurer must sign the verification. For candidate controlled committees, the controlling officeholder(s)/candidate(s) also must sign the verification.

> **Ex 12.6 -** At the end of November, after winning the election, Arlene decides to terminate the committee. To do so, Arlene must file a Form 410 termination and a Form 460 termination showing that the committee has no remaining cash. On the Form 460 Cover Page, Type of Statement section, Arlene will mark both the termination and semi-annual boxes and enter December 31 as the closing date of the statement. Unless there is additional activity, Arlene is not required to file a semi-annual statement on January 31, and may file Form 470 by July 31 of the next year.

Form 450 or 460 also must be filed showing that all funds have been expended and the committee has no cash on hand. Check the “Termination” box on the cover page.

File the original Form 410 with the Secretary of State and a copy with the committee’s local filing officer who receives the committee’s original campaign statements. File the Form 450 or 460 in the committee’s regular filing locations.

F. Receiving a Refund After the Committee Has Terminated

Generally, once a committee has terminated, no transactions may be made by the committee. However, a candidate controlled committee that has terminated may accept a refund from a governmental entity (such as an overpayment of filing fees) without reopening. A committee may also accept a refund from a vendor or other person without reopening if the committee did not know of its entitlement to the refund prior to termination and the refund or refunds total no more than $10,000.

To report this type of refund, the terminated committee must file a Form 460 for the period in which the refund was received and report the refund as a miscellaneous increase to cash on Schedule I of the Form 460 and as an expenditure on Schedule E when the funds are spent. See Chapter 5 for the permissible uses of campaign funds. For the rules related to transferring the refund to another committee. see Regulation 18404.1.

Ex 12.7 - A candidate was defeated in a November election and closed their campaign committee in December. In February of the following year, they received a $1,500 refund from the county elections office for an overpayment of their filing fees. The candidate must disclose receipt of the refund on Schedule I of the Form 460. The refund must be used for a permissible expenditure as described in Chapter 5, such as to pay outstanding debts or to make a donation to a charity, and disclosed on Schedule E. If the candidate used personal funds to pay the filing fee, they may keep the refund without disclosing it on the Form 460.

Answering Your Questions

A. Must I file the Form 470 even if I waive my $200 per month salary as a school board member?

Yes. The exception for unpaid officeholders (less than $200 per month) does not apply when an officeholder waives their salary.

B. May I terminate my committee even if I have outstanding debt?

Yes. When you file your termination statement showing outstanding debt, you are declaring that you do not have the ability to discharge debts, loans, or other obligations. However, if you plan to raise additional funds, or pay the outstanding debt with personal funds, you may not terminate.

C. After terminating my committee, I received a refund from the city clerk for an overpayment of my filing fees. How do I report this?

If you used campaign funds to pay for the filing fees, you must file a Form 460 to report the refund as a miscellaneous increase to cash (on Schedule I). You must also report the expenditure of the funds on Schedule E. See Chapter 5 for the permissible uses of campaign funds.

If you used personal funds to pay for the filing fees, you may keep the refund and you are not required to report it on a campaign statement.

D. A nonprofit group paid for a survey they conducted and published. The group is claiming that my committee owes them for part of the costs of the survey, but my position is that, since they conducted the survey without my authorization, my committee does not owe them for the survey. The group has indicated that it may seek a small claims court judgment. I would like to close my committee, but should the committee remain open until the issue is resolved?

One of the requirements that must be met in order for a committee to terminate is for the treasurer to state, under penalty of perjury, that the committee has eliminated all debts or has declared that it has no intention or ability to discharge all of its debts, loans received, and other obligations.

If your treasurer does not want to declare that the committee has no intention or ability to discharge all of its debts, loans received, and other obligations, we recommend that the committee remain open until the issue is resolved.

E. Assemblymember Higuera's photo, name and office appears in a Paws & Claws charitable fundraising event invitation, but neither the official not their staff consented to the use of their photo or otherwise cooperated in the event invitation. Must Assemblymember Higuera file a Form 803 for resulting payments?

No. Where the solicitation is sent without the official or the official's agent cooperation or consent, or any other actions (coordination, direction, suggestion, etc.) that satisfy "making a behest," there is no duty for the official to report the payments on Form 803 related to their appearance in the event invitation.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

82004.5	Behested Payment.
82041.3	Made at the Behest of.
82015	Contribution.
84103	Statement of Organization; Amendment.
84200	Semi-Annual Statements.
84206	Candidates Who Receive or Spend Less than $2,000.
84214	Termination.
84224	Behested Payment Disclosure.
85200	Statement of Intention to be a Candidate.
85201	Campaign Bank Account.
85304.5	Legal Defense Fund; Local Candidates and Elected Officeholders.
89519	Use of Surplus Campaign Funds.

Title 2 Regulations

18215	Contribution.
18402	Committee Names.
18404	Termination of Candidate's and Committees' Filing Requirements.
18404.1	Termination and Reopening of Committees.
18406	Short Form for Candidates or Officeholders Who Receive and Spend Less than $2,000 in a Calendar Year.
18424	Behested Payment Reporting. Additional Information.
18424.1	Behested Payment Reporting. Good Faith Estimate.
18424.2	Behested Payment Reporting. Charitable Organization Fundraising Solicitations.
18424.3	Behested Payment Reporting. Payments from Donor Advised Funds.
18426	Semi-Annual Statement Early Filing.
18530.45	Legal Defense Funds – Local Candidates and Officers.
18531.5	Recall Elections.
18951	Surplus Funds.

Appendix – About the Political Reform Act/ How to Get Help

The Political Reform Act of 1974

The Political Reform Act (the "Act") was a voter-approved initiative on the 1974 primary election ballot. One of the major provisions of the Act requires the truthful and accurate disclosure of campaign contributions and expenditures during elections.

The Fair Political Practices Commission

The Fair Political Practices Commission (FPPC) is the independent, nonpartisan state agency authorized to implement, interpret, and enforce the provisions of the Act. The Commission is comprised of a full-time chair appointed by the Governor, and four part-time commissioners, one each appointed by the Controller, the Attorney General, the Secretary of State, and the Governor. Each member serves a four-year term and no more than three members may be from the same political party. FPPC staff is comprised of four divisions: Executive, Administration and Technology, Enforcement, and Legal.

Governing Statutes

The Political Reform Act is contained in Government Code Sections 81000 – 91014.

Regulations

Regulations interpreting the Political Reform Act are located at Title 2, Division 6 of the California Code of Regulations, beginning at Section 18110.

Opinions and Advice Letters

The FPPC periodically issues opinions interpreting provisions of the Political Reform Act. The opinions are adopted at a public meeting, with opportunity for input from interested persons.

In addition, FPPC staff issues written advice letters as to the applicability of the Political Reform Act and regulations to a particular factual situation. Refer to the information on requesting written advice from the FPPC available on the FPPC website.

Contact Information for the FPPC

Fair Political Practices Commission
1102 Q Street, Suite 3050
Sacramento, CA 95811

(916) 322-5660
(866) 275-3772 – Toll-free
www.fppc.ca.gov

Twitter: @CA_FPPC
Facebook: CA FPPC

FPPC Website

Visit the FPPC website (www.fppc.ca.gov) to get copies of specific advice letters, sign up for RSS feeds, or to be put on mailing lists. The Commission's website also contains a wealth of helpful information, including:

- The Political Reform Act and its corresponding regulations
- Commission opinions
- Notices of Commission meeting dates, agendas, supporting documentation for agenda items, and meeting summaries
- Forms required by the Act (also available at the FPPC's offices, the Secretary of State's offices, and many local clerks' offices)
- Manuals, fact sheets, and useful summaries of the law
- Schedules of upcoming training opportunities.

Additional Campaign Manuals

Additional copies of this manual, and manuals for other types of campaign committees are available from the FPPC, the Secretary of State, and many city clerks and county elections offices. Manuals are available for:

- State candidates and officeholders, and committees primarily formed to support/oppose state candidates
- General purpose recipient committees (including PACs, sponsored committees, political party committees, and county central committees)
- Ballot measure committees
- Major donor and independent expenditure committees
- Slate mailer organizations

Obtaining Information Elsewhere

A subscription for regulations is available from:

Barclay's Law Publishing
P.O. Box 3066
South San Francisco, CA 94083
(800) 888-3600

Opinions and advice letters are available from these subscription services:

Westlaw (800) 328-9352
Database: "CA-ETH"
(Advice letters from 1986 to present)

Lexis-Nexis (800) 227-9597
Database: "CA Fair Political Practices Commission"
(Advice letters from 1990 to present)

Other Resources

The Secretary of State, city clerks, and county clerks or registrars of voters are the filing officers for campaign disclosure statements. Committee statements will be filed with the Secretary of State or the local elections office, depending on whether the filer is a state or local candidate or committee.

Secretary of State

The Secretary of State is also responsible for issuing campaign committee identification numbers.

(916) 653-6224
www.sos.ca.gov

Federal Election Commission

The Federal Election Commission answers questions regarding federal elections and contributions to all candidates from national banks, national corporations, and foreign nationals.

Federal Election Commission
999 E Street, NW
Washington, DC 20463
(800) 424-9530
www.fec.gov

Franchise Tax Board

The California Franchise Tax Board is responsible for responding to questions regarding tax status, tax-deductibility of political contributions, 501(c)(3) groups, audits, or any tax-related questions.

(800) 852-5711 or (800) 338-0505
www.ftb.ca.gov

Internal Revenue Service

The Internal Revenue Service provides assistance regarding federal tax laws and obtaining a taxpayer identification number.

(877) 829-5500 (located in Washington, D.C.)
(800) 829-3676 (taxpayer ID number)
www.irs.gov

Federal Communications Commission

The Federal Communications Commission answers questions regarding rates for purchasing broadcast time and equal access to broadcast media.

(888) 225-5322 (located in Washington, D.C.)
www.fcc.gov
Email: fccinfo@fcc.gov

Local Campaign Ordinances

A city or county officeholder, candidate, or committee may be subject to additional reporting or other requirements under a local campaign ordinance. Common examples include the requirement to file campaign statements electronically, local contribution limits, lower itemization thresholds, or the requirement to file an additional preelection statement. A city or county campaign ordinance may never preempt state law.

Privacy Information Notice

Information required on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Government Code sections 81000 – 91014 and California Code of Regulations sections 18110 – 18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Notice, please contact the FPPC at:

General Counsel
1102 Q Street, Suite 3050
Sacramento, CA 95811
(916) 322-5660

Campaign statements are filed with the Secretary of State and city and county filing officers, depending upon the type of committee. (See Chapter 9.)

Enforcement

The Fair Political Practices Commission, the Attorney General, county district attorneys, and elected city attorneys of charter cities have enforcement authority under the Act. Failure to provide all or any part of the information required by the Political Reform Act is a violation subject to:

- An administrative enforcement proceeding before the Fair Political Practices Commission;
- A criminal misdemeanor proceeding;
- A civil action; and
- Levying of late penalties by filing officers.

Penalties of up to $5,000 per violation of the Political Reform Act may be imposed.

APPENDIX B

Reference Pamphlet (Form 700)

2023/2024 Form 700 Statement of Economic Interests

Reference Pamphlet

California Fair Political Practices Commission
1102 Q Street, Suite 3050 • Sacramento, CA 95811
Email advice: advice@fppc.ca.gov
Toll-free advice line: 1 (866) ASK-FPPC • (866) 275-3772
Telephone: (916) 322-5660 • Website: *www.fppc.ca.gov*

December 2023

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- Terms & Definitions ..... Page 8

Who Must File

1. Officials and Candidates Specified in Gov. Code Section 87200 and Members of Boards and Commissions of Newly Created Agencies

The Act requires the following individuals to fully disclose their personal assets and income described in Form 700, Statement of Economic Interests:

State Offices
- Governor
- Lieutenant Governor
- Attorney General
- Controller
- Insurance Commissioner
- Secretary of State
- Treasurer
- Members of the State Legislature
- Superintendent of Public Instruction
- State Board of Equalization Members
- Public Utilities Commissioners
- State Energy Resources Conservation and Development Commissioners
- State Coastal Commissioners
- Fair Political Practices Commissioners
- State public officials (including employees and consultants) who manage public investments
- Elected members of and candidates for the Board of Administration of the California Public Employees' Retirement System
- Elected members of and candidates for the Teachers' Retirement Board
- Members of the High Speed Rail Authority

Other officials and employees of state boards, commissions, agencies, and departments file Form 700 as described in Part 2 on this page.

Judicial Offices
- Supreme, Appellate, and Superior Court Judges
- Court Commissioners
- Retired Judges, Pro-Tem Judges, and part-time Court Commissioners who serve or expect to serve 30 days or more in a calendar year

County and City Offices
- Members of Boards of Supervisors
- Mayors and Members of City Councils
- Chief Administrative Officers
- District Attorneys
- County Counsels
- City Attorneys
- City Managers
- Planning Commissioners
- County and City Treasurers
- County and city public officials (including employees and consultants) who manage public investments

Members of Newly Created Boards and Commissions
Generally, such a member must file an assuming office statement within 30 days as well as subsequent statements until the member's position is designated in a conflict of interest code. See Regulation 18754.

2. State and Local Officials, Employees, Candidates, and Consultants Designated in a Conflict of Interest Code ("Code Filers")

The Act requires every state and local government agency to adopt a unique conflict of interest code. The code lists each position within the agency filled by individuals who make or participate in making governmental decisions that could affect their personal economic interests.

The code requires individuals holding those positions to periodically file Form 700 disclosing certain personal economic interests as determined by the code's "disclosure categories." These individuals are called "designated employees" or "code filers."

Obtain your disclosure categories from your agency – they are not contained in the Form 700. Persons with broad decisionmaking authority must disclose more interests than those in positions with limited discretion. For example, you may be required to disclose only investments and business positions in or income (including loans, gifts, and travel payments) from businesses of the type that contract with your agency, or you may not be required to disclose real property interests.

In addition, certain consultants to public agencies may qualify as public officials because they make, participate in making, or act in a staff capacity for governmental decisions. Agencies determine who is a consultant and the level of disclosure and may use Form 805.

Note: An official who holds a position specified in Gov. Code Section 87200 is not required to file statements under the conflict of interest code of any agency that has the same or a smaller jurisdiction (for example, a state legislator who also sits on a state or local board or commission).

Employees in Newly Created Positions of Existing Agencies
An individual hired for a position not yet covered under an agency's conflict of interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the agency's broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. The Form 804 may be used to satisfy this requirement.

Types of Form 700 Filings

Assuming Office Statement:

If you are a newly appointed official or are newly employed in a position designated, or that will be designated, in a state or local agency's conflict of interest code, your assuming office date is the date you were sworn in or otherwise authorized to serve in the position. If you are a newly elected official, your assuming office date is the date you were sworn in.

- Report: Investments, interests in real property, and business positions held on the date you assumed the office or position must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date you assumed the office or position.

For positions subject to confirmation by the State Senate or the Commission on Judicial Appointments, your assuming office date is the date you were appointed or nominated to the position.

- Example: Maria Lopez was nominated by the Governor to serve on a state agency board that is subject to state Senate confirmation. The assuming office date is the date Maria's nomination is submitted to the Senate. Maria must report investments, interests in real property, and business positions she holds on that date, and income (including loans, gifts, and travel payments) received during the 12 months prior to that date.

If your office or position has been added to a newly adopted or newly amended conflict of interest code, use the effective date of the code or amendment, whichever is applicable.

- Report: Investments, interests in real property, and business positions held on the effective date of the code or amendment must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the effective date of the code or amendment.

Annual Statement:

Generally, the period covered is January 1, 2023, through December 31, 2023. If the period covered by the statement is different than January 1, 2023, through December 31, 2023, (for example, you assumed office between October 1, 2022, and December 31, 2022 or you are combining statements), you must specify the period covered.

- Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement must be reported. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2023.
- If your disclosure category changes during a reporting period, disclose under the old category until the effective date of the conflict of interest code amendment and disclose under the new disclosure category through the end of the reporting period.

Leaving Office Statement:

Generally, the period covered is January 1, 2023, through the date you stopped performing the duties of your position. If the period covered differs from January 1, 2023, through the date you stopped performing the duties of your position (for example, you assumed office between October 1, 2022, and December 31, 2022, or you are combining statements), the period covered must be specified. The reporting period can cover parts of two calendar years.

- Report: Investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the statement. Do not change the preprinted dates on Schedules A-1, A-2, and B unless you are required to report the acquisition or disposition of an interest that did not occur in 2023.

Candidate Statement:

If you are filing a statement in connection with your candidacy for state or local office, investments, interests in real property, and business positions held on the date of filing your declaration of candidacy must be reported. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date of filing your declaration of candidacy is reportable. Do not change the preprinted dates on Schedules A-1, A-2, and B.

Candidates running for local elective offices (e.g., county sheriffs, city clerks, school board trustees, or water district board members) must file candidate statements, as required by the conflict of interest code for the elected position. The code may be obtained from the agency of the elected position.

Amendments:

If you discover errors or omissions on any statement, file an amendment as soon as possible. You are only required to amend the schedule that needs to be revised; it is not necessary to refile the entire form. The amended schedule(s) is attached to your original filed statement. Obtain amendment schedules from the FPPC website at *www.fppc.ca.gov.*

Where to File

1. Officials Specified in Gov. Code Section 87200 (See Reference Pamphlet, page 3):

In most cases, the filing officials listed below will retain a copy of your statement and forward the original to the FPPC.

Filers	Where to File
87200 Filers	
State offices	Your agency
Judicial offices	The clerk of your court
Retired Judges	Directly with FPPC
County offices	Your county filing official
City offices	Your city clerk
Multi-County offices	Your agency
87200 Candidates	
State offices Judicial offices Multi-County offices	County elections official with whom you file your declaration of candidacy
County offices	County elections official
City offices	City Clerk
Public Employees' Retirement System (CalPERS)	CalPERS
State Teachers' Retirement Board (CalSTRS)	CalSTRS

Note: Individuals that invest public funds for a city or county agency must file Form 700 with the agency. Unlike most other 87200 filers, the original statement will **not** be forwarded to the FPPC pursuant to Regulation 18753.

2. Code Filers — State and Local Officials, Employees, Candidates, and Consultants Designated in a Conflict of interest Code:

File with your agency, board, or commission unless otherwise specified in your agency's conflict of interest code. In most cases, the agency, board, or commission will retain the statements.

Candidates for local elective offices designated in a conflict of interest code file with the elections office where the declaration of candidacy or other nomination documents are filed.

3. Members of Newly Created Boards and Commissions:

File with your agency or with your agency's code reviewing body. See Regulation 18754.

State Senate and Assembly staff members file statements directly with the FPPC.

Exceptions:

- Elected state officers are not required to file statements under any agency's conflict of interest code.
- Filers listed in Section 87200 are not required to file statements under any agency's conflict of interest code in the same jurisdiction. For example, a county supervisor who is appointed to serve in an agency with jurisdiction in the same county has no additional filing obligations.

4. Positions Not Yet Covered Under a Conflict of interest Code

An individual hired for a position not yet covered under an agency's conflict of interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. Agencies may use FPPC Form 804 for this disclosure. Such individuals are referred to as "code filers." See Regulation 18734.

When to File

Assuming Office Statements:

Filer	Deadline
Elected officials	**30 days** after assuming office
Appointed positions specified in Gov. Code Section 87200 **or** Members of newly created boards and commissions not covered by a conflict of interest code	**30 days** after assuming office **or** **10 days** after appointment or nomination if subject to Senate or judicial confirmation
Other appointed positions (including those held by newly-hired employees) that are or will be designated in a conflict of interest code	**30 days** after assuming office (30 days after appointment or nomination if subject to Senate confirmation)
Positions newly added to a new or amended conflict of interest code	**30 days** after the effective date of the code or code amendment

Exceptions:

- Elected state officers who assume office in December or January are not required to file an assuming office statement, but will file the next annual statement due.
- If you complete a term of office and, within 30 days, begin a new term of the same office (for example, you are reelected or reappointed), you are not required to file an assuming office statement. Instead, you will simply file the next annual statement due.
- If you leave an office specified in Gov. Code Section 87200 and, within 45 days, you assume another office or position specified in Section 87200 that has the same jurisdiction (for example, a city planning commissioner elected as mayor), you are not required to file an assuming office statement. Instead, you will simply file the next annual statement due.
- If you transfer from one designated position to another designated position within the same agency, contact your filing officer or the FPPC to determine your filing obligations.
- If a due date falls on a weekend or an official state holiday, the due date is the next regular business day.

Late statements are subject to a late fine of $10 per day per position up to $100 for each day the statement is late.

Annual Statements:

1. Elected state officers (including members of the state legislature, members elected to the Board of Administration of the California Public Employees' Retirement System and members elected to the Teachers' Retirement Board);
   Judges and court commissioners; and
   Members of state boards and commissions specified in Gov. Code Section 87200:
   File no later than **Friday, March 1, 2024.**
2. County and city officials specified in Gov. Code Section 87200:
   File no later than **Tuesday, April 2, 2024.**
3. Multi-County officials:
   File no later than **Tuesday, April 2, 2024.**
4. State and local officials and employees designated in a conflict of interest code:
   File on the date prescribed in the code (April 2 for most filers).

Exception:

If you assumed office between October 1, 2023, and December 31, 2023, and filed an assuming office statement, you are not required to file an annual statement until March 1, 2025, or April 1, 2025, whichever is applicable. The annual statement will cover the day you assumed office through December 31, 2024.

Incumbent officeholders who file candidate statements also must file annual statements by the specified deadlines.

When to File - (continued)

Leaving Office Statements:

Leaving office statements must be filed no later than 30 days after leaving the office or position.

Exceptions:

- If you complete a term of office and, within 30 days, begin a new term of the same office (for example, you are reelected or reappointed), you are not required to file a leaving office statement. Instead, you will simply file the next annual statement due.
- If you leave an office specified in Gov. Code Section 87200 and, within 45 days, you assume another office or position specified in Section 87200 that has the same jurisdiction (for example, a city planning commissioner elected as mayor), you are not required to file a leaving office statement. Instead, you will simply file the next annual statement due.
- If you transfer from one designated position to another designated position within the same agency, contact your filing officer or the FPPC to determine your filing obligations.

Candidate Statements:

All candidates (including incumbents) for offices specified in Gov. Code Section 87200 must file statements no later than the final filing date for their declaration of candidacy.

Candidates seeking a position designated in a conflict of interest code must file no later than the final filing date for the declaration of candidacy or other nomination documents.

Exception:

A candidate statement is not required if you filed an assuming office or annual statement for the same jurisdiction **within 60 days** before filing a declaration of candidacy or other nomination documents.

Late Statements:

Late statements should be submitted as soon as possible after the filing deadline, in the same manner and place as a timely filed statement.

The filing officer who retains originally-signed or electronically filed statements of economic interests may impose on an individual a fine for any statement that is filed late. The fine is $10 per day up to a maximum of $100. Late filing penalties may be reduced or waived under certain circumstances.

Persons who fail to timely file their Form 700 may be referred to the FPPC's Enforcement Division (and, in some cases, to the Attorney General or District Attorney) for investigation and possible prosecution. In addition to the late filing penalties from the filing officer, a fine of up to $5,000 per violation may be imposed.

Terms & Definitions

The instructions located on the back of each schedule describe the types of interests that must be reported. The purpose of this section is to explain other terms used in Form 700 that are not defined in the instructions to the schedules or elsewhere.

Blind Trust: See Trusts, Reference Pamphlet, page 16.

Business Entity: Any organization or enterprise operated for profit, including a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, or association. This would include a business for which you take business deductions for tax purposes (for example, a small business operated in your home). When reporting a business entity on the Form 700, do not use acronyms for the name of entity, unless it is one that is commonly understood by the public.

Code Filer: An individual who has been designated in a state or local agency's conflict of interest code to file statements of economic interests.

An individual hired on or after January 1, 2023 for a position not yet covered under an agency's conflict of interest code must file Form 700 if the individual serves in a position that makes or participates in making governmental decisions. These individuals must file under the broadest disclosure category until the code is amended to include the new position unless the agency has provided in writing a limited disclosure requirement. Agencies may use FPPC Form 804 for such disclosure. See Regulation 18734.

Commission Income: "Commission income" means gross payments of $500 or more received during the period covered by the statement as a broker, agent, or salesperson, including insurance brokers or agents, real estate brokers or agents, travel agents or salespersons, stockbrokers, and retail or wholesale salespersons, among others.

In addition, you may be required to disclose the names of sources of commission income if your pro rata share of the gross income was $10,000 or more from a single source during the reporting period. If your spouse or registered domestic partner received commission income, you would disclose your community property share (50%) of that income (that is, the names of sources of $20,000 or more in gross commission income received by your spouse or registered domestic partner).

Report commission income as follows:

- If the income was received through a business entity in which you and your spouse or registered domestic partner had a 10% or greater ownership interest (or if you receive commission income on a regular basis as an independent contractor or agent), use Schedule A-2.
- If the income was received through a business entity in which you or your spouse or registered domestic partner did not receive commission income on a regular basis or you had a less than 10% ownership interest, use Schedule C.

The "source" of commission income generally includes all parties to a transaction, and each is attributed the full value of the commission.

Examples:

- You are a partner in Jameson and Mulligan Insurance Company and have a 50% ownership interest in the company. You sold two American Insurance Company policies to XYZ Company during the reporting period. You received commission income of $5,000 from the first transaction and $6,000 from the second. On Schedule A-2, report your partnership interest in and income received from Jameson and Mulligan Insurance Company in Parts 1 and 2. In Part 3, list both American Insurance Company and XYZ Company as sources of $10,000 or more in commission income.
- You are a stockbroker for Prince Investments, but you have no ownership interest in the firm. You receive commission income on a regular basis through the sale of stock to clients. Your total gross income from your employment with Prince Investments was over $100,000 during the reporting period. On Schedule A-2, report your name as the name of the business entity in Part 1 and the gross income you have received in Part 2. (Because you are an employee of Prince Investments, you do not need to complete the information in the box in Part 1 indicating the general description of business activity, fair market value, or nature of investment.) In Part 3, list Prince Investments and the names of any clients who were sources of $10,000 or more in commission income to you.
- You are a real estate agent and an independent contractor under Super Realty. On Schedule A-2, Part 1, in addition to your name or business name, complete the business entity description box. In Part 2, identify your gross income. In Part 3, for each transaction that resulted in commission income to you of $10,000 or more, you must identify the brokerage entity, each person you represented, and any person who received a finder's or other referral fee for referring a party to the transaction to the broker.

Note: If your pro rata share of commission income from a single source is $500 or more, you may be required to disqualify yourself from decisions affecting that source of income, even though you are not required to report the income. *(See Reference Pamphlet, page 12.)*

Terms & Definitions - (continued)

Conflict of Interest: A public official or employee has a conflict of interest under the Act when all of the following occur:

- The official makes, participates in making, or uses their official position to influence a governmental decision;
- It is reasonably foreseeable that the decision will affect the official's economic interest;
- The effect of the decision on the official's economic interest will be material; and
- The effect of the decision on the official's economic interest will be different than its effect on the public generally.

Conflict of Interest Code: The Act requires every state and local government agency to adopt a conflict of interest code. The code may be contained in a regulation, policy statement, or a city or county ordinance, resolution, or other document.

An agency's conflict of interest code must designate all officials and employees of, and consultants to, the agency who make or participate in making governmental decisions that could cause conflicts of interest. These individuals are required by the code to file statements of economic interests and to disqualify themselves when conflicts of interest occur.

The disclosure required under a conflict of interest code for a particular designated official or employee should include only the kinds of personal economic interests they could significantly affect through the exercise of their official duties. For example, an employee whose duties are limited to reviewing contracts for supplies, equipment, materials, or services provided to the agency should be required to report only those interests they hold that are likely to be affected by the agency's contracts for supplies, equipment, materials, or services.

Consultant: An individual who contracts with or whose employer contracts with state or local government agencies and who makes, participates in making, or acts in a staff capacity for making governmental decisions. The agency determines who is a consultant. Consultants may be required to file Form 700. Such consultants would file under full disclosure unless the agency provides in writing a limited disclosure requirement. Agencies may use FPPC Form 805 to assign such disclosure. The obligation to file Form 700 is always imposed on the individual who is providing services to the agency, not on the business or firm that employs the individual.

FPPC Regulation 18700.3 defines "consultant" as an individual who makes a governmental decision whether to:

- Approve a rate, rule, or regulation
- Adopt or enforce a law
- Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement
- Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval
- Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract
- Grant agency approval to a plan, design, report, study, or similar item
- Adopt, or grant agency approval of, policies, standards, or guidelines for the agency or for any of its subdivisions

A consultant also is an individual who serves in a staff capacity with the agency and:

- participates in making a governmental decision; or
- performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's conflict of interest code.

Designated Employee: An official or employee of a state or local government agency whose position has been designated in the agency's conflict of interest code to file statements of economic interests or whose position has not yet been listed in the code but makes or participates in making governmental decisions. Individuals who contract with government agencies (consultants) may also be designated in a conflict of interest code.

A federal officer or employee serving in an official federal capacity on a state or local government agency is not a designated employee.

Digital Signature: Under the Act and Commission regulations, the Form 700s may be filed with a "digital signature," which may be used to sign documents electronically, if permitted by the filing officer. A digital signature is a type of certificate-based electronic signature that offers increased security to ensure the identity of the signer and prevent the alteration of documents after signing. For more information on how to use a digital signature, please refer to the Filing with a Digital Signature Fact Sheet on the FPPC's website.

For filing officers required to forward original statements filed via digital signature to the FPPC, the filing officer must verify the signature on the statement, and forward the statement via email to the FPPC at Form700@fppc.ca.gov. Do not mail the FPPC a copy of a Form 700 with a digital signature affixed.

Terms & Definitions - (continued)

Disclosure Categories: The section of an agency's conflict of interest code that specifies the types of personal economic interests officials and employees of the agency must disclose on their statements of economic interests. Disclosure categories are usually contained in an appendix or attachment to the conflict of interest code. Contact your agency to obtain a copy of your disclosure categories.

Diversified Mutual Fund: Diversified portfolios of stocks, bonds, or money market instruments that are managed by investment companies whose business is pooling the money of many individuals and investing it to seek a common investment goal. Mutual funds are managed by trained professionals who buy and sell securities. A typical mutual fund will own between 75 to 100 separate securities at any given time so they also provide instant diversification. *Only diversified mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 are exempt from disclosure.* In addition, Regulation 18237 provides an exception from reporting other funds that are similar to diversified mutual funds. (See Reference Pamphlet, page 13.)

Elected State Officer: Elected state officers include the Governor, Lieutenant Governor, Attorney General, Insurance Commissioner, State Controller, Secretary of State, State Treasurer, Superintendent of Public Instruction, members of the State Legislature, members of the State Board of Equalization, elected members of the Board of Administration of the California Public Employees' Retirement System and members elected to the Teachers' Retirement Board.

Enforcement: The FPPC investigates suspected violations of the Act. Other law enforcement agencies (the Attorney General or district attorney) also may initiate investigations under certain circumstances. If violations are found, the Commission may initiate administrative enforcement proceedings that could result in fines of up to $5,000 per violation.

Instead of administrative prosecution, a civil action may be brought for negligent or intentional violations by the appropriate civil prosecutor (the Commission, Attorney General, or district attorney), or a private party residing within the jurisdiction. In civil actions, the measure of damages is up to the amount or value not properly reported.

Persons who violate the conflict of interest disclosure provisions of the Act also may be subject to agency discipline, including dismissal.

Finally, a knowing or willful violation of any provision of the Act is a misdemeanor. Persons convicted of a misdemeanor may be disqualified for four years from the date of the conviction from serving as a lobbyist or running for elective office, in addition to other penalties that may be imposed. The Act also provides for numerous civil penalties, including monetary penalties and damages, and injunctive relief from the courts.

Expanded Statement: In some circumstances, an official or an employee who holds multiple positions subject to filing obligations (for example, a city council member who also holds a designated position with a county agency, board, or commission) may complete one expanded statement for all those positions. The expanded statement must disclose all reportable interests for all jurisdictions and list all positions for which it is filed. The rules and processes governing the filing of an expanded statement are set forth in Regulation 18723.1.

Fair Market Value: When reporting the value of an investment, interest in real property, or gift, you must disclose the fair market value – the price at which the item would sell for on the open market. This is particularly important when valuing gifts, because the fair market value of a gift may be different from the amount it cost the donor to provide the gift. For example, the wholesale cost of a bouquet of flowers may be $10, but the fair market value may be $25 or more. In addition, there are special rules for valuing free tickets and passes. Call or email the FPPC for assistance.

Gift and Honoraria Prohibitions

Gifts:

State and local officials who are listed in Gov. Code Section 87200 (except judges – see below), candidates for these elective offices (including judicial candidates), and officials and employees of state and local government agencies who are designated in a conflict of interest code were prohibited from accepting a gift or gifts totaling more than $590 in a calendar year from a single source in 2023-2024.

In addition, elected state officers, candidates for elective state offices, and officials and employees of state agencies are subject to a $10 per calendar month limit on gifts from lobbyists and lobbying firms registered with the Secretary of State.

Terms & Definitions - (continued)

Honoraria:

State and local officials who are listed in Gov. Code Section 87200 (except judges – see below), candidates for these elective offices (including judicial candidates), and employees of state and local government agencies who are designated in a conflict of interest code are prohibited from accepting honoraria for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

Exceptions:

- Some gifts are not reportable or subject to the gift and honoraria prohibitions, and other gifts may not be subject to the prohibitions, but are reportable. For detailed information, see the FPPC fact sheet entitled "Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans," which can be obtained from your filing officer or the FPPC website (*www.fppc.ca.gov).*
- The gift limit and the honorarium prohibitions do not apply to a part-time member of the governing board of a public institution of higher education, unless the member is also an elected official.
- If you are designated in a state or local government agency's conflict of interest code, the gift limit and honorarium prohibition are applicable only to sources you would otherwise be required to report on your statement of economic interests. However, this exception is not applicable if you also hold a position listed in Gov. Code Section 87200 (See Reference Pamphlet, page 3.)
- For state agency officials and employees, the $10 lobbyist/lobbying firm gift limit is applicable only to lobbyists and lobbying firms registered to lobby your agency. This exception is not applicable if you are an elected state officer or a member or employee of the State Legislature.
- Payments for articles published as part of the practice of a bona fide business, trade, or profession, such as teaching, are not considered honoraria. A payment for an "article published" that is customarily provided in connection with teaching includes text book royalties and payments for academic tenure review letters. An official is presumed to be engaged in the bona fide profession of teaching if they are employed to teach at an accredited university.

Judges:

Section 170.9 of the Code of Civil Procedure imposes gift limits on judges and prohibits judges from accepting any honorarium. Section 170.9 is enforced by the Commission on Judicial Performance. The FPPC has no authority to interpret or enforce the Code of Civil Procedure. Court commissioners are subject to the gift limit under the Political Reform Act.

Income Reporting: Reporting income under the Act is different than reporting income for tax purposes. The Act requires **gross** income (the amount received before deducting losses, expenses, or taxes, as well as income reinvested in a business entity) to be reported.

Pro Rata Share: The instructions for reporting income refer to your pro rata share of the income received. Your pro rata share is normally based on your ownership interest in the entity or property. For example, if you are a sole proprietor, you must disclose 100% of the gross income to the business entity on Schedule A-2. If you own 25% of a piece of rental property, you must report 25% of the gross rental income received. When reporting your community property interest in your spouse's or registered domestic partner's income, your pro rata share is 50% of their income. You must also report the name of your spouse's or registered domestic partner's employer as the source of income, not the name of spouse or registered domestic partner.

Separate Property Agreement: Generally, a public official is required to disclose their community property share of their spouse's income. But, when a public official and their spouse have a legally separate property agreement (e.g., prenuptial agreement), the official is not required to report the spouse's community property share of income, unless the funds are commingled with community funds or used to pay for community expenses or to produce or enhance the separate income of the official.

Note: This reporting exception does not apply to investments and interests in real property. Even if a public official and their spouse have a separate property agreement, the spouse's investments and interests in real property must still be disclosed because the definitions of reportable investments and interests in real property include those held by the official's immediate family (spouse, registered domestic partner, and dependent children). These definitions are not dependent on community property law.

Income to a Business Entity: When you are required to report sources of income to a business entity, sources of rental income, or sources of commission income, you are only required to disclose individual sources of income of $10,000 or more. However, you may be required to **disqualify** yourself from decisions affecting sources of $500 or more in income, even though you are not required to report them.

Examples:

- Alice Ruiz is a partner in a business entity. Alice has a 25% interest. On Schedule A-2, Alice must disclose 25% of the fair market value of the business entity; 25% of the gross income to the business entity (even though all of the income received was reinvested in

the business and Alice did not personally receive any income from the business); and the name of each source of $40,000 or more to the business.

- Pat and Mark Johnson, a married couple, own Classic Autos. Income to this business was $200,000. In determining the amount to report for income on Schedule A-2, Part 2, Mark must include Mark's 50% share ($100,000) and 50% of Mark's spouse's share ($50,000). Thus, Mark's reportable income would be $150,000 and Mark will check the box indicating $100,001-$1,000,000. (See Reference Pamphlet, page 13, for an example of how to calculate the value of this investment and interest in real property.)
- Renee Smith is an employee of a private company. Renee's employer offers the option of receiving a stipend in lieu of healthcare insurance provided by the employer. Since Renee Smith receives payments from their employer instead of healthcare insurance, Renee is required to report the gross income from the stipend payments. Renee would aggregate and report the total gross income received from both their stipend and salary on Schedule C.

You are <u>not</u> required to report:

- Salary, reimbursement for expenses or per diem, social security, disability, or other similar benefit payments received by you or your spouse or registered domestic partner from a federal, state, or local government agency
- A travel payment that was received from a nonprofit entity exempt from taxation under Internal Revenue Code Section 501(c)(3) for which you provided equal or greater consideration, such as reimbursement for travel on business for a 501(c)(3) organization for which you are a board member.
- Campaign contributions
- A cash bequest or cash inheritance
- Returns on a security registered with the Securities and Exchange Commission, including dividends, interest, or proceeds from a sale of stocks or bonds unless the purchaser can be identified.
- Redemption of a mutual fund
- Payments received under an insurance policy, such as life insurance policy payments, including an annuity
- Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union, an insurance policy, or a bond or other debt instrument issued by a government agency
- Your spouse's or registered domestic partner's income that is legally "separate" income so long as the funds are not commingled with community funds or used to pay community expenses
- Income of dependent children
- Automobile trade-in allowances from dealers
- Loans and loan repayments received from your spouse or registered domestic partner, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin unless they were acting as an intermediary or agent for any person not covered by this provision
- Alimony or child support payments
- Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a)
- Any loan from a commercial lending institution made in the lender's regular course of business on terms available to the public without regard to your official status
- Any retail installment or credit card debts incurred in the creditor's regular course of business on terms available to the public without regard to your official status
- Loans made to others. However, repayments may be reportable on Schedule C
- A loan you co-signed for another person unless you made payments on the loan during the reporting period

Incentive Compensation: "Incentive compensation" means income over and above salary that is either ongoing or cumulative, or both, as sales or purchases of goods or services accumulate. Incentive compensation is calculated by a predetermined formula set by the official's employer which correlates to the conduct of the purchaser in direct response to the effort of the official.

Incentive compensation does not include:

- Salary
- Commission income *(For information regarding disclosure of "commission income," see Reference Pamphlet, page 8.)*
- Bonuses for activity not related to sales or marketing, the amount of which is based solely on merit or hours worked over and above a predetermined minimum
- Executive incentive plans based on company performance, provided that the formula for determining the amount of the executive's incentive income does not include a correlation between that amount and increased profits derived from increased business with specific and identifiable clients or customers of the company
- Payments for personal services which are not marketing or sales

Terms & Definitions - (continued)

The purchaser is a source of income to the official if all three of the following apply:

- the official's employment responsibilities include directing sales or marketing activity toward the purchaser; and
- there is direct personal contact between the official and the purchaser intended by the official to generate sales or business; and
- there is a direct relationship between the purchasing activity of the purchaser and the amount of the incentive compensation received by the official.

Report incentive compensation as follows:

- In addition to salary, reimbursement of expenses, and other income received from your employer, separately report on Schedule C the name of each person who purchased products or services sold, marketed or represented by you if you received incentive compensation of $500 or more attributable to the purchaser during the period covered by the statement.
- If incentive compensation is paid by your employer in a lump sum, without allocation of amounts to specific customers, you must determine the amount of incentive compensation attributable to each of your customers. This may be based on the volume of sales to those customers.

(See Regulations 18700.1 and 18728.5 for more information.)

Investment Funds: The term "investment" no longer includes certain exchange traded funds, closed-end funds, or funds held in an Internal Revenue Code qualified plan. These non-reportable investment funds (1) must be bona fide investment funds that pool money from more than 100 investors, (2) must hold securities of more than 15 issuers, and (3) cannot have a stated policy of concentrating their holdings in the same industry or business ("sector funds"). In addition, the filer may not influence or control the decision to purchase or sell the specific fund on behalf of their agency during the reporting period or influence or control the selection of any specific investment purchased or sold by the fund. (See Regulation 18237.)

Investments and Interests in Real Property: When disclosing investments on Schedules A-1 or A-2 and interests in real property on Schedules A-2 or B, you must include investments and interests in real property held by your spouse or registered domestic partner, and those held by your dependent children, as if you held them directly.

Examples:

- Julia Pearson, spouse, and two dependent children each own $600 in stock in General Motors. Because the total value of their holdings is $2,400, Julia must disclose the stock as an investment on Schedule A-1.
- Pat and Mark Johnson, a married couple, jointly own Classic Autos. Mark must disclose Classic Autos as an investment on Schedule A-2. To determine the reportable value of the investment, Mark will aggregate the value of each of their 50% interest. Thus, if the total value of the business entity is $150,000, Mark will check the box $100,001 - $1,000,000 in Part 1 of Schedule A-2. (Also see Reference Pamphlet, page 12, for an example of how to calculate reportable income.)

  The Johnsons also own the property where Classic Autos is located. To determine the reportable value of the real property, Mark will again aggregate the value of each of their 50% interest to determine the amount to report in Part 4 of Schedule A-2.
- Katie Lee rents out a room in their home. Katie receives $6,000 a year in rental income. Katie will report the fair market value of the rental portion of the residence and the income received on Schedule B.

Jurisdiction: Report disclosable investments and sources of income (including loans, gifts, and travel payments) that are either located in or doing business in your agency's jurisdiction, are planning to do business in your agency's jurisdiction, or have done business during the previous two years in your agency's jurisdiction, and interests in real property located in your agency's jurisdiction.

A business entity is doing business in your agency's jurisdiction if the entity has business contacts on a regular or substantial basis with a person who maintains a physical presence in your jurisdiction.

Business contacts include, but are not limited to, manufacturing, distributing, selling, purchasing, or providing services or goods. Business contacts do not include marketing via the Internet, telephone, television, radio, or printed media.

The same criteria are used to determine whether an individual, organization, or other entity is doing business in your jurisdiction.

Exception:

Gifts are reportable regardless of the location of the donor. For example, a state agency official with full disclosure must report gifts from sources located outside of California. (Designated employees/code filers should consult their disclosure categories to determine if the donor of a gift is of the type that must be disclosed.)

When reporting interests in real property, if your jurisdiction is the state, you must disclose real property located within the state of California unless your agency's conflict of interest code specifies otherwise.

Terms & Definitions - (continued)

For local agencies, an interest in real property is located in your jurisdiction if any part of the property is located in, or within two miles of, the region, city, county, district, or other geographical area in which the agency has jurisdiction, or if the property is located within two miles of any land owned or used by the agency.

See the following explanations to determine what your jurisdiction is:

State Offices and All Courts: Your jurisdiction is the state if you are an elected state officer, a state legislator, or a candidate for one of these offices. Judges, judicial candidates, and court commissioners also have statewide jurisdiction. (*In re Baty* (1979) 5 FPPC Ops. 10) If you are an official or employee of, or a consultant to, a state board, commission, or agency, or of any court or the State Legislature, your jurisdiction is the state.

County Offices: Your jurisdiction is the county if you are an elected county officer, a candidate for county office, or if you are an official or employee of, or a consultant to, a county agency or any agency with jurisdiction solely within a single county.

City Offices: Your jurisdiction is the city if you are an elected city officer, a candidate for city office, or you are an official or employee of, or a consultant to, a city agency or any agency with jurisdiction solely within a single city.

Multi-County Offices: If you are an elected officer, candidate, official or employee of, or a consultant to a multi-county agency, your jurisdiction is the region, district, or other geographical area in which the agency has jurisdiction. (Example: A water district has jurisdiction in a portion of two counties. Members of the board are only required to report interests located or doing business in that portion of each county in which the agency has jurisdiction.)

Other (for example, school districts, special districts and JPAs): If you are an elected officer, candidate, official or employee of, or a consultant to an agency not covered above, your jurisdiction is the region, district, or other geographical area in which the agency has jurisdiction. See the multi-county example above.

Leasehold Interest: The term "interest in real property" includes leasehold interests. An interest in a lease on real property is reportable if the value of the leasehold interest is $2,000 or more. The value of the interest is the total amount of rent owed by you during the reporting period or, for a candidate or assuming office statement, during the prior 12 months.

You are not required to disclose a leasehold interest with a value of less than $2,000 or a month-to-month tenancy.

Loan Reporting: Filers are not required to report loans from commercial lending institutions or any indebtedness created as part of retail installment or credit card transactions that are made in the lender's regular course of business, without regard to official status, on terms available to members of the public.

Loan Restrictions: State and local elected and appointed public officials are prohibited from receiving any personal loan totaling more than $250 from an official, employee, or consultant of their government agencies or any government agency over which the official or the official's agency has direction or control. In addition, loans of more than $250 from any person who has a contract with the official's agency or an agency under the official's control are prohibited unless the loan is from a commercial lending institution or part of a retail installment or credit card transaction made in the regular course of business on terms available to members of the public.

State and local elected officials are also prohibited from receiving any personal loan of $500 or more unless the loan agreement is in writing and clearly states the terms of the loan, including the parties to the loan agreement, the date, amount, and term of the loan, the date or dates when payments are due, the amount of the payments, and the interest rate on the loan.

Campaign loans and loans from family members are not subject to the $250 and $500 loan prohibitions.

A personal loan made to a public official that is not being repaid or is being repaid below certain amounts will become a gift to the official under certain circumstances. Contact the FPPC for further information, or see the FPPC fact sheet entitled "Limitations and Restrictions on Gifts, Honoraria, Travel, and Loans," which can be obtained from your filing officer or the FPPC website *(www.fppc.ca.gov).*

Original Statement: A statement containing either a handwritten "wet" signature or a "secure electronic signature" signed under the penalty of perjury and verified by the filer pursuant to Gov. Code Section 81004. A "secure electronic signature" means either (1) a signature submitted using an approved electronic filing system or (2) if permitted by the filing officer, a digital signature submitted via the filer's agency email address. (See Regulations 18104 and 18757.)

Privileged Information: FPPC Regulation 18740 sets out specific procedures that must be followed in order to withhold the name of a source of income. Under this regulation, you are not required to disclose on Schedule A-2, Part 3, the name of a person who paid fees or made payments to a business entity if disclosure of the name would violate a legally recognized privilege under California

or Federal law. However, you must provide an explanation for nondisclosure, separately stating for each undisclosed person: the legal basis for the assertion of the privilege, facts demonstrating why the privilege is applicable, and that to the best of your knowledge you have not and will not make, participate in making, or use your official position to influence a governmental decision affecting the undisclosed person in violation of Government Code Section 87100. This explanation may be included with, or attached to, the public official's Form 700.

We note that the name of a source of income is privileged only to a limited extent under California law. For example, a name is protected by attorney-client privilege only when facts concerning an attorney's representation of an anonymous client are not publicly known and those facts, when coupled with disclosure of the client's identity, might expose the client to an official investigation or to civil or criminal liability. A patient's name is protected by physician-patient privilege only when disclosure of the patient's name would also reveal the nature of the treatment received by the patient. A patient's name is also protected if the disclosure of the patient's name would constitute a violation by an entity covered under the Federal Health Insurance Portability and Accountability Act (also known as HIPAA).

Public Officials Who Manage Public Investments: Individuals who invest public funds in revenue-producing programs must file Form 700. This includes individuals who direct or approve investment transactions, formulate or approve investment policies, and establish guidelines for asset allocations. FPPC Regulation 18700.3 defines "public officials who manage public investments" to include the following:

- Members of boards and commissions, including pension and retirement boards or commissions, and committees thereof, who exercise responsibility for the management of public investments;
- High-level officers and employees of public agencies who exercise primary responsibility for the management of public investments (for example, chief or principal investment officers or chief financial managers); and
- Individuals who, pursuant to a contract with a state or local government agency, perform the same or substantially all the same functions described above.

Registered Domestic Partners: Filers must report investments and interests in real property held by, and sources of income to, registered domestic partners. (See Regulation 18229.)

Retirement Accounts (for example, deferred compensation and individual retirement accounts (IRAs)): Assets held in retirement accounts must be disclosed if the assets are reportable items, such as common stock (investments) or real estate (interests in real property). For help in determining whether your investments and real property are reportable, see the instructions to Schedules A-1, A-2, and B.

If your retirement account holds reportable assets, disclose only the assets held in the account, not the account itself. You may have to contact your account manager to determine the assets contained in your account.

Schedule A-1: Report any business entity in which the value of your investment interest was $2,000 or more during the reporting period. (Use Schedule A-2 if you have a 10% or greater ownership interest in the business entity.)

Schedule B: Report any piece of real property in which the value of your interest was $2,000 or more during the reporting period.

Examples:

- Anaya Tiwari deposits $500 per month into the employer's deferred compensation program. Anaya has chosen to purchase shares in two diversified mutual funds registered with the Securities and Exchange Commission. Because Anaya's funds are invested solely in non-reportable mutual funds (see Schedule A-1 instructions), Anaya has no disclosure requirements with regard to the deferred compensation program.
- Earl James Jones has $6,000 in an individual retirement account with an investment firm. The account contains stock in several companies doing business in his jurisdiction. One of the stock holdings, Misac Computers, reached a value of $2,500 during the reporting period. The value of the investment in each of the other companies was less than $2,000. Earl must report Misac Computers as an investment on Schedule A-1 because the value of the stock in that company was $2,000 or more.
- Adriane Fisher has $5,000 in a retirement fund that invests in real property located in Adriane's jurisdiction. The value of Adriane's interest in each piece of real property held in the fund was less than $2,000 during the reporting period. Although this retirement fund holds reportable assets, there is no disclosure requirement because it did not have a $2,000 or greater interest in any single piece of real property. If, in the future, the value of Adriane's interest in a single piece of real property reaches or exceeds $2,000, it will be required to be disclosed on Schedule B for that reporting period.

Terms & Definitions - (continued)

Trusts: Investments and interests in real property held and income received by a trust (including a living trust) are reported on Schedule A-2 if you, your spouse or registered domestic partner, and your dependent children together had a 10% or greater interest in the trust and your pro rata share of a single investment or interest in real property was $2,000 or more.

You have an interest in a trust if you are a trustor and:

- Can revoke or terminate the trust;
- Have retained or reserved any rights to the income or principal of the trust or retained any reversionary or remainder interest; or
- Have retained any power of appointment, including the power to change the trustee or the beneficiaries.

Or you are a beneficiary and:

- Presently receive income (see Gov. Code Section 82030); or
- Have an irrevocable future right to receive income or principal. (See FPPC Regulation 18234 for more information.)

Examples:

- Sarah Murphy has set up a living trust that holds Sarah's principal residence, stock in several companies that do business in the jurisdiction, and a rental home in the agency's jurisdiction. Since Sarah is the trustor and can revoke or terminate the trust, Sarah must disclose any stock worth $2,000 or more and the rental home on Schedule A-2. Sarah's residence is not reportable because it is used exclusively as a personal residence.
- Chao Yee is listed as a beneficiary in a family's trust. However, Chao does not presently receive income from the trust, nor an irrevocable future right to receive income or principal. Therefore, Chao is not required to disclose any assets contained in the family trust.

Blind Trusts:

A blind trust is a trust managed by a disinterested trustee who has complete discretion to purchase and sell assets held by the trust. If you have a direct, indirect, or beneficial interest in a blind trust, you may not be required to disclose your pro rata share of the trust's assets or income. However, the trust must meet the standards set out in FPPC Regulation 18235, and you must disclose reportable assets originally transferred into the blind trust and income from those original assets on Schedule A-2 until they have been disposed of by the trustee.

Trustees:

If you are only a trustee, you do not have a reportable interest in the trust. However, you may be required to report the income you received from the trust for performing trustee services.

Wedding Gifts: Wedding gifts must be disclosed if they were received from a reportable source during the period covered by the statement. Gifts valued at $50 or more are reportable; however, a wedding gift is considered a gift to both spouses equally. Therefore, you would count one-half of the value of a wedding gift to determine if it is reportable and need only report individual gifts with a total value of $100 or more.

For example, you receive a place setting of china valued at $150 from a reportable source as a wedding gift. Because the value to you is $50 or more, you must report the gift on Schedule D, but may state its value as $75.

Wedding gifts are not subject to the $590 gift limit ($590 in 2023-2024), but they are subject to the $10 lobbyist/ lobbying firm gift limit for state officials.

Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Gov. Code Sections 81000-91014 and California Code of Regulations Sections 18110-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Notice or how to access your personal information, please contact the FPPC at:

General Counsel
Fair Political Practices Commission
1102 Q Street, Suite 3050
Sacramento, CA 95811
(916) 322-5660
(866) 275-3772

APPENDIX C

FPPC Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

California Gift and Contributions Limits to Increase for 2025-2026



Flag of California

The California Fair Political Practices Commission (FPPC) recently drafted amended regulations to increase gift and contribution limits for the years 2025-2026.

The gift limit will increase from $590 to $630 per calendar year.

The contribution limit from individuals, corporations, and PACs made to candidates for the Legislature will increase from $5,500 to $5,900 per election.

The limit to candidates for statewide office, other than governor, will increase from $9,100 to $9,800 per election and the limits for the governor's office will increase from $36,400 to $39,200.

The amended regulations will be considered at an FPPC meeting on or after January 14, 2025.

Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

A Fact Sheet For

- Local Elected Officers and Candidates for Local Elective Offices
- Local Officials Specified in Government Code Section 87200
- Judicial Candidates
- Designated Employees of Local Government Agencies

California Fair Political Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC
Email advice: advice@fppc.ca.gov
Web site: *www.fppc.ca.gov*

October 2021

Introduction

- Local elected officers and other local officials specified in Government Code Section 87200,[2] excluding judges;[3]
- Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency's conflict of interest code); and
- Candidates[4] for any of these offices or positions and judicial candidates. (Sections 89502 and 89503.)

The Act also imposes limits and other restrictions on personal loans received by certain local officials.

The gift limit increased to **$520** for calendar years **2021** and **2022**. **The gift limit in 2020 was $500.**

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. It contains highlights of the law, but does not carry the weight of law. For more information, contact the Fair Political Practices Commission at (866) 275-3772 or advice@fppc.ca.gov or visit our website at www.fppc.ca.gov. Commission advice letters are available on our website. Public officials may also be subject to local restrictions on gifts, honoraria, or travel.

Enforcement

Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may, depending on the violation, result in criminal prosecution and substantial fines, or in administrative or civil monetary penalties for as much as $5,000 per violation or three times the amount illegally obtained. (See Sections 83116, 89520, 89521, 91000, 91004 and 91005.5.)

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

[2] Local officials specified in Government Code Section 87200 include: members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, court commissioners and public officials who manage public investments.

[3] The gift limits and honoraria ban in the Political Reform Act do not apply to a person in their capacity as judge. However, candidates for judicial offices are subject to the restrictions contained in the Political Reform Act. (Sections 89502 and 89503.)

[4] For purposes of the gift limit and honoraria prohibition, an individual becomes a "candidate" when they file a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If an individual is an unsuccessful candidate, they will no longer be subject to the gift limit and honoraria prohibition when they have terminated their campaign filing obligations, or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)

Gifts

Limitations

Local elected officers, candidates for local elective office, local officials specified in Government Code Section 87200, and judicial candidates, may not accept gifts from any single source totaling more than $520 in a calendar year. (Section 89503.)[5]

Employees of a local government agency who are designated in the agency's conflict of interest code may not accept gifts from any single source totaling more than $520 in a calendar year if the employee is required to report receiving income or gifts from that source on their statement of economic interests (Form 700). (Section 89503(c).)

What is a "Gift"?

A "gift" is any payment or other benefit that confers a *personal* benefit for which a public official does not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.) (See Regulation 18946 for valuation guidelines.)

Except as discussed below, a public official has "received" or "accepted" a gift when they have actual possession of the gift or when they takeany action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (Regulation 18941.)

Gifts to Family Members

Under certain circumstances, a gift to an official's family member* is considered a gift to the official. (Regulation 18943.) Anything given to a family member is presumed to be a gift to the official if: (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift or; (2) the donor is someone who lobbies the official's agency, is involved in an action before the official's agency in which the official may foreseeably participate, or engages in business with the agency in which the official will foreseeably participate. (Wedding gifts are treated differently, see below.)

*For purposes of this rule, an official's "family member" includes the official's spouse; registered domestic partner; any minor child of the official who the official can claim as a dependent for federal tax purposes; and a child of the official who is aged 18 to 23 years old, attends school, resides with the official when not attending school, and provides less than one-half of their own support.

[5] The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 2021-2022, the gift limit is $520. (Section 89503; Regulation 18940.2.) Gifts from a single source aggregating to $50 or more must be disclosed, and gifts aggregating to $520 or more during any 12-month period may subject an official to disqualification with respect to the source. (Section 87103(e).) Designated employees should obtain a copy of their conflict of interest code from their agency. Some conflict of interest codes require very limited disclosure of income and gifts. Gifts from sources that are not required to be disclosed on the Form 700 are not subject to the $520 gift limit but still may subject the public official to disqualification.

Source of Gift

Under most circumstances, it is clear who the source of a gift is, but if the circumstances indicate that the gift is being provided by an intermediary, the public official must determine both the donor and the intermediary in reporting the gift. Regulation 18945 provides the rules for determining the source of the gift.

Gifts from Multiple Sources

In determining the cumulative value of any reportable gifts, separate gifts from an individual and an entity that the individual controls must be aggregated as one source to comply with the reporting and limit requirements. For example, separate gifts from the owner of a company and from the company itself would be treated as if from one source if the owner has more than a 50 percent interest in the company, unless the making of the gift was determined by someone else in the company. In that case, the gift from the company would be aggregated with any gifts made by that determining individual. (Regulation 18945.1.)

Group gifts, where a public official receives a single gift from multiple donors (such as a retirement gift from coworkers), need not be reported unless any person contributes $50 or more to the total cost of the gift. In that case, the public official would only report a gift from each of those persons. (Regulation 18945.2.)

Valuing Gifts

The general rule for determining the value of a gift is to apply the fair market value at the time the gift is received. Fair market value can be determined by finding any local or Internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1 through 18946.5 covering admission to ticketed and invitation-only events, wedding gifts, attendance at nonprofit and political fundraisers, and air travel. (Regulation 18946.) For example, for ticketed events, the value is the face value of the ticket.

General Gift Exceptions

Form 700 Reporting	C/I § 87100	Honoraria Ban	$520 Gift Limit
No	No	No	No

The following payments are exceptions to the definition of gift and are not considered gifts or income.

1. **Return or Reimbursement of Gift.** Items that are returned (unused) to the donor, or for which the public official reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18941.)

2. **Donation of Gift to Nonprofit Group.** Items that are donated (unused) to a non-profit, tax-exempt (501(c)(3)) organization in which the official (or immediate family member) does not hold a position, or to a government agency, within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18941.)

3. **Gifts from Family.** Gifts from the public official's spouse (or former spouse), child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless they are acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).) This exception includes great grandparents, great uncles and aunts, great nieces and nephews, and first cousins once removed.

4. **Informational Material.** Informational material provided to assist the public official in the performance of their official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free admission or discounts to informational conferences or seminars.

"Informational material" may also include scale models, pictorial representations, maps, and other such items. However, if the item's fair market value is more than $-520, the public official has the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections, including air flights over an area that is the subject of the information and designed specifically for public officials, are considered informational material. However, this exception does not apply to meals or lodging. Furthermore, the exception generally does not apply to transportation to the site, except for any portion of the transportation that is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)

5. **Inheritance.** A devise or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)

6. **Campaign Contributions.** Campaign contributions to an official, including rebates or discounts received in connection with campaign activities (Section 82028(b)(4); Regulations 18942(a)(4), 18950(a) and 18950.3(a)) and permissible expenditures of campaign funds for campaign-related expenses, including payments for transportation, lodging or food (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. **Plaques.** Personalized plaques and trophies with an individual value of less than $250. (Section 82028(b)(6); Regulation 18942(a)(6).)

8. **Ceremonial Role.** Free admission to a ticketed event (including any benefits included in the price of the ticket such as a free meal) for the official and one guest at an event where the official performs a ceremonial role, such as throwing out the first pitch at a Dodgers' game, so long as the official's agency complies with the posting provisions set forth in Regulation 18944.1(d). (Regulation 18942(a)(13); Regulation 18942.3; also see discussion of Form 802 below under "Gifts Exceptions Requiring Alternate Reporting.")

9. **Event Where Official Makes a Speech.** Free admission, and food and nominal items (such as a pen, pencil, mouse pad, note pad or similar item) available to all attendees, at the event at which the official makes a speech (as defined in Regulation 18950(b)(2)), so long as the admission is provided by the person who organizes the event. (Regulation 18942(a)(11).)

10. **Attending Wedding Reception.** Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception. (Regulation 18942(a)(15).)

11. **Bereavement Offerings.** Bereavement offerings, such as flowers at a funeral received in memory of a close family member. (Regulation 18942(a)(16).)

12. **Acts of Neighborliness.** Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society and would not normally be part of an economic transaction between like participants under similar circumstances. (Regulation 18942(a)(17).)

13. **Campaign or Nonprofit Fundraiser.** Two tickets for admission, for use by only the official and one guest, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket(s) must be received from the organization or committee holding the fundraiser. (Regulation 18946.4.)

14. **Unused Passes or Tickets.** Passes or tickets that provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that the public official does not use and do not give to another person. (Regulation 18946.1.)

15. **Items Provided to Government Agency.** Subject to certain conditions, items provided to a government agency and used by public officials in the agency for agency business. This may include

passes or tickets to (see Regulation 18944.1) or payments for other types of items or activities (see Regulation 18944). An agency must disclose specified payments on a form provided by the FPPC and post the form on its website. (See discussion of Forms 801 and 802 below under ""Gift Exceptions Requiring Alternate Reporting.") Contact the FPPC for detailed information.

16. **Emergency Leave Credits.** Leave credits (e.g., sick leave or vacation credits) received under a bona fide catastrophic or emergency leave program established by the public official's employer and available to all employees in the same job classification or position. Donations of cash are gifts and are subject to limits and disclosure. (Regulation 18942(a)(9).)

17. **Disaster Relief.** Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity and must be available to the general public. (Regulation 18942(a)(10).)

18. **Agency Raffle.** Items awarded in an agency raffle received by the agency from an employee who is not acting as an intermediary for another donor. This exception applies when an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds, or is otherwise an asset of the agency and not donated to the agency by a non-agency source. This exception does not apply to passes or tickets of the type described in Regulation 18944.1. (Regulation 18944.2(a) and (b).)

19. **Employee Gift Exchange.** Items received by an employee during an employee gift exchange, so long as the items received are provided by another employee of the agency and the gifts are not substantially disproportionate in value. (Regulation 18944.2(c).)

Limited Gift Exceptions

Form 700 Reporting	C/I § 87100	Honoraria Ban	$520 Gift Limit
No	No	No	No

1. **Home Hospitality.** Gifts of hospitality including food, drink or occasional lodging that an official receives in an individual's home when the individual or a member of their family is present. (Regulation 18942(a)(7).) For this exception to apply, the official must have a relationship, connection or association with the individual providing the in-home hospitality that is unrelated to the official's position and the hospitality must be provided as part of that relationship. Generally, this means functions like children's birthday parties, soccer team parties, neighborhood barbeques, etc., where other guests attend who are not part of the lobbying process. (Regulation 18942.2.)

2. **Reciprocal Holiday Gifts.** Gifts commonly exchanged between an official and another individual on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. (Regulation 18942(a)(8)(A).)

3. **Reciprocal Exchanges.** Reciprocal exchanges between an official and another individual that occur on an ongoing basis so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official and no single payment is $520 or more. For example, if two people get together regularly for lunches and rotate picking up the lunch tab so that each pays approximately half the total value over the course of the calendar year, no gift need be reported. (Regulation 18942(a)(8)(B).)

4. **Dating Relationship.** Personal benefits commonly received from a dating partner. These gifts are not disclosable or limited but are subject to disqualification under the conflict of interest laws if the dating partner has certain business before the official as set forth in Regulation 18942(a)(18)(D). (Regulation 18942(a)(18)(A).)

5. **Acts of Human Compassion.** Assistance, financial or otherwise, to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942 (a)(18)(B).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

6. **Long-Time Friend.** Benefits received from a long-time personal friend where the gift is unrelated to the official's duties. The exception does not apply if the individual providing the benefit to the official is involved in some manner with business before the official. (Regulation 18942(a)(18)(C).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

7. **Existing Personal Relationship.** Benefits received from an individual where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable material financial effect on the individual who would otherwise be the source of the gift. (Regulation 18942(a)(19).)

Very Limited Gift Exception

Reporting	C/I § 87100	Honoraria Ban	$520 Gift Limit
Yes - ½ value as gift	Yes	No	No

Wedding Gifts. Wedding gifts are not subject to the $520 gift limit. However, wedding gifts are reportable, but for purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse. (Regulation 18946.3.)

Gift Exceptions Requiring Alternate Reporting

Form 700 Reporting	C/I § 87100	Honoraria Ban	$520 Gift Limit
Yes - As Income	Yes	No	No

Prize or Award. A prize or award received in a bona fide contest or competition, or game of chance. **Note: Unlike the other exceptions, payments that fall into this exception must be reported as income if valued at $500 or more.** To qualify for this exception the contest or competition must be unrelated to the official's duties. (Regulation 18942(a)(14).)

Agency Reports

Reporting	C/I § 87100	Honoraria Ban	$520 Gift Limit
Yes - On 801 or 802	No	No	No

The following exceptions are also applicable to payments made to a government agency that are used by officials in the agency under certain conditions to conduct agency business. These types of payments are not treated as gifts or income to the officials who use them, so long as the payments meet certain conditions and they are reported by the officials' agency. These reports must appear on either a Form 801 or Form 802, instead of the official reporting the items on a statement of economic interests (Form 700).

Form 801 – Payment to Agency Report: This form covers gifts or donations made to an agency and used by one or more officials in the agency for agency business. This may include travel payments, reimbursements, or other uses by an official, but does not cover tickets or passes providing admission to an entertainment or sporting event, which are reported on the Form 802 (discussed below). If the payment meets the requirements of Regulations 18944 or 18950.1, the agency must report it on a Form 801 and the item is not reported on the individual's statement of economic interests (Form 700). (Regulations 18944 and 18950.1.)

Form 802 – Agency Report of Ceremonial Role Events and Ticket/Pass Distributions: This form covers gifts or donations made to an agency that provide tickets or passes to an agency official for admission to an entertainment or sporting event. For the ticket or pass to be exempt from reporting on the individual's statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official and the agency must determine, in its sole discretion, which official may use the ticket or pass. (Regulation 18944.1.) The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency.

Behested Payments Reports

Reporting	C/I § 87100	Honoraria Ban	$520 Gift Limit
Yes - Form 803 Behested Payment	No	No	No

Behested Payments. Generally, payments made at the behest of an official that do not confer a personal benefit on an official such as those made by a third party to co-sponsor an event, or that are principally legislative, governmental or charitable in nature, are not gifts. However, when a local elected officer is making the behest, in some cases these payments may be considered "behested payments" under Section 82004.5 and require disclosure by that elected officer.

Form 803 – Behested Payment Report

- Behested payments are payments made principally for legislative, governmental, or charitable purposes. These payments are not for personal or campaign purposes. For example, a local elected official may ask a third party to contribute funds to a school in her district, or to a job fair or health fair.
- Generally, a donation will be "made at the behest" if it is requested, solicited, or suggested by the elected officer or member of the Public Utilities Commission, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer or PUC member. This includes payments behested on behalf of the official by their agent or employee.
- A behested payment does not include payments to an official from a local, state, or federal government agency for use by the official to conduct agency business. For example, free parking provided by a governmental entity to an official for agency business is not a behested payment and is not subject to reporting.
- Behested payments totaling $5,000 or more from a single source in a calendar year must be disclosed by the official on a Form 803, which is filed with the official's agency within 30 days of the date of the payment(s). (Section 82015; Regulation 18215.3.)

Honoraria

What is an "Honorarium"?

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. An honorarium includes gift cards or any gift of more than nominal benefit provided in connection with an activity described above. An honorarium does not include items of nominal value such as a pen, pencil, note pad, or similar item. (Section 89501; Regulation 18932.4(e).)

A "speech given" means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An "article published" means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

"Attendance" means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501(b); Regulations 18932 –18933.).

The Prohibition

Local officials specified in Section 87200 (see page 2) are prohibited from receiving any honoraria payments. Officials and employees of local agencies who file statements of economic interests (Form 700) under the agency's conflict of interest code ("designated employees") may not receive honoraria payments from any source if the employee would be required to report income or gifts from that source on the Form 700, as outlined in the "disclosure category" portion of the conflict of interest code. (Section 89502.)

Honoraria Exceptions that also apply to gifts and income

1. **Returned.** An honorarium that the public official returns (unused) to the donor or the donor's agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)

2. **Donated to General Fund.** An honorarium that is delivered to the official's local agency within 30 days for donation to the agency's general fund and for which the public official does not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)

3. **Made to Nonprofit Organization.** A payment that is not delivered to the public official but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:

- The official may not make the donation a condition for their speech, article, or attendance;
- The official may not claim the donation as a deduction for income tax purposes;
- The official may not be identified to the non-profit organization in connection with the donation; and
- The donation may have no reasonably foreseeable financial effect on the public official or on any member of their immediate family. (Regulation 18932.5.)

4. **Payment from Family Member.** A payment received from the public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment that would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

5. **Payment for Performance or Book.** Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1 and 18931.2.)

6. **Reimbursement for Travel Where Official Provides Consideration.** Reimbursements for reasonable travel expenses provided to the public official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the public official provides equal or greater consideration. The payment would also be exempt from the definition of income under Section 82030(b)(2). (See discussion under "Travel Payments" below.)

Honoraria Exceptions where the payment may still be considered income (or a gift, if consideration of equal or greater value is not provided by the official)

1. **Admission to Event Where Official Gives Speech.** Free admission, and refreshments and similar non-cash nominal benefits, provided to an official during the entire event at which they give a speech, participatein a panel or providea similar service, and in-California transportation and necessary lodging and subsistence provided directly in connection with the speech, panel or service, including meals and beverages on the day of the activity. (Regulation 18932.4(e).)

2. **Earned Income from a Business.** Income earned and payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, the public official must meet certain criteria to establish that they are conducting or in a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching position) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932 –18932.3.) Earned income is required to be reported. Contact the FPPC for detailed information.

3. **Travel from a Government Agency.** Travel payments provided to the public official by their government agency or by any state, local, or federal government agency which would be considered income and not a gift. (Section 89506(d)(2).) See discussion under "Travel Payments" below.

Travel Payments Exceptions

Generally, when an official receives a payment (including reimbursement) for their travel, that payment is a reportable gift or income under the Act. The term "travel payment" includes payments, advances, or reimbursements for travel, including actual transportation, parking and related lodging and subsistence. (Section 89506(a).)

If the payment is a gift, it is also normally subject to the Act's $520 gift limit. If the payment is income, it may, in some cases, be an honorarium. Whether a payment is a gift or income, the official may be required to disqualify themself from any decision that will have a foreseeable materially financial effect on the source.

Certain Travel Payments are not a Gift, Income or Honorarium

Reporting	C/I § 87100	Honoraria Ban	$520 Gift Limit
No	No	No	No

The following travel payments are not a gift, income or honorarium under the Act and Commission regulations and are thus not reportable, potentially disqualifying, or subject to any of the Act's gift limits or the honorarium ban.

1. **Travel from a Non-Reportable Source.** A payment for travel from a source that is not reportable on the official's statement of economic interests (Form 700) based on the provisions of the conflict of interest code of the official's agency.

2. **Travel from Government Agency for Training.** A payment for travel from another local, state, or federal government agency and related per diem expenses when the travel is for education, training or other inter-agency programs or purposes. (Regulation 18950(a) and (c)(2).)

3. **Sharing a Ride with Another Official.** A payment for travel provided to the official in a vehicle or aircraft owned by another official or agency when each official is traveling to or from the same location for an event as a representative of their respective offices. (Regulation 18950(a) and (c)(3).)

4. **Certain Travel from a Government Agency or 501(c)(3).** Travel payments provided to the official by any state, local, or federal government agency as part of the official's employment with that agency or provided to the official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the official provides equal or greater consideration. (Section 82030(b)(2).) Any person who claims to have provided consideration has the burden of proving that the consideration received is of equal or greater value.

5. **Travel for Official Agency Business.** Certain payments made to an agency to cover the travel expenses of an employee who travels in the course of carrying out agency business are not gifts to the official because these payments do not provide a "personal benefit" to the official. For this exception to apply, the agency must report the payment on a Form 801 and the amount and purpose for using the payments are restricted by the provisions set forth in Regulation 18950.1.

6. **Campaign Contribution.** A payment for travel that constitutes a campaign contribution to an official (Sections 82015, 82028(b)(4); Regulations 18215, 18942(a)(4), 18950(a) and 18950.3(a)), and permissible expenditures of campaign funds for campaign-related travel (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. **Travel Payments Fulfilling Terms of Contract.** Payments made to a governmental entity for travel expenses that are required to fulfill the terms of a contract. Neither the governmental entity nor the public official has a reporting obligation because consideration has been provided. (Section 82028; *Ratto* Advice Letter, No. I-14-057.)

Certain Travel Payments are Reportable and may Subject the Official to Possible Conflicts of Interest, but are not Subject to the $520 Gift Limit or Honoraria Ban of the Act.

Reporting	C/I § 87100	Honoraria Ban	$520 Gift Limit
Yes	Yes	No	No

Travel for a Public Purpose Under Section 89506(a). Any payments for actual transportation expenses and related lodging and subsistence that are made for a purpose reasonably related to: (1) A legislative or governmental purpose, or (2) An issue of state, national, or international policy so long as the travel is either

(a) *Travel for Speech.* In connection with a speech given by the official and the lodging and subsistence expenses are limited to the day immediately proceeding, the day of, and the day immediately following the speech and the travel is within the United States, or

(b) *Travel paid for by government agency or 501(c)(3) organization.* Provided by a government agency or authority, (including a foreign government), a bona fide public or private educational institution as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code or a foreign organization that substantially satisfies the criteria of that section.

These payments are still reportable on the Form 700 and may create a conflict of interest issue for the official.

Payments for Travel in Connection with a Business

Reporting	C/I § 87100	Honoraria Ban	$520 Gift Limit
Yes - as Income	Yes	No	No

Payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

Loans

Personal loans received by certain local officials are subject to limits and other restrictions, and in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

Limitations on Loans from Agency Officials, Consultants, and Contractors

Officials Must Not Receive Loans from Agency Staff. If the public official is a local elected officer or an official specified in Section 87200 (see page 2), they may not receive a personal loan that exceeds $250 at any given time from an officer, employee, member, or consultant of their government agency or an agency over which their agency exercises direction and control. (Section 87460(a) and (b).)

Officials Must Not Receive Loans from Agency Contractors. In addition, the public official may not receive a personal loan that exceeds $250 at any given time from any individual or entity that has a contract with their government agency or an agency over which their agency exercises direction and control. This limitation does not apply to loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to their official status. (Section 87460(c) and (d).)

Loans to Elected Officials Must be in Writing

In addition to the limitations above, if the public official is elected, they may not receive a personal loan of $500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

The following loans are not subject to these limits and documentation requirements:

1. **Campaign Loans.** Loans received by an elected officer's or candidate's campaign committee.

2. **Loans from Family Members.** Loans received from the public official's spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless they are acting as an agent or intermediary for another person not covered by this exemption.

Loans as Gifts

Under the following circumstances, a personal loan received by **any** public official (elected and other officials specified in Section 87200, as well as any other local official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:

- The date the loan was made;
- The date the last payment of $100 or more was made on the loan; or
- The date upon which the public official have made payments aggregating to less than $250 during the previous 12 months. (Section 87462.)

The following loans will not become gifts:

- A loan made to an elected officer's or candidate's campaign committee. This loan would, however, be a campaign contribution and must be reported accordingly.
- A loan described above on which the creditor has taken reasonable action to collect the balance due.
- A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
- A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

APPENDIX D

Political Advertising Disclosures

California Fair Political Practices Commission

Political Advertisement Disclosures

Under California's Political Reform Act (the "Act"), committees, generally, must include "Ad paid for by" disclosures on campaign advertising, including campaign mailers, radio and television ads, telephone robocalls, and electronic media ads. Please see the Advertising Disclosure Charts for specific disclosure requirements. The questions below relate to disclosure requirements for committees that purchase advertisements or circulate communications supporting or opposing a state or local candidate or ballot measure in California. This fact sheet is informational only and contains only highlights of selected provisions of the law. It does not carry the weight of the law. For further information, consult the Act and its corresponding regulations, advice letters and opinions.

Who Must Use a Disclosure?

A candidate's campaign committee, a political action committee, a ballot measure committee, a political party committee, a major donor, and a person or entity making independent expenditures on candidates or ballot measures in California are all types of committees that are subject to disclosure rules. In general, a person or entity qualifies as a *committee* under the Act if they receive contributions from others for political purposes of $2,000 or more per year; if they make independent expenditures on California candidates or ballot measures of $1,000 or more per year; or if they make contributions to California candidates or ballot measures of $10,000 or more per year.

General Questions

1. Q. What is an advertisement?

   A. An advertisement is a communication that is made for the purpose of supporting or opposing a candidate or ballot measure. Advertisements include mass mailings (including emails), paid telephone calls, newspaper, radio and television ads, billboards, yard signs, and electronic media ads.

2. Q. What is a disclosure?

   A. A "disclosure" is the portion of a political message that identifies the person or entity who paid for or authorized the communication. "Ad paid for by *committee name*" is generally the basic disclosure required by the Act on most campaign communications sent by a *committee*.

3. Q. Are the Act's disclosure rules the same for all committees and all ads?

   A. No. Basic disclosure rules apply to campaign materials disseminated by a candidate for their own election campaign because it is generally clear to the public that the candidate is sending the communication. Stricter disclosure rules apply to ballot measure advertisements and independent expenditure advertisements on candidates and ballot measures, because it is less clear to the public who is responsible for these ads.

4. Q. Must a disclosure appear on ALL printed materials or campaign items?

   A. No. A disclosure is not required on the following items:
   - Campaign buttons smaller than 10 inches in diameter, pins, bumper stickers smaller than 60 square inches, and magnets
   - Pens, pencils, rulers, mugs, potholders, key tags, golf balls and similar small campaign promotional items where a disclosure cannot be conveniently printed
   - T-shirts, caps, hats, and other articles of clothing
   - Skywriting and airplane banners
   - Committee checks and receipts

5. Q. What must the disclosure state?

   A. Generally, the basic disclosure must state: "Ad Paid for by *committee name."* Please see the Advertising Disclosure Charts for specific disclosure requirements. In most cases, any recipient committee except a candidate committee or a political party committee must also list top three contributors of $50,000 or more. An advertisement supporting or opposing a candidate that is paid for by an independent expenditure shall include a statement that it was not authorized by a candidate or a committee controlled by a candidate. If the advertisement was authorized or paid for by a candidate for another office, the expenditure shall instead include a statement that "This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office."

6. Q. How must the disclosure appear?

   A. Written disclosures must be printed clearly and legibly. Spoken disclosures must be spoken clearly. Disclosures must also be written or spoken in the same language used in the advertisement. **Specific requirements for color contrast, font, print size and time appearing on screen or read during a telephone or radio advertisement are listed in FPPC advertising disclosure charts.**

7. Q. If a committee's top contributor changes, must advertisement disclosures be updated?

   A. Yes. Television, radio, telephone, electronic billboard, or other electronic media advertisement shall be updated to reflect the new top contributors within five business days. Print media advertisement, including nonelectronic billboards, shall be updated to reflect the new top contributors before placing a new or modified order for additional printing of the advertisement.

8. Q. What are the rules for disclosures on communications in a language other than English?

   A. Disclosures on political advertisements must be written or spoken in the same language used in the advertisement, except for the name of the committee and the top contributors to the committee, if any.

9. Q. Must a disclosure appear on communications from an organization to its members?

   A. For political party communications, yes. For communications from other organizations to their members, a disclosure is not required.

Mass Mailing Questions

10. Q. On mass mailings, what must the disclosure state?

    A. A mass mailing – over 200 substantially similar pieces of mail sent within a calendar month – must include: the words "Paid for by" immediately in front of or above the name and address of the committee on the outside of each piece of postal mail. The disclosure must be in no less than 6-point type and in a color that contrasts with the background.

       If a mass mailing is paid for by more than one candidate or committee, the words "paid for by" must appear immediately in front of or above the name and address of the candidate or committee who is paying the greatest share of the mass mailing (including costs for designing, postage, and printing) and must be placed on the outside of each piece of mail. If two or more candidates or committees pay equally for the mailer, the name and address of at least one of the candidates or committees must be shown on the outside, and the names and addresses of all candidates or committees paying for the mailer must appear on at least one insert.

11. Q. On emails, what must the disclosure state?

    A. When over 200 substantially similar emails are sent by a candidate or committee, the email must include "Paid for by and the committee name." The committee's street address is not required on mass emails sent by a committee, but may be included.

Advertising Issues Not Under FPPC's Jurisdiction

12. Q. What are the rules about when and where political signs may be placed?

    A. The Act does not contain rules about when and where signs may be placed. You may visit the **California Department of Transportation website** for information about the State Outdoor Advertising Act and additional restrictions on political sign placement. You should also check with your local jurisdiction as there may be local laws that restrict or prohibit the placement of campaign signs at certain times and in specified places.

13. Q. Where can I get information about the National Do Not Call Registry?

    A. For information about the National Do Not Call Registry, administered by the Federal Trade Commission (FTC), go to **www.donotcall.gov**.

Political Advertising Disclosures

1. Communications by Candidate Committees for their own Election

The disclosure must include, unless otherwise noted: "Paid for by *committee name*"

Examples: "Paid for by Jones for Assembly 20XX"
"Paid for by Friends of Smith for Mayor 20XX"

Communication	Disclosure and Manner of Display
All mass mailings – more than 200 substantially similar pieces of mail sent within a calendar month	• **Candidate's committee name and address** (on file with Form 410) on outside of mailing (if no Form 410 on file, use candidate's name and address). • **"Paid for by"** must be in the same color and font as the committee name and address and immediately in front of or above the name and address. • If sent by more than one candidate or committee: ○ Also on at least one insert in the mailing. • No less than 6-point type and in a contrasting print or color. • Return envelopes (if included in solicitation) – committee's name, address and ID number are recommended but not required.
All mass electronic mail – more than 200 substantially similar emails sent within a calendar month	• **"Paid for by [name of candidate or committee]"** must be in at least the same size font as a majority of the text (no address is required on mass electronic mailings).
Newspaper ads	• Refer to the Elections Code for newspaper ad disclosure requirements.

Candidate Committee Communications for their own Election

Communication	Disclosure and Manner of Display
Telephone calls advocating candidate's own election - 500 or more calls similar in nature and made by: • Vendors ("robo" calls); or • Paid individuals other than the candidate, campaign manager or volunteers	• Must identify the candidate's committee that authorized or paid for the call or an organization authorizing the call that files campaign reports. • Must state that the call is "paid for by" or "authorized by" the identified candidate or organization. o *Examples: This call was paid for by Senator Jones; This call was authorized by [name of committee].* • Any time during the call. • No ID required on telephone calls personally dialed by candidate, campaign manager or volunteers.
Radio and television* ads *Television ads include those distributed via streaming technology or viewed via connected TV.	• **Radio**: "Ad paid for by" followed by name of committee as it appears on most recent Form 410 at the beginning or end of advertisement read in a clearly spoken manner with pitch and tone substantially similar to the rest of advertisement. • **Television**: "Ad paid for by" followed by name of committee as it appears on most recent Form 410 shown for at least four seconds. Letters must be in a type size greater than or equal to four percent of the height of the screen. If the television ad is shorter than the required disclosure display time, the disclosure may be displayed for the length of the advertisement.
Electronic media ads (non-social media) (Websites, blogs, graphics, images, animated graphics, or animated images.)	• "Paid for by *committee name*" and committee ID number are recommended but not legally required.

Candidate Committee Communications for their own Election

Communication	Disclosure and Manner of Display
Social media ads	Advertisements in the form of posts, comments or other communications made via social media must include **"Ad paid for by,"** disclosure in a contrasting color that is easily readable by the average viewer in no less than 10-point font on each individual post that is an advertisement. • Disclosures are not required on social media advertisements for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements. • An advertisement for which a committee pays a third party to post from a social media account that is not the committee's account must include a tag, or otherwise include a link to, the social media profile or social media landing page of the committee that paid for the advertisement.
Billboards, signs (including yard signs), faxes, business cards, door hangers, flyers, and posters	• "Paid for by *committee name"* and committee ID number are recommended but not legally required.
Text messages sent using mass distribution technology	• **"Paid for by"** or **"With"** followed by the name of the candidate followed by **"For"** followed by the name of the office sought. • If **"With"** is used: ○ The individual sending the text shall identify themselves by including: "(name of the individual) with (name of the candidate) for (name of elective office)."

Candidate Committee Communications for their own Election

Communication	Disclosure and Manner of Display
	○ A disclosure using **"With"** may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message. • For text message exchanges consisting of a sequence of multiple text messages sent on the same day the disclosure is only required on the first text message in the sequence that supports or opposes a candidate or measure. • Text required to be included in a text message must be in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control. Communications made by a candidate to support or oppose a ballot measure or other candidates are not addressed in this chart.

***If a disclosure statement required by local ordinance is substantially similar to a disclosure statement required under the Act, the two disclosure statements may be merged into a single statement.**

References: Government Code Sections: 82041.5, 84305, 84310, 84502, 84504.2, 84504.3, 84504.4, 84504.8
Title 2 Regulations: 18435, 18440, 18450.4, 18450.8, 18450.9

Political Advertising Disclosures

2. Independent Expenditure Ads on Candidates (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display

Print ads designed to be individually distributed including mailings, door hangers, flyers, faxes, posters, newspaper and magazine ads and oversized campaign buttons and bumper stickers (buttons 10 inches in diameter or larger and stickers 60 square inches or larger)	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461) at the top of the disclosure area (Note: a printed letter ad may use "Paid for by" instead of "Ad paid for by") followed by:
	• **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** each listed on a separate horizontal line, in descending order, beginning with the largest contributor (Note: a printed letter ad may use "Committee Top Funder(s)" instead of "Ad Committee's Top Funder(s)") *(This disclosure is not applicable to non-recipient committees).*
	  ○ Newspaper, magazine or other print advertisements that are 20 square inches or less must only disclose the single top contributor of $50,000 or more.
	  ○ The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage.
	• Below the top contributor information (if any), **a statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate**.
	• **"Funding Details at www.fppc.ca.gov"** must be shown underlined on a separate line at the bottom of the disclosure area for state primarily formed ballot measure and candidate committees that raise $1,000,000 (see Section 84223).
	• **Disclosure Format:** All text must be in Arial equivalent font, in at least 10-point size, in a contrasting color, centered horizontally and, except for the names of top contributors, underlined. The names of top contributors may not be underlined and the text may not be condensed. If there are no top contributors, the "Ad paid for by" need not be underlined. All text must appear in a printed or drawn box with a solid white background at the bottom of at least one page and set apart from other printed matter.
	  ○ **"Ad Committee's Top Funder(s)"** and **"Not authorized by"** disclosures may not appear in all capital letters.

Independent Expenditure Ads on Candidates (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Print ads larger than those designed to be individually distributed, such as billboards and signs (including yard signs)	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461) at the top of the disclosure area followed by: • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** Top contributors must be displayed either on: (1) separate horizontal lines, centered horizontally or (2) adjusted so it does not appear on separate horizontal lines with top contributors separated by commas *(not applicable to non-recipient committees).* The top contributors must be listed in descending order, beginning with the contributor that made the largest amount of contributions. Below the top contributor information (if any), **a statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate**. o The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **"Funding Details at www.fppc.ca.gov"** must be shown underlined on a separate line at the bottom of the disclosure area for state primarily formed ballot measure and candidate committees that raise $1,000,000 (see Section 84223). • **Disclosure Format:** All text must be in contrasting color with sufficient contrast that is easily readable by the average viewer and centered horizontally in the disclosure box. Except for the names of top contributors, the text must be underlined. The names of top contributors may not be underlined. If there are no top contributors, the "Ad paid for by" need not be underlined. The text must be in Arial equivalent font. The font must be a height of at least five percent of the advertisement, meaning that each line must be at least five percent of the advertisement, in a printed or drawn box with a solid white background on the bottom of the advertisement that is set apart from any other printed matter and shall not be condensed to be narrower than a normal non-condensed Arial equivalent type. The text in the disclosure area may be adjusted so it does not appear on separate lines, but top contributors' names must be separated by commas. o The **"Ad Committee's Top Funder(s)"** and **"Not authorized by"** disclosures may not appear in all capital letters.

Independent Expenditure Ads on Candidates (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	○ **Committee Name**: the text for the name of the committee may be shortened by either of the following: (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors. (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose.
Radio ads, telephone calls and audio only electronic media ads	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461). • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** in descending order, beginning with the largest contributor *(not applicable to non-recipient committees).* ○ The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **A statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate.** • **Disclosure Format:** Must be spoken clearly for at least three seconds at the beginning or end of the ad or call, in a pitch and tone substantially similar to the rest of the advertisement. ○ Radio and prerecorded telephone ads must disclose only the top two contributors of $50,000 or more unless the ad lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor must be disclosed.

Independent Expenditure Ads on Candidates (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display

Television* and video ads (including those disseminated over the Internet)
*Television ads include those distributed via streaming technology or viewed via connected TV.
	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461). This text shall be in white.
	  ○ **For committee name on videos disseminated over the internet ONLY:** the text for the name of the committee may be shortened by either of the following:
	  (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors.
	  (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose.
	• **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** in descending order, beginning with the largest contributor *(not applicable to non-recipient committees).* This text shall be in yellow.
	  ○ The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage.
	  ○ The "**Ad paid for by [committee's name]"** and "**Ad Committee's Top Funders**" disclosures must be separated by a blank horizontal space at least 2 percent of the height of the television or video display screen.
	• **A statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate.**
	• **Disclosure Format:** All text must be centered horizontally in the disclosure area, in a contrasting color if not otherwise specified, in standard Arial regular type and, if there are top contributors, must be underlined except as specified below.
	The size for the capital letters must be 4 percent of the height or width of the display screen, whichever is less, and must be displayed at the beginning or end of the ad for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast longer than 30 seconds. If a video is distributed as an

Communication	Disclosure and Manner of Display
	electronic media advertisement and is longer than 30 seconds, the disclosures must be displayed at the beginning of the advertisement. If the television or video ad is shorter than the required disclosure display time, the disclosure may be displayed for the length of the advertisement. • Disclosure must appear on a solid black background on the entire bottom one-third of the display screen, or bottom one-fourth if no top contributors. • Each top contributor must be disclosed on a separate horizontal line separate from other text in descending order of amount contributed, may not be underlined and may not be condensed or have the spacing between characters reduced to be narrower than a normal non-condensed standard Arial regular type. If the name of one or more top contributor exceeds the width of the screen and is required to wrap onto a second line, then the names of contributors shall be clearly marked to indicate where one top contributor name ends and the next begins using one or both of the following: o A common grammatical symbol, such as a comma, semi-colon or dash o Sufficient vertical separation between each top contributor such that the text is easily legible and each contributor distinguishable • The **"Not authorized by"** disclosure must appear immediately above the background with sufficient contrast that is easily readable and is not required to be underlined. • The **"Ad Committee's Top Funders"** and **"Not authorized by"** disclosures may not appear in all capital letters. • Any text or image not required in this section shall not appear in the disclosure area, except as otherwise authorized or required by applicable law.

Independent Expenditure Ads on Candidates (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Electronic media ads that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to link to an internet website not covered below (except video ads, see above)	• **Include for the duration of the advertisement**, "**Ad paid for by [committee name]**," and "**Ad Committee's Top Funder(s) [top funder(s) names]**" disclosures in a box with a solid white or black background at the bottom of the advertisement. Text shall be in a contrasting color, in at least 11-point, non-condensed standard Arial Regular type.* o **Committee Name**: the text for the name of the committee may be shortened by either of the following: (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors. (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose. o May disclose only the largest contributor; may also use "**Top Funder(s)"** instead of "**Ad Committee's Top Funder(s**)" o "**Not authorized by**" disclosure shall be displayed at the bottom of the box, separated from previous disclosures by a blank horizontal line. o **NOTE**: If the image takes up fewer than 65,000 square pixels (smaller than a standard 728 x 90 pixel leaderboard image advertisement), then the advertisement may instead include "**Who funded this ad?"** in at least 8-point standard Arial Regular type with a hyperlink to a website containing the required disclosures. • Unless the disclosure area includes full **"Ad Paid for by," "Ad Committee's Top Funder(s),"** and **"Not authorized by**" disclosures, the advertisement must also link to a website containing the full disclosures in a contrasting color and in no less than 11-point font. • **"Ad Committee's Top Funder(s)"** and **"Not authorized by"** disclosures may not appear in all capital letters. • An internet website that is hyperlinked to the ad shall remain online and available to the public until 30 days after the date of the election. • Any text or image not required shall not appear in the disclosure area, except as otherwise authorized or required by applicable law. *This text is not required if including it or the abbreviated "Who funded this ad?", would take up more than 10 percent of the graphic. In such circumstances the ad need only include a hyperlink to a website containing the website disclosures.

Independent Expenditure Ads on Candidates (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Social media ads that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to link to an internet website	• Advertisements in the form of posts, comments or other communications made via social media and posted directly by the social media page or account of the committee paying for the advertisement must include **"Ad paid for by," "Ad Committee's Top Funder(s),"** and **"Not authorized by**" disclosures in a contrasting color that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee's profile, landing page, or similar location; or on each individual post that is an advertisement. • The disclosures must be visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media including, but not limited to, a computer screen, laptop, tablet or smart phone. If this is impracticable, only a hyperlink, icon, button, or tab to an internet website containing the required **"Ad paid for by," "Ad Committee's Top Funder(s),"** and **"Not authorized by**" disclosures is permissible. • An advertisement for which a committee pays a third party to post from a social media account that is not the committee's account must include a tag, or otherwise include a link to, the social media profile or social media landing page of the committee that paid for the advertisement. • **"Ad Committee's Top Funder(s)"** and **"Not authorized by"** disclosures may not appear in all capital letters. • Not required when the only expense or cost of the communication is compensated staff time unless the social media account was created only for the purpose of ads under the Act.
Website and email	• **"Paid for by," "Committee's Top Funder(s),"** and **"Not authorized by**" disclosures printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email, top or bottom of every publicly accessible page of the website, or when posted on a non-social media website that is not the committee's website, at the top or bottom of each individual post. • **"Committee's Top Funder(s)"** and **"Not authorized by"** disclosures may not appear in all capital letters.

Independent Expenditure Ads on Candidates (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Electronic media ads that are audio only	• See disclosure requirements for radio ads above. **Note: The "Ad Committee's Top Funder(s)" disclosure requirement is not applicable to non-recipient committees.**
Listening applications (e.g., Pandora, Spotify, etc.)	• For the visual/image portion of the advertisement, follow the electronic media advertisement disclosure requirements for a graphic, image, animated graphic, animated image above. For the audio portion of the advertisement, follow the audio only disclosure requirements above. If the ad is in video format, instead follow the television and video ad disclosure requirements above in addition to the spoken disclosure requirements for radio, telephone and audio only disclosures above.
Text messages sent using mass distribution technology	• **"Paid for by"** or **"With"** followed by the name of the committee, or followed by a hyperlink or URL for an internet website containing the following disclosures: o **"Paid for by" or "With" [committee's name]"** (on file with Form 410 or 461). o **Committee Name**: the text for the name of the committee may be shortened by either of the following: (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors. (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose. o **"Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** *(not applicable to non-recipient committees).* o The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. o **A statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate.**

Communication	Disclosure and Manner of Display
	○ The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than 8-point font. • If **"With"** is used: ○ The individual sending the text shall identify themselves by including: "(name of the individual) **with** (name of committee or hyperlink or URL)." ○ A disclosure using **"With"** may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message. • **Top Contributors:** A committee that has top contributors must comply with the following: ○ Immediately following the name of the committee or the hyperlink or URL, the text message shall also include the text **"Top funders:"** followed by the names of the top two contributors of $50,000 or more to the committee paying for the advertisement, separated by **"&"** or **"and".** ○ The names of the top two contributors may be spelled using acronyms, abbreviations, or other shorthand in common usage or parlance. If the contributor is an individual their first and last name shall both be used. ○ If the disclosure would exceed 35 characters, the text should disclose only the single top contributor of $50,000 or more to the committee paying for the advertisement. ○ The text message is not required to include the name of a top contributor after the text **"Top funders:"** if the text message includes the name of the committee paying for the advertisement and the committee's name includes the name of that top contributor. ○ The text shall be in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer. ○ For a committee that has top contributors and uses individuals who are unpaid volunteers to send text messages with the assistance of mass distribution technology, the text message sent by these individuals are not

Independent Expenditure Ads on Candidates (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	required to disclose the top two contributors, but the text message shall include a disclosure stating that the text message is being sent by a volunteer. • An internet website that is hyperlinked shall remain online and available to the public until 30 days after the election. • For text message exchanges consisting of a sequence of multiple text messages sent on the same day the disclosure is only required on the first text message in the sequence that supports or opposes a candidate or measure. Text required to be included in a text message must be in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.
Other written advertisements in formats not specifically addressed (e.g., projected images, laser ads, written social media ads that are not a graphic, image, animated graphic, or animated image, etc.)	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461). • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"**. *(This disclosure is not applicable to non-recipient committees.)* o The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **A statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate.** • **Disclosure Format:** All text must be in a size, and color contrasting the background, that is readily legible to an average viewer. • **"Ad Committee's Top Funder(s)"** and **"Not authorized by"** disclosures may not appear in all capital letters.

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

***If a disclosure statement required by local ordinance is substantially similar to a disclosure statement required under the Act, the two disclosure statements may be merged into a single statement.**

References: Government Code Sections: 84502, 84503, 84504, 84504.1, 84504.2, 84504.3, 84504.7, 84504.8, 84506.5
Title 2 Regulations: 18450.4, 18450.7, 18450.8, 18450.9

Political Advertising Disclosure

3. Independent Expenditure Ads on Ballot Measures (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Print ads designed to be individually distributed including mailings, door hangers, flyers, faxes, posters, newspaper and magazine ads, and oversized campaign buttons and bumper stickers (buttons 10 inches in diameter or larger and stickers 60 square inches or larger)	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461) at the top of the disclosure area (Note: a printed letter ad may use "Paid for by" instead of "Ad paid for by") followed by: • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** each listed on a separate horizontal line, in descending order, beginning with the largest contributor and may not appear in all capital letters. (Note: a printed letter ad may use "Committee Top Funder(s)" instead of "Ad Committee's Top Funder(s)") *(This disclosure is not applicable to non-recipient committees).* o Newspaper, magazine or other print advertisements that are 20 square inches or less must only disclose the single top contributor of $50,000 or more. o The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **"Funding Details at www.fppc.ca.gov"** must be shown underlined on a separate line at the bottom of the disclosure area for state primarily formed ballot measure and candidate committees that raise $1,000,000 (see Section 84223). • **Disclosure Format:** All text must be in Arial equivalent font, in at least 10-point size, in a contrasting color, centered horizontally and, except for the names of top contributors, underlined. The names of top contributors may not be underlined and the text may not be condensed. If there are no top contributors, the "Ad paid for by" need not be underlined. All text must appear in a printed or drawn box with a solid white background at the bottom of at least one page and set apart from other printed matter.

Independent Expenditure Ads on Ballot Measures (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Print ads larger than those designed to be individually distributed, such as billboards and signs (including yard signs)	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461) at the top of the disclosure area followed by: • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** Top contributors must be displayed either on: (1) separate horizontal lines, centered horizontally or (2) adjusted so they do not appear on separate horizontal lines with top contributors separated by commas and may not appear in all capital letters *(not applicable to non-recipient committees).* The top contributors must be listed in descending order, beginning with the contributor that made the largest amount of contributions. o The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **"Funding Details at www.fppc.ca.gov"** must be shown underlined on a separate line at the bottom of the disclosure area for state primarily formed ballot measure and candidate committees that raise $1,000,000 (see Section 84223). • **Disclosure Format:** All text must be in contrasting color with sufficient contrast that is easily readable by the average viewer and centered horizontally in the disclosure box. Except for the names of top contributors, the text must be underlined. The names of top contributors may not be underlined. If there are no top contributors, the "Ad paid for by" need not be underlined. The text must be in Arial equivalent font. The font must be a height of at least five percent of the advertisement, meaning that each line must be at least five percent of the advertisement, in a printed or drawn box with a solid white background on the bottom of the advertisement that is set apart from any other printed matter and shall not be condensed to be narrower than a normal non-condensed Arial equivalent type. The text in the disclosure area may be adjusted so it does not appear on separate lines, but top contributors' names must be separated by commas.

Independent Expenditure Ads on Ballot Measures (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	○ **Committee Name**: the text for the name of the committee may be shortened by either of the following: (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors. (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose.
Radio ads, telephone calls and audio only electronic media ads	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461). • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** in descending order, beginning with the largest contributor *(not applicable to non-recipient committees).* ○ The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **Disclosure Format:** Must be spoken clearly for at least three seconds at the beginning or end of the ad or call, in a pitch and tone substantially similar to the rest of the advertisement. ○ Radio and prerecorded phone ads must disclose only the top two contributors of $50,000 or more unless the ad lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor must be disclosed.

Independent Expenditure Ads on Ballot Measures (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Television* and video ads (including those disseminated over the Internet) *Television ads include those distributed via streaming technology or viewed via connected TV.	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461). This text shall be in white. o **For committee name on videos disseminated over the internet ONLY:** the text for the name of the committee may be shortened by either of the following: (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors. (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose. • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** in descending order, beginning with the largest contributor and may not appear in all capital letters *(not applicable to non-recipient committees).* This text shall be in yellow. o The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. o The "**Ad paid for by [committee's name]"** and "**Ad Committee's Top Funders**" disclosures must be separated by a blank horizontal space at least 2 percent of the height of the television or video display screen. • **Disclosure Format:** All text must be centered horizontally in the disclosure area, in a contrasting color if not specified, in standard Arial regular type and, if there are top contributors, must be underlined except as specified below. The size for the capital letters must be 4 percent of the height or width of the display screen, whichever is less, and must be displayed at the beginning or end of the ad for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast longer than 30 seconds. If a video is distributed as an electronic media advertisement and is longer than 30 seconds, the disclosures must be displayed at the beginning of the advertisement. If the television or video ad is shorter than the

Communication	Disclosure and Manner of Display
	required disclosure display time, the disclosure may be displayed for the length of the advertisement. • Disclosure must appear on a solid black background on the entire bottom one-third of the display screen, or bottom one-fourth of the screen if the committee has no top contributors. • Each top contributor must be disclosed on a separate horizontal line separate from other text, in descending order of amount contributed, may not be underlined and may not be condensed or have the spacing between characters reduced to be narrower than a normal non-condensed standard Arial regular type. If the name of one or more top contributor exceeds the width of the screen and is required to wrap onto a second line, then the names of contributors shall be clearly marked to indicate where one top contributor name ends and the next begins using one or both of the following: o A common grammatical symbol, such as a comma, semi-colon or dash o Sufficient vertical separation between each top contributor such that the text is easily legible and each contributor distinguishable • Any text or image not required in this section shall not appear in the disclosure area, except as otherwise authorized or required by applicable law.
Electronic media ads that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to link to an internet website not covered below (except video ads, see above)	• **Include for the duration of the advertisement**, "**Ad paid for by [committee name]**," and "**Ad Committee's Top Funder(s) [top funder(s) names]**" disclosures in a box with a solid white or black background at the bottom of the advertisement. Text shall be in a contrasting color, in at least 11-point, non-condensed standard Arial Regular type.* o **Committee Name**: the text for the name of the committee may be shortened by either of the following: (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors. (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose.

Independent Expenditure Ads on Ballot Measures (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	○ May disclose only the largest contributor; may also use "**Top Funder(s)"** instead of "**Ad Committee's Top Funder(s**)" ○ **NOTE**: If the image takes up fewer than 65,000 square pixels (smaller than a standard 728 x 90 pixel leaderboard image advertisement), then the advertisement may instead include "**Who funded this ad?"** in at least 8-point standard Arial Regular type with a hyperlink to a website containing the required disclosures. • Unless the disclosure area includes full **"Ad Paid for by" and "Ad Committee's Top Funder(s),"** disclosures, the advertisement must also link to a website containing the full disclosures in a contrasting color and in no less than 11-point font. ○ **"Ad Committee's Top Funder(s)"** disclosure may not appear in all capital letters. ○ An internet website that is hyperlinked to the ad shall remain online and available to the public until 30 days after the date of the election. • Any text or image not required shall not appear in the disclosure area, except as otherwise authorized or required by applicable law. *This text is not required if including it or the abbreviated "Who funded this ad?", would take up more than 10 percent of the graphic. In such circumstances the ad need only include a hyperlink to a website containing the website disclosures.
Social media ads that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to link to an internet website	• Advertisements in the form of posts, comments or other communications made via social media and posted directly by the social media page or account of the committee paying for the advertisement must include **"Ad paid for by,"** and **"Ad Committee's Top Funder(s)"** disclosures in a contrasting color that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee's profile, landing page, or similar location; or on each individual post that is an advertisement. • The disclosures must be visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media including, but not limited to, a computer screen, laptop, tablet or smart phone. If this is impracticable only a hyperlink, icon, button, or tab to an internet website containing the required "**Ad paid for by,"** and **"Ad Committee's Top Funder(s)"** disclosures is permissible.

Independent Expenditure Ads on Ballot Measures (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	• An advertisement for which a committee pays a third party to post from a social media account that is not the committee's account must include a tag, or otherwise include a link to, the social media profile or social media landing page of the committee that paid for the advertisement. ○ **"Ad Committee's Top Funder(s)"** may not appear in all capital letters. • Not required when the only expense or cost of the communication is compensated staff time unless the social media account was created only for the purpose of advertisements under the Act.
Website and email	• **"Paid for by"** and **"Committee's Top Funder(s)"** disclosures printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email, top or bottom of every publicly accessible page of the website, or when posted on a non-social media website that is not the committee's website, at the top or bottom of each individual post. ○ **"Committee's Top Funder(s)"** may not appear in all capital letters.
Electronic media ads that are audio only	• See disclosure requirements for radio ads above. **Note: The "Ad Committee's Top Funder(s)" disclosure requirement is not applicable to non-recipient committees.**
Listening applications (e.g., Pandora, Spotify, etc.)	• For the visual/image portion of the advertisement, follow the electronic media advertisement disclosure requirements for a graphic, image, animated graphic, animated image above. For the audio portion of the advertisement, follow the audio only disclosure requirements above. If the ad is in video format, instead see the television and video ad disclosure requirements above in addition to the spoken disclosure requirements for radio, telephone and audio only disclosures above.

Independent Expenditure Ads on Ballot Measures (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Paid Spokesperson: Payment of $5,000 or more to an individual for individual's appearance in a ballot measure ad	• In addition to the other disclosures include: **"(*spokesperson's name)* is being paid by this campaign or its donors".** • Printed, televised or video ad: shown continuously in highly visible font except when the disclosure for television and video ads above is being shown. • Radio broadcast or phone message: spoken in clearly audible format.
Paid Spokesperson: Payment of *any amount* to an individual portraying a member of a licensed or certified occupation (e.g., nurse, firefighter, lawyer) *Exception*: If the paid individual is actually a member of the occupation portrayed, the committee may omit this disclosure. The committee must maintain documentation of the individual's license or certification.	• In addition to the disclosure above, include: "**Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations".** • Printed or televised ad: shown continuously in highly visible font. • Radio broadcast or phone message: spoken in clearly audible format.
Text messages sent using mass distribution technology	• **"Paid for by"** or **"With"** followed by the name of the committee, or a hyperlink or URL for an internet website containing the following disclosures: ○ **"Paid for by" or "With" [committee's name]"** (on file with Form 410 or 461). ○ **Committee Name**: the text for the name of the committee may be shortened by either of the following: (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors. (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose. ○ **"Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** *(not applicable to non-recipient committees).*

Communication	Disclosure and Manner of Display
	○ The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. ○ The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than 8-point font. • If **"With"** is used: ○ The individual sending the text shall identify themselves by including: "(name of the individual) **with** (name of committee or hyperlink or URL)." ○ A disclosure using **"With"** may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message. • **Top Contributors:** A committee that has top contributors must comply with the following: ○ Immediately following the name of the committee or the hyperlink or URL, the text message shall also include the text **"Top funders:"** followed by the names of the top two contributors of $50,000 or more to the committee paying for the advertisement, separated by **"&"** or **"and".** ○ The names of the top two contributors may be spelled using acronyms, abbreviations, or other shorthand in common usage or parlance. If the contributor is an individual their first and last name shall both be used. ○ If the disclosure would exceed 35 characters, the text should disclose only the single top contributor of $50,000 or more to the committee paying for the advertisement. ○ The text message is not required to include the name of a top contributor after the text **"Top funders:"** If the text message includes the name of the committee paying for the advertisement and the committee's name includes the name of that top contributor.

Independent Expenditure Ads on Ballot Measures (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	○ The text shall be in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer. ○ For a committee that has top contributors and uses individuals who are unpaid volunteers to send text messages with the assistance of mass distribution technology, the text message sent by these individuals are not required to disclose the top two contributors, but the text message shall include a disclosure stating that the text message is being sent by a volunteer. • An internet website that is hyperlinked shall remain online and available to the public until 30 days after the election. • For text message exchanges consisting of a sequence of multiple text messages sent on the same day the disclosure is only required on the first text message in the sequence that supports or opposes a candidate or measure. • Text required to be included in a text message must be in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.

Independent Expenditure Ads on Ballot Measures (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Other written advertisements in formats not specifically addressed (e.g., projected images, laser ads, written social media ads that are not a graphic, image, animated graphic, or animated image, etc.)	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461). • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"**. *(This disclosure is not applicable to non-recipient committees.)* ○ The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **Disclosure Format:** All text must be in a size, and color contrasting the background, that is readily legible to an average viewer. • **"Ad Committee's Top Funder(s)"** disclosure may not appear in all capital letters.

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

***If a disclosure statement required by local ordinance is substantially similar to a disclosure statement required under the Act, the two disclosure statements may be merged into a single statement.**

References: Government Code Sections: 84502, 84503, 84504, 84504.1, 84504.2, 84504.3, 84504.7, 84504.8, 84511
Title 2 Regulations: 18450.4, 18450.7, 18450.8, 18450.9

Political Advertising Disclosures

4. Independent Expenditure Ads on Ballot Measures by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Print ads designed to be individually distributed including mailings, door hangers, flyers, faxes, posters, newspaper and magazine ads and oversized campaign buttons and bumper stickers (buttons 10 inches in diameter or larger and stickers 60 square inches or larger)	• **"Ad paid for by" [committee's name]** (on file with Form 410) (Note: a printed letter ad may use "Paid for by" instead of "Ad paid for by"). • **Disclosure Format:** Text must be in no less than 10-point font and in a color that has a reasonable degree of contrast with the background of the advertisement.
Print ads larger than those designed to be individually distributed, such as billboards and signs (including yard signs)	• **"Ad paid for by" [committee's name]** (on file with Form 410). • **Disclosure Format:** Text must constitute a height of at least five percent of the advertisement, meaning that each line must be at least five percent of the advertisement, and must appear in a color that has a reasonable degree of contrast with the background. • **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.
Radio ads, telephone calls and audio only electronic media ads	• **"Ad paid for by" [committee's name]** (on file with Form 410). • **Disclosure Format:** Must be spoken clearly for at least three seconds at the beginning or end of the ad or call, in a pitch and tone substantially similar to the rest of the advertisement.

Independent Expenditure Ads on Ballot Measures by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Television* and video ads (including those disseminated over the Internet) *Television ads include those distributed via streaming technology or viewed via connected TV.	• **"Ad paid for by" [committee's name]** (on file with Form 410). • **Disclosure Format:** Text must be of sufficient size to be legible to an average viewer, in a contrasting color to the background and must appear for at least four seconds at either the beginning or end of the advertisement. If the television or video ad is shorter than the required disclosure display time, the disclosure may be displayed for the length of the advertisement. • Disclosure must also be spoken during the ad if the written disclosure appears for less than five seconds of a broadcast 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds. • **For committee name on videos disseminated over the internet ONLY:** the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.

Electronic media ads that are a graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to link to an internet website not covered below (except for video ads, see above)	• **Include for the duration of the advertisement**, "**Ad paid for by [committee name]**" disclosures in a box with a solid white or black background at the bottom of the advertisement. Text shall be in a contrasting color, in at least 11-point, non-condensed standard Arial Regular type.*
	  ○ **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.
	  ○ **NOTE**: If the image takes up fewer than 65,000 square pixels (smaller than a standard 728 x 90 pixel leaderboard image advertisement), then the advertisement may instead include "**Who funded this ad?"** in at least 8-point standard Arial Regular type with a hyperlink to a website containing the required disclosures.
	• Unless the disclosure area includes full **"Ad Paid for by"** disclosure, the advertisement must also link to a website containing the full disclosure in a contrasting color and in no less than 11-point font.

Communication	Disclosure and Manner of Display
	○ An internet website that is hyperlinked to the ad shall remain online and available to the public until 30 days after the date of the election. • Any text or image not required shall not appear in the disclosure area, except as otherwise authorized or required by applicable law. *This text is not required if including it or the abbreviated "Who funded this ad?" font would take up more than 10 percent of the graphic. In such circumstances the ad need only include a hyperlink to a website containing the website disclosures.
Social media ads that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to link to an internet website	• Advertisements in the form of posts, comments, or other communications made via social media and posted directly by the social media page or account of the committee paying for the advertisement must include **"Ad paid for by"** disclosure in a contrasting color that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee's profile, landing page, or similar location; or on each individual post that is an advertisement. • The disclosure must be visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media including, but not limited to, a computer screen, laptop, tablet or smart phone. If this is impracticable only a hyperlink, icon, button, or tab to an internet website containing the **"Ad paid for by"** disclosure is permissible. • An advertisement for which a committee pays a third party to post from a social media account that is not the committee's account must include a tag, or otherwise include a link to, the social media profile or social media landing page of the committee that paid for the advertisement. • Not required when the only expense or cost of the communication is compensated staff time unless the social media account was created only for the purpose of advertisements under the Act.

Communication	Disclosure and Manner of Display
Website and email	• **"Paid for by" [committee's name]** (on file with Form 410) printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email, top or bottom of every publicly accessible page of the website, or when posted on a non-social media website that is not the committee's website, at the top or bottom of each individual post.
Electronic media ads that are audio only	• See disclosure requirements for radio ads above.
Listening applications (e.g., Pandora, Spotify, etc.)	• For the visual/image portion of the advertisement, follow the electronic media advertisement disclosure requirements for a graphic, image, animated graphic, animated image above. For the audio portion of the advertisement, follow the audio only disclosure requirements above. If the ad is in video format, instead follow the television and video ad disclosure requirements above in addition to the spoken disclosure requirements for radio, telephone and audio only disclosures above. Note: The audio only disclosures are not necessary where a spoken disclosure is already required. This includes a video advertisement where the written disclosure appears for less than 5 seconds of a broadcast of 30 seconds or less or for 10 seconds of a broadcast that lasts longer than 30 seconds.

Independent Expenditure Ads on Ballot Measures by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Paid Spokesperson: Payment of $5,000 or more to an individual for individual's appearance in a ballot measure ad	• In addition to other disclosures, include: **"(*spokesperson's name)* is being paid by this campaign or its donors".** • Printed, televised or video ad: shown continuously in highly visible font except when the disclosure for television and video ads above is being shown. • Radio broadcast or phone message: spoken in clearly audible format.
Paid Spokesperson: Payment of *any amount* to an individual portraying a member of a licensed or certified occupation (e.g., nurse, firefighter, lawyer) *Exception*: If the paid individual is actually a member of the occupation portrayed, the committee may omit this disclosure. The committee must maintain documentation of the individual's license or certification.	• In addition to the disclosure above, include: "**Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations".** • Printed or televised ad: shown continuously in highly visible font. • Radio broadcast or phone message: spoken in clearly audible format.

Text messages sent using mass distribution technology	**If sent by a candidate-controlled committee for elective office of the controlling candidate:**
	• **"Paid for by"** or **"With"** followed by the name of the candidate followed by **"For"** followed by the name of the office sought in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.
	• If **"With"** is used:
	  ○ The individual sending the text shall identify themselves by including: "(name of the individual) **with** (name of the candidate) **for** (name of office sought)" in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.
	  ○ A disclosure using **"With"** may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message.

Communication	Disclosure and Manner of Display

	• **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.
	If sent by a political party committee:
	• **"Paid for by"** or **"With"** followed by the name of the committee, or a hyperlink or URL for an internet website (in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer) containing the following disclosures:
	• **"Paid for by" or "With" [committee's name]"** (on file with Form 410 or 461).
	• **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.
	• The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than 8-point font.
	• If **"With"** is used:
	  ○ The individual sending the text shall identify themselves by including: "(name of the individual) with (name of committee or hyperlink or URL)" in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.
	  ○ A disclosure using **"With"** may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message.
	• An internet website that is hyperlinked shall remain online and available to the public until 30 days after the election.

Communication	Disclosure and Manner of Display
	• The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than eight-point font. • For text message exchanges consisting of a sequence of multiple text messages sent on the same day the disclosure is only required on the first text message in the sequence that supports or opposes a candidate or measure.
Other written advertisements in formats not specifically addressed (e.g., projected images, laser ads, written social media ads that are not a graphic, image, animated graphic, or animated image, etc.)	• **"Ad paid for by" [committee's name]** (on file with Form 410). • **Disclosure Format:** All text must be in a size, and color contrasting the background, that is readily legible to an average viewer.

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

***If a disclosure statement required by local ordinance is substantially similar to a disclosure statement required under the Act, the two disclosure statements may be merged into a single statement.**

References: Government Code Sections: 84502, 84504.3, 84504.5, 84504.7, 84504.8, 84511
Title 2 Regulations: 18450.4, 18450.7, 18450.8, 18450.9

Political Advertising Disclosures

5. Independent Expenditure Ads on Candidates by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Print ads designed to be individually distributed including mailings, door hangers, flyers, faxes, posters, newspaper and magazine ads, and oversized campaign buttons and bumper stickers (buttons 10 inches in diameter or larger and stickers 60 square inches or larger)	• **"Ad paid for by [committee's name]"** (on file with Form 410). (Note: a printed letter ad may use "Paid for by" instead of "Ad paid for by".) • **A statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate** or if the advertisement was authorized or paid for by a candidate for another office, the disclosure must read: **"This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office."** • **Disclosure Format:** Text must be in no less than 10-point font and in a color that has a reasonable degree of contrast with the background of the advertisement. ○ **"Not authorized by"** disclosure may not appear in all capital letters.
Print ads larger than those designed to be individually distributed, such as billboards and signs (including yard signs)	• **"Ad paid for by [committee's name]"** (on file with Form 410). • **A statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate** or if the advertisement was authorized or paid for by a candidate for another office, the disclosure must read: **"This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office."** • **Disclosure Format:** Text must constitute a height of at least five percent of the advertisement, meaning that each line must be at least five percent of the advertisement, and must appear in a color that has a reasonable degree of contrast with the background. ○ **"Not authorized by"** disclosure may not appear in all capital letters. • **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.

Independent Expenditure Ads on Candidates by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Electronic media ads that are a graphic, image, animated graphic, or animated image that the online platform hosting the advertisement allows to link to an internet website not covered below (except for video ads, see below)	• **Include for the duration of the advertisement**, "**Ad paid for by [committee name]**" disclosures in a box with a solid white or black background at the bottom of the advertisement. Text shall be in a contrasting color, in at least 11-point, non-condensed standard Arial Regular type.* ○ **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee. ○ **NOTE**: If the image takes up fewer than 65,000 square pixels (smaller than a standard 728 x 90 pixel leaderboard image advertisement), then the advertisement may instead include "**Who funded this ad?"** in at least 8-point standard Arial Regular type with a hyperlink to a website containing the required disclosures. ○ Unless the disclosure area includes full **"Ad Paid for by"** disclosure, the advertisement must also link to a website containing the full disclosure in a contrasting color and in no less than 11-point font. **"Not authorized by"** disclosure may not appear in all capital letters. ○ An internet website that is hyperlinked to the ad shall remain online and available to the public until 30 days after the date of the election. • Any text or image not required shall not appear in the disclosure area, except as otherwise authorized or required by applicable law. *This text is not required if including it or the abbreviated "Who funded this ad?" font would take up more than 10 percent of the graphic. In such circumstances the ad need only include a hyperlink to a website containing the website disclosures.
Social media ads that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to link to an internet website	• Advertisements in the form of posts, comments, or other communications made via social media and posted directly by the social media page or account of the committee paying for the advertisement must include "**Ad paid for by"** and **"Not authorized by"** disclosures in a contrasting color that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee's profile, landing page, or similar location; or on each individual post that is an advertisement. ○ "**Not authorized by"** disclosure may not appear in all capital letters.

Independent Expenditure Ads on Candidates by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
	• The disclosure must be visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media including, but not limited to, a computer screen, laptop, tablet or smart phone. If this is impracticable only a hyperlink, icon, button, or tab to an internet website containing the **"Ad paid for by"** and **"Not authorized by"** disclosures is permissible. • An advertisement for which a committee pays a third party to post from a social media account that is not the committee's account must include a tag, or otherwise include a link to, the social media profile or social media landing page of the committee that paid for the advertisement. • Not required when the only expense or cost of the communication is compensated staff time unless the social media account was created only for the purpose of advertisements under the Act.
Website and email	• **"Paid for by"** and **"Not authorized by**" disclosures printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email, top or bottom of every publicly accessible page of the website, or when posted on a non-social media website that is not the committee's website, at the top or bottom of each individual post. ○ **"Not authorized by"** disclosure may not appear in all capital letters.
Electronic media ads that are audio only	• See disclosure requirements for radio ads below.

Independent Expenditure Ads on Candidates by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Listening applications (e.g., Pandora, Spotify, etc.)	• For the visual/image portion of the advertisement, follow the electronic media advertisement disclosure requirements for a graphic, image, animated graphic, animated image above. For the audio portion of the advertisement, follow the audio only disclosure requirements below. If the ad is in video format, instead follow the television and video ad disclosure requirements below in addition to the spoken disclosure requirements for radio, telephone and audio only disclosures below. Note: The audio only disclosures are not necessary where a spoken disclosure is already required. This includes a video advertisement where the written disclosure appears for less than 5 seconds of a broadcast of 30 seconds or less or for 10 seconds of a broadcast that lasts longer than 30 seconds.
Radio ads, telephone calls and audio only electronic media ads	• **"Ad paid for by" [committee's name]** (on file with Form 410). • **A statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate** or if the advertisement was authorized or paid for by a candidate for another office, the disclosure must read: **"This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office."** • **Disclosure Format:** Must be spoken clearly for at least three seconds at the beginning or end of the ad or call, in a pitch and tone substantially similar to the rest of the advertisement.

Independent Expenditure Ads on Candidates by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display

Television* and video ads (including those disseminated over the Internet)
*Television ads include those distributed via streaming technology or viewed via connected TV.
	• **"Ad paid for by" [committee's name]** (on file with Form 410).
	• **A statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate** or if the advertisement was authorized or paid for by a candidate for another office, the disclosure must read: **"This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office."**
	• **Disclosure Format:** Text must be of sufficient size to be legible to an average viewer, in a contrasting color to the background and must appear for at least four seconds at either the beginning or end of the advertisement. If the television or video ad is shorter than the required disclosure display time, the disclosure may be displayed for the length of the advertisement.
	  ○ **"Not authorized by"** disclosure may not appear in all capital letters.
	  ○ Disclosure must also be spoken during the ad if the written disclosure appears for less than five seconds of a broadcast 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.
	  ○ **For committee name on videos disseminated over the internet ONLY:** the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.

Communication	Disclosure and Manner of Display

Text messages sent using mass distribution technology	**If sent by a candidate-controlled committee for elective office of the controlling candidate:**
	• **"Paid for by"** or **"With"** followed by the name of the candidate followed by **"For"** followed by the name of the office sought in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.
	• If **"With"** is used:
	  ○ The individual sending the text shall identify themselves by including: "(name of the individual) with (name of the candidate) for (name of office sought)" in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.
	  ○ A disclosure using **"With"** may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message.
	  ○ **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.
	• The following statement must be included: **"This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office."**
	If sent by a political party committee:
	• **"Paid for by"** or **"With"** followed by the name of the committee, or a hyperlink or URL for an internet website (in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer) containing the following disclosures:
	  ○ **"Paid for by" or "With" [committee's name]"** (on file with Form 410 or 461).
	  ○ **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.
	  ○ **A statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate.**

Communication	Disclosure and Manner of Display
	○ The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than 8-point font. • If **"With"** is used: ○ The individual sending the text shall identify themselves by including: "(name of the individual) with (name of committee or hyperlink or URL)" in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer. ○ A disclosure using **"With"** may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message. • An internet website that is hyperlinked shall remain online and available to the public until 30 days after the election. • The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than eight-point font. • For text message exchanges consisting of a sequence of multiple text messages sent on the same day the disclosure is only required on the first text message in the sequence that supports or opposes a candidate or measure.

Independent Expenditure Ads on Candidates by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
All other written advertisements in formats not specifically addressed (e.g., projected images, laser ads, written social media ads that are not a graphic, image, animated graphic, or animated image, etc.)	• **"Ad paid for by" [committee's name]** (on file with Form 410). • **A statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate** or if the advertisement was authorized or paid for by a candidate for another office, the disclosure must read: **"This advertisement was not authorized or paid for by a candidate for this office or a committee controlled by a candidate for this office."** • **Disclosure Format:** All text must be in a size, and color contrasting the background, that is readily legible to an average viewer. • **"Not authorized by"** disclosures may not appear in all capital letters.

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

***If a disclosure statement required by local ordinance is substantially similar to a disclosure statement required under the Act, the two disclosure statements may be merged into a single statement.**

References: Government Code Sections: 84502, 84504.3, 84504.5, 84504.8, 84506.5
Title 2 Regulations: 18450.4, 18450.7, 18450.8, 18450.9

Political Advertising Disclosures

6. All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

All mass mailings <u>that are not ads</u> totaling more than 200 similar pieces must contain:

- the words "Paid for by" immediately adjacent to and either above or in front of the committee's name and address on the outside of the mailing and on at least one of the inserts
- in no less than 6-point type and in a color or print that contrasts with the background

If the sender is a single committee, the identification need only be shown on the outside of each piece of mail

All mass emails <u>that are not ads</u> totaling more than 200 similar pieces must contain:

- the name of the committee sending the email preceded by the words **"Paid for by"** in at least the same size font as the majority of the text

Communication	Disclosure and Manner of Display
Print ads designed to be individually distributed including mailings, door hangers, flyers, faxes, posters, newspaper and magazine ads, and oversized campaign buttons and bumper stickers (buttons 10 inches in diameter or larger and stickers 60 square inches or larger)	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461) at the top of the disclosure area (Note: a printed letter ad may use "Paid for by" instead of "Ad paid for by") followed by: • **"Ad Committee Top Funder(s) [names of top three contributors of $50,000 or more]"** each listed on a separate horizontal line, in descending order, beginning with the largest contributor and may not appear in all capital letters. (Note: a printed letter ad may use "Committee Top Funder(s)" instead of "Ad Committee's Top Funder(s)") *(not applicable to non-recipient committees).* ○ Newspaper, magazine or other print advertisements that are 20 square inches or less must only disclose the single top contributor of $50,000 or more. ○ The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **"Funding Details at www.fppc.ca.gov"** must be shown underlined on a separate line at the bottom of the disclosure area for state primarily formed ballot measure and candidate committees that raise $1,000,000 (see Section 84223).

All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	• **Disclosure Format:** All text must be in Arial equivalent font, in at least 10-point size, in a contrasting color, centered horizontally and, except for the names of top contributors, underlined. The names of top contributors may not be underlined and the text may not be condensed. If there are no top contributors, the "Ad paid for by" need not be underlined. All text must appear in a printed or drawn box with a solid white background at the bottom of at least one page and set apart from other printed matter.
Print ads larger than those designed to be individually distributed, such as billboards and signs (including yard signs)	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461) at the top of the disclosure area followed by: • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** Top contributors must be displayed either on: (1) separate horizontal lines, centered horizontally or (2) adjusted so they do not appear on separate horizontal lines with top contributors separated by commas and may not appear in all capital letters *(This disclosure is not applicable to non-recipient committees).* The top contributors must be listed in descending order, beginning with the contributor that made the largest amount of contributions. o The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **"Funding Details at www.fppc.ca.gov"** must be shown underlined on a separate line at the bottom of the disclosure area for state primarily formed ballot measure and candidate committees that raise $1,000,000 (see Section 84223). • **Disclosure Format:** All text must be in contrasting color with sufficient contrast that is easily readable by the average viewer and centered horizontally in the disclosure box. Except for the names of top contributors, the text must be underlined. The names of top contributors may not be underlined. If there are no top contributors, the "Ad paid for by" need not be underlined. The text must be in Arial equivalent font. The font must be a height of at least five percent of the advertisement, meaning that each line must be at least five percent of the advertisement, in a printed or drawn box with a solid white background on the bottom of the advertisement that is set apart from any other printed matter and shall not be condensed to be narrower than a normal non-condensed Arial equivalent type. The text in the disclosure area

All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	may be adjusted so it does not appear on separate lines, but top contributors' names must be separated by commas. ○ **Committee Name**: the text for the name of the committee may be shortened by either of the following: (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors. (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose.
Radio ads, telephone calls and audio only electronic media ads	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461). • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** in descending order, beginning with the largest contributor *(not applicable to non-recipient committees).* ○ The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **Disclosure Format:** Must be spoken clearly for at least three seconds at the beginning or end of the ad or call, in a pitch and tone substantially similar to the rest of the advertisement. ○ Radio and prerecorded telephone ads must disclose only the top two contributors of $50,000 or more unless the ad lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor must be disclosed.

All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display

Television* and video ads (including those disseminated over the Internet)
*Television ads include those distributed via streaming technology or viewed via connected TV.
	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461). This text shall be in white.
	  ○ **For committee name on videos disseminated over the internet ONLY:** the text for the name of the committee may be shortened by either of the following:
	  (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors.
	  (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose.
	• **"Ad Committee Top Funder(s) [names of top three contributors of $50,000 or more]"** in descending order, beginning with the largest contributor and may not appear in all capital letters *(This disclosure not applicable to non-recipient committees).* This text shall be in yellow.
	  ○ The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage.
	• The "**Ad paid for by [committee's name]"** and "**Ad Committee's Top Funders**" disclosures must be separated by a blank horizontal space at least 2 percent of the height of the television or video display screen.
	• **Disclosure Format:** All text must be centered horizontally in the disclosure area, in a contrasting color if not specified, in standard Arial regular type and, if there are top contributors, must be underlined except as specified below.
	The size for the capital letters must be 4 percent of the height or width of the display screen, whichever is less, and must be displayed at the beginning or end of the ad for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast longer than 30 seconds. If a video is distributed as an electronic media advertisement and is longer than 30 seconds, the disclosures must be displayed at the beginning of the advertisement. If the television or video ad is shorter than the

All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	required disclosure display time, the disclosure may be displayed for the length of the advertisement. Disclosure must appear on a solid black background on the entire bottom one-third of the display screen, or bottom one-fourth of the screen if the committee has no top contributors. Each top contributor must be disclosed on a separate horizontal line separate from other text, in descending order of amount contributed, may not be underlined and may not be condensed or have the spacing between characters reduced to be narrower than a normal non-condensed standard Arial regular type. If the name of one or more top contributor exceeds the width of the screen and is required to wrap onto a second line, then the names of contributors shall be clearly marked to indicate where one top contributor name ends and the next begins using one or both of the following: ○ A common grammatical symbol, such as a comma, semi-colon or dash ○ Sufficient vertical separation between each top contributor such that the text is easily legible and each contributor distinguishable • Any text or image not required in this section shall not appear in the disclosure area, except as otherwise authorized or required by applicable law.
Electronic media ads that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to link to an internet website not covered below (except video ads, see above)	• **Include for the duration of the advertisement**, "**Ad paid for by [committee name]**," and "**Ad Committee's Top Funder(s) [top funder(s) names]**" disclosures in a box with a solid white or black background at the bottom of the advertisement. Text shall be in a contrasting color, in at least 11-point, non-condensed standard Arial Regular type.* ○ **Committee Name**: the text for the name of the committee may be shortened by either of the following: (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors. (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose.

All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	• May disclose only the largest contributor; may also use "**Top Funder(s)"** instead of "**Ad Committee's Top Funder(s**)" • **NOTE**: If the image takes up fewer than 65,000 square pixels (smaller than a standard 728 x 90 pixel leaderboard image advertisement), then the advertisement may instead include "**Who funded this ad?"** in at least 8-point standard Arial Regular type with a hyperlink to a website containing the required disclosures. • Unless the disclosure area includes full **"Ad Paid for by" and "Ad Committee's Top Funder(s),"** disclosures, the advertisement must also link to a website containing the full disclosures in a contrasting color and in no less than 11-point font. o **"Ad Committee Top Funder(s)"** disclosure may not appear in all capital letters. o An internet website that is hyperlinked to the ad shall remain online and available to the public until 30 days after the date of the election. • Any text or image not required shall not appear in the disclosure area, except as otherwise authorized or required by applicable law. *This text is not required if including it or the abbreviated "Who funded this ad?" would take up more than 10 percent of the graphic. In such circumstances the ad need only include a hyperlink to a website containing the website disclosures.
Social media ads that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to hyperlink to an internet website	• Advertisements in the form of posts, comments or other communications made via social media and posted directly by the social media page or account of the committee paying for the advertisement must include **"Ad paid for by,"** and "**Ad Committee's Top Funder(s)"** disclosures in a contrasting color that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee's profile, landing page, or similar location; or on each individual post that is an advertisement. • The disclosures must be visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media including, but not limited to, a computer screen, laptop, tablet or smart phone. If this is impracticable only a hyperlink, icon, button, or tab to an internet website containing the required "**Ad paid for by,"** and **"Ad Committee's Top Funder(s)"** disclosures is permissible. • **"Ad Committee's Top Funder(s)"** may not appear in all capital letters.

All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
	• An advertisement for which a committee pays a third party to post from a social media account that is not the committee's account must include a tag, or otherwise include a link to, the social media profile or social media landing page of the committee that paid for the advertisement. • Not required when the only expense or cost of the communication is compensated staff time unless the social media account was created only for the purpose of advertisements under the Act.
Website and email	• **"Paid for by"** and **"Committee's Top Funder(s)"** disclosures printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email, top or bottom of every publicly accessible page of the website, or when posted on a non-social media website that is not the committee's website, at the top or bottom of each individual post. ○ **"Committee's Top Funder(s)"** may not appear in all capital letters.
Electronic media ads that are audio only	• See disclosure requirements for radio ads above. **Note: The "Ad Committee's Top Funder(s)" disclosure requirement is not applicable to non-recipient committees.**
Listening applications (e.g., Pandora, Spotify, etc.)	• For the visual/image portion of the advertisement, follow the electronic media advertisement disclosure requirements for a graphic, image, animated graphic, animated image above. For the audio portion of the advertisement, follow the audio only disclosure requirements above. If the ad is in video format, instead see the television and video ad disclosure requirements above in addition to the spoken disclosure requirements for radio, telephone and audio only disclosures above.

All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Paid Spokesperson: Payment of $5,000 or more to an individual for individual's appearance in a ballot measure ad	• In addition to other disclosures, include: **"(*spokesperson's name)* is being paid by this campaign or its donors".** • Printed, televised or video ad: shown continuously in highly visible font except when the disclosure for television and video ads above is being shown. • Radio broadcast or phone message: spoken in clearly audible format.
Paid Spokesperson: Payment of *any amount* to an individual portraying a member of a licensed or certified occupation (e.g., nurse, firefighter, lawyer) *Exception*: If the paid individual is actually a member of the occupation portrayed, the committee may omit this disclosure. The committee must maintain documentation of the individual's license or certification.	• In addition to the disclosure above, include: "**Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations".** • Printed or televised ad: shown continuously in highly visible font. • Radio broadcast or phone message: spoken in clearly audible format.

All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Text messages sent using mass distribution technology	• **"Paid for by"** or **"With"** followed by the name of the committee, or a hyperlink or URL for an internet website containing the following disclosures: • **"Paid for by" or "With" [committee's name]"** (on file with Form 410 or 461). ○ **Committee Name**: the text for the name of the committee may be shortened by either of the following: (1) Displaying only enough of the first part of the committee name to uniquely identify the committee. If the committee is a sponsored committee, then the name displayed must include the portion of the committee name that identifies the sponsor or sponsors, unless all of the sponsors are disclosed on the ad as top contributors. (2) Committee name may be replaced by displaying the words "Committee ID" followed by the committee's identification number if committee has top funders to disclose. • **"Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** *(not applicable to non-recipient committees).* • The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than 8-point font. • If **"With"** is used: ○ The individual sending the text shall identify themselves by including: "(name of the individual) with (name of committee or hyperlink or URL)." ○ A disclosure using **"With"** may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message.

All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display

	• **Top Contributors:** A committee that has top contributors must comply with the following:
	  ○ Immediately following the name of the committee or the hyperlink or URL, the text message shall also include the text **"Top funders:"** followed by the names of the top two contributors of $50,000 or more to the committee paying for the advertisement, separated by **"&"** or **"and".**
	  ○ The names of the top two contributors may be spelled using acronyms, abbreviations, or other shorthand in common usage or parlance. If the contributor is an individual their first and last name shall both be used.
	  ○ If the disclosure would exceed 35 characters, the text should disclose only the single top contributor of $50,000 or more to the committee paying for the advertisement.
	  ○ The text message is not required to include the name of a top contributor after the text **"Top funders:"** If the text message includes the name of the committee paying for the advertisement and the committee's name includes the name of that top contributor.
	  ○ For a committee that has top contributors and uses individuals who are unpaid volunteers to send text messages with the assistance of mass distribution technology, the text message sent by these individuals are not required to disclose the top two contributors, but the text message shall include a disclosure stating that the text message is being sent by a volunteer.
	• An internet website that is hyperlinked shall remain online and available to the public until 30 days after the election.
	• For text message exchanges consisting of a sequence of multiple text messages sent on the same day the disclosure is only required on the first text message in the sequence that supports or opposes a candidate or measure.
	• Text required to be included in a text message must be in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.

All Non-Independent Expenditure Ads (except ads by candidates and political party committees)

Communication	Disclosure and Manner of Display
Other written advertisements in formats not specifically addressed (e.g., projected images, laser ads, written social media ads that are not a graphic, image, animated graphic, or animated image, etc.)	• **"Ad paid for by [committee's name]"** (on file with Form 410 or 461). • **"Ad Committee's Top Funder(s) [names of top three contributors of $50,000 or more]"** *(not applicable to non-recipient committees).* ○ The disclosure of a top contributor's name shall not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage. • **Disclosure Format:** All text must be in a size, and color contrasting the background, that is readily legible to an average viewer. • **"Ad Committee's Top Funder(s)"** disclosure may not appear in all capital letters.

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

***If a disclosure statement required by local ordinance is substantially similar to a disclosure statement required under the Act, the two disclosure statements may be merged into a single statement.**

References: Government Code Sections: 84305, 84502, 84503, 84504, 84504.1, 84504.2, 84504.3, 84504.7, 84504.8, 84511
Title 2 Regulations: 18450.4, 18450.7, 18450.8, 18450.9

Political Advertising Disclosures

7. All Non-Independent Expenditure Ads by Candidates and Political Party Committees

Unless otherwise covered below, all mass mailings of more than 200 similar pieces must contain:

- the words **"Paid for by"** immediately adjacent to and either above or in front of the committee's name and address on the outside of the mailing and on at least one of the inserts
- in no less than 6-point type and in a color or print that contrasts with the background

If the sender is a single committee, the identification need only be shown on the outside of each piece of mail.

Unless otherwise covered below, all mass emails of more than 200 similar pieces must contain:

- the name of the committee sending the email preceded by the words **"Paid for by"** in at least the same size font as the majority of the text

Communication	Disclosure and Manner of Display
Print ads supporting or opposing a ballot measure designed to be individually distributed including mailings, door hangers, flyers, faxes, posters, newspaper and magazine ads, and oversized campaign buttons and bumper stickers (buttons 10 inches in diameter or larger and stickers 60 square inches or larger)	• **"Ad paid for by [committee's name]"** (on file with Form 410). (Note: a printed letter ad may use "Paid for by" instead of "Ad paid for by".) • **Disclosure Format:** Text must be in no less than 10-point font and in a color that has a reasonable degree of contrast with the background of the advertisement.
Print ads supporting or opposing a ballot measure larger than those designed to be individually distributed, such as billboards and signs (including yard signs)	• **"Ad paid for by [committee's name]"** (on file with Form 410). • **Disclosure Format:** Text must constitute a height of at least five percent of the advertisement, meaning that each line must be at least five percent of the advertisement, and must appear in a color that has a reasonable degree of contrast with the background. • **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.

All Non-Independent Expenditure Ads by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Electronic media ads supporting or opposing a ballot measure that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to link to an internet website not covered below under social media ads and website and email ads	• **Include for the duration of the advertisement**, "**Ad paid for by [committee name]**" disclosures in a box with a solid white or black background at the bottom of the advertisement. Text shall be in a contrasting color, in at least 11-point, non-condensed standard Arial Regular type.* • **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee. • **NOTE**: If the image takes up fewer than 65,000 square pixels (smaller than a standard 728 x 90 pixel leaderboard image advertisement), then the advertisement may instead include "**Who funded this ad?"** in at least 8-point standard Arial Regular type with a hyperlink to a website containing the required disclosures. • Unless the disclosure area includes full **"Ad Paid for by"** disclosure, the advertisement must also link to a website containing the full disclosure in a contrasting color and in no less than 11-point font. • An internet website that is hyperlinked to the ad shall remain online and available to the public until 30 days after the date of the election. • Any text or image not required shall not appear in the disclosure area, except as otherwise authorized or required by applicable law. *This text is not required if including it or the abbreviated "Who funded this ad?" font would take up more than 10 percent of the graphic. In such circumstances the ad need only include a hyperlink to a website containing the website disclosures.

All Non-Independent Expenditure Ads by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Social media ads supporting or opposing a ballot measure that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to link to an internet website	• Advertisements in the form of posts, comments, or other communications made via social media and posted directly by the social media page or account of the committee paying for the advertisement must include **"Ad paid for by"** disclosure in a contrasting color that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee's profile, landing page, or similar location; or on each individual post that is an advertisement. • The disclosure must be visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media including, but not limited to, a computer screen, laptop, tablet, or smart phone. If this is impracticable only a hyperlink, icon, button, or tab to an internet website containing the required "**Ad paid for by"** disclosure is permissible. • An advertisement for which a committee pays a third party to post from a social media account that is not the committee's account must include a tag, or otherwise include a link to, the social media profile or social media landing page of the committee that paid for the advertisement. • Not required when the only expense or cost of the communication is compensated staff time unless the social media account was created only for the purpose of advertisements under the Act.
Website and email supporting or opposing a ballot measure	• **"Ad paid for by"** disclosure printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email, top or bottom of every publicly accessible page of the website, or when posted on a non-social media website that is not the committee's website, at the top or bottom of each individual post. (Note: an internet website or email message ad may use "Paid for by" instead of "Ad paid for by".)

All Non-Independent Expenditure Ads by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Radio or Telephone ads supporting or opposing a ballot measure	• **"Ad paid for by [committee's name]"** (on file with Form 410). • **Disclosure Format:** Must be spoken clearly for at least three seconds at the beginning or end of the ad or call, in a pitch and tone substantially similar to the rest of the advertisement.
Television* and video ads supporting or opposing a ballot measure (including those disseminated over the Internet) *Television ads include those distributed via streaming technology or viewed via connected TV.	• **"Ad paid for by [committee's name]"** (on file with Form 410). • **Disclosure Format:** Text must be of sufficient size to be legible to an average viewer, in a contrasting color to the background and must appear for at least four seconds at either the beginning or end of the advertisement. If the television or video ad is shorter than the required disclosure display time, the disclosure may be displayed for the length of the advertisement. • Disclosure must also be spoken during the ad if the written disclosure appears for less than five seconds of a broadcast 30 seconds or less, or for at least 10 seconds of a broadcast that lasts longer than 30 seconds. • **For committee name on videos disseminated over the internet ONLY:** the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.

All Non-Independent Expenditure Ads by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Paid Spokesperson: Payment of $5,000 or more to an individual for individual's appearance in a ballot measure ad	• In addition to other disclosures, include: **"*[spokesperson's name]* is being paid by this campaign or its donors".** • Printed, televised, or video ad: shown continuously in highly visible font except when the disclosure for television and video ads above is being shown. • Radio broadcast or phone message: spoken in clearly audible format.
Paid Spokesperson: Payment of *any amount* to an individual portraying a member of a licensed or certified occupation (e.g., nurse, firefighter, lawyer) *Exception*: If the paid individual is actually a member of the occupation portrayed, the committee may omit this disclosure. The committee must maintain documentation of the individual's license or certification.	• In addition to the disclosure above, include: "**Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations".** • Printed or televised ad: shown continuously in highly visible font. • Radio broadcast or phone message: spoken in clearly audible format.
All other ballot measure advertisements	• **"Ad paid for by [committee's name]"** (on file with Form 410).* • **Disclosure Format:** All text must be in a size, and color contrasting the background, that is readily legible to an average viewer. *For text messages sent using mass distribution technology and telephone calls of 500 or more in similar nature please see additional information below.
Radio and television* ads supporting or opposing a candidate *Television ads include those distributed via streaming technology or viewed via connected TV.	• **Radio**: "Ad paid for by" followed by name of committee as it appears on most recent Form 410 at the beginning or end of advertisement read in a clearly spoken manner with pitch and tone substantially similar to the rest of advertisement. • **Television**: "Ad paid for by" followed by name of committee as it appears on most recent Form 410 shown for at least four seconds. Letters must be in a type size greater than or equal to four percent of the height of the screen. If the television ad is shorter than the required disclosure display time, the disclosure may be displayed for the length of the advertisement.

All Non-Independent Expenditure Ads by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display
Social media ads supporting or opposing a candidate	• Advertisements in the form of posts, comments or other communications made via social media must include **"Ad paid for by,"** disclosure in a contrasting color that is easily readable by the average viewer in no less than 10-point font on each individual post that is an advertisement. • Disclosures are not required on social media advertisements for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements. • An advertisement for which a committee pays a third party to post from a social media account that is not the committee's account must include a tag, or otherwise include a link to, the social media profile or social media landing page of the committee that paid for the advertisement.
Telephone calls advocating a candidate, ballot measure or both - 500 or more calls similar in nature and made by: • Vendors ("robo" calls) or • Paid individuals other than the candidate, campaign manager or volunteers	• Must identify the candidate's committee or political party committee that authorized or paid for the call or an organization authorizing the call that files campaign reports. • Must state that the call is "paid for by" or "authorized by" the identified candidate, committee or organization. ○ *Examples: This call was paid for by Senator Jones; This call was authorized by [name of committee].* • The statement can be made any time during the call. • No ID required on telephone calls personally dialed by candidate, campaign manager or volunteers.

All Non-Independent Expenditure Ads by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display

All text messages sent using mass distribution technology	**If sent by a candidate-controlled committee for elective office of the controlling candidate:**
	• **"Paid for by"** or **"With"** followed by the name of the candidate followed by "For" followed by the name of the office sought in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.
	• If **"With"** is used:
	  ○ The individual sending the text shall identify themselves by including: "(name of the individual) **with** (name of the candidate) for (name of office sought)" in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.
	  ○ A disclosure using **"With"** may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message.
	  ○ **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.
	If sent by a political party committee:
	• **"Paid for by"** or **"With"** followed by the name of the committee, or a hyperlink or URL for an internet website (in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer) containing the following disclosure:
	  ○ **"Paid for by" or "With" [committee's name]"** (on file with Form 410 or 461).
	  ○ **Committee Name**: the text for the name of the committee may be shortened by displaying only enough of the first part of the committee name to uniquely identify the committee.
	  ○ The text of the disclosure on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than 8-point font.

All Non-Independent Expenditure Ads by Candidates and Political Party Committees

Communication	Disclosure and Manner of Display

	• If **"With"** is used:
	  ○ The individual sending the text shall identify themselves by including: "(name of the individual) with (name of committee or hyperlink or URL)" in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.
	  ○ A disclosure using **"With"** may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message.
	• An internet website that is hyperlinked shall remain online and available to the public until 30 days after the election.
	• The text of the disclosure on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than eight-point font.
	• For text message exchanges consisting of a sequence of multiple text messages sent on the same day the disclosure is only required on the first text message in the sequence that supports or opposes a candidate or measure.

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

***If a disclosure statement required by local ordinance is substantially similar to a disclosure statement required under the Act, the two disclosure statements may be merged into a single statement.**

References: Government Code Sections: 84305, 84310, 84502, 84504.3, 84504.4, 84504.5, 84504.8, 84511
Title 2 Regulations: 18435, 18440, 18450.4, 18450.7, 18450.9

APPENDIX E

Campaign Statement Due Dates

Fair Political Practices Commission

Filing Schedule for the City of Irvine
Candidates and their Controlled Committees for Local Office
Listed on the April 15, 2025 Ballot

Deadline	Period	Form	Notes
Jan 31, 2025 *Semi-Annual*	*** – 12/31/24**	460	• All committees must file this statement.
Within 24 Hours *Election Cycle Reports*	**1/15/25 – 4/15/25**	497	• File if a contribution of $1,000 or more in the aggregate is received from a single source. • File if a contribution of $1,000 or more in the aggregate is made to or in connection with *another* candidate or measure being voted on the April 15, 2025, ballot. • The recipient of a non-monetary contribution of $1,000 or more in the aggregate must file a Form 497 within 48 hours from the time the contribution is received. • File by personal delivery, e-mail, guaranteed overnight service, or fax. The committee may also file online, if available.
Mar 6, 2025 *1st Pre-Election*	**1/1/25 – 3/1/25**	460 or 470	• Each candidate listed on the ballot must file Form 460 or Form 470 (see below).
Apr 3, 2025 *2nd Pre-Election*	**3/2/25 – 3/29/25**	460	• All committees must file this statement. • File by personal delivery or guaranteed overnight service. The committee may also file online, if available.
July 31, 2025 *Semi-Annual*	**3/30/25 – 6/30/25**	460	• All committees must file Form 460 unless the committee filed termination Forms 410 and 460 before June 30, 2025.

Additional Notes:

- ***Period Covered:** The period covered by any statement begins on the day after the closing date of the last statement filed, or January 1, if no previous statement has been filed.
- **Local Ordinance:** The City of Irvine Chapter 4 – Campaign Finance contains information on limitations on campaign contributions.
- **Deadline Extensions:** Deadlines are extended when they fall on a Saturday, Sunday, or an official state holiday. This extension does not apply to a 24-hour/10-day Contribution Report (Form 497) that is due the weekend before the election, and this extension never applies to any 24-hour/10-day Independent Expenditure Report (Form 496). Such reports must be filed within 24 hours, regardless of the day of the week.
- **Method of Delivery:** All paper filings may be filed by first-class mail unless otherwise noted. A paper copy of a statement may not be required if a local agency requires online filing pursuant to a local ordinance.
- **Form 501:** All candidates must file Form 501 (Candidate Intention Statement) before soliciting/receiving contributions.

- **Form 460:** Candidates who have raised/spent $2,000 or more file Form 460. The Form 410 (Statement of Organization) must also be filed once $2,000 or more has been raised/spent.
- **Form 470 (2025):** Candidates who do not raise or spend $2,000 or more (or anticipate raising or spending $2,000 or more) in 2025 and do not have an open committee may file Form 470 on or before March 6, 2025. If the candidate raises or spends $2,000 or more, later during the calendar year, a Form 470 Supplement and a Form 410 must be filed.
- **Independent Expenditures:** Committees making independent expenditures totaling $1,000 or more to support or oppose other candidates or ballot measures also file:
    - **Form 496**: This form is due within 24 hours if made in the 90-day, 24-hour reporting period of the candidate's or measure's election. Refer to the applicable filing schedule. Form 496 is filed with the filing officer in the jurisdiction of the affected candidate or measure.
    - **Form 462**: This verification form must be e-mailed to the FPPC within 10 days.

- **After the Election:** Reporting requirements will depend on whether the candidate is successful and whether a campaign committee is open. See Campaign Disclosure Manual 2 for additional information.
- **Public Documents:** All statements and reports are public documents.
- **Resources:** Campaign manuals and other instructional materials are available on the Campaign Rules page. Or, visit fppc.ca.gov/> Learn > Campaign Rules.

APPENDIX F

Campaign Basics, Candidate Check List, Frequently Asked Questions

FAST FACTS

CAMPAIGN BASICS

For candidates spending $2,000 or more

CAMPAIGN RULES PAGE:

Bookmark the Campaign Rules page to find resources and answers to campaign-related questions throughout your campaign. All links noted below can be reached through the Campaign Rules page.

FPPC Home Page > Learn > Campaign Rules

TWO IMPORTANT RULES TO REMEMBER:

- Candidates **MUST** file Form 501 before soliciting or accepting contributions.
- Candidates **MUST** deposit funds into the campaign bank account before spending money on the campaign. Candidates may not spend money out of pocket for campaign expenses.

FORMS TO START:

- Form 501 – Candidate Intention Statement
- Form 410 – Statement of Organization (No bank account yet? Enter "Pending" where asked.)
- Form 700 – Statement of Economic Interests (See your elections official for filing date.)

ID NUMBER:

1. Send completed Form 410 to CA Secretary of State (SOS) and a copy to your local filing official.
2. SOS issues the committee ID number and posts it to their website, usually within 1-2 business days after receiving your completed Form 410.
3. To find your committee ID number, go to cal-access.sos.ca.gov.
4. Enter your committee name in the search bar at top left of the screen.
   - If your committee ID number is not available, SOS may not have posted it yet. Or, the Form 410 may be incorrect and SOS will send you a notice via USPS.
   - To find out the status of your ID number, contact the SOS at (916) 653-6224.

FILING SCHEDULES & DEADLINES:

Determine what campaign reports are due, and when they're due, by reviewing your filing schedule.

MOST COMMON CAMPAIGN REPORTS:

- Form 460 – Recipient Committee Campaign Statement
- Form 497 – 24-Hour Contribution Report

MANUALS:

- Disclosure Manual 1 – State Candidates
- Disclosure Manual 2 – Local Candidates and Judges

CANDIDATE/TREASURER VIDEO:

Watch the Candidate/Treasurer video and print the accompanying slides.

TRAINING OPPORTUNITIES:

In addition to the video above, you may learn more by registering for webinars and workshops.

FPPC Home Page > Learn > Campaign Rules > Training & Outreach > Candidate, Treasurer, or Committee?

QUESTIONS?

- advice@fppc.ca.gov
- (866) 275-3772 Mon-Thurs, 9-11:30 a.m.

This factsheet provides guidance and a general overview of the rules for campaigns, but it does not replace any requirements under the Political Reform Act or Fair Political Practices Commission Regulations. Information here should be used in conjunction with a careful review of the applicable laws.

EAED 1/18

California Fair Political Practices Commission

Frequently Asked Questions: Campaign Activity

Getting Started……..Page 1

Fundraising……..... Page 4

Communications…….. Page 7

Enforcement.…… Page 8

Ballot Measure Committees……Page 3

Expenditures…….. Page 6

24-Hour Contribution Reports... Page 7

Candidates……..…Page 8

The FAQs listed below are selected from questions people frequently ask the FPPC about campaign-related activity under the Political Reform Act ("Act"). All efforts have been made to provide helpful, easy-to-understand, answers to common questions. Please note that this fact sheet cannot address all of the unique variables and circumstances related to campaign activity. For more information, see the FPPC's campaign disclosure manuals or contact the FPPC with specific questions.

Getting Started Questions

1. Q. When must a committee file a Statement of Organization (Form 410) with the Secretary of State's office?

   A. The Form 410 is required to be filed within 10 days of raising $2,000 or more, which is the threshold for qualifying as a committee.

2. Q. Is it possible for a committee to receive a committee ID number prior to meeting the $2,000 threshold?

   A. Yes. The Secretary of State will issue a committee ID number upon receipt of the Form 410, even if $2,000 or more has not yet been raised. The "Not Yet Qualified" box should be marked and once the $2,000 threshold is met, an amendment must be filed within 10 days to report the date the committee qualified.

3. Q. Is there a fee to register as a committee?

   A. Yes. Committees are required to pay a $50 fee to the Secretary of State within 15 days of filing the Form 410. In addition, a $50 fee is required to be paid to the Secretary of State by January 15 of each year until the committee terminates.

4. Q. Who must be identified on the Form 410?

   A. The name and contact information of the treasurer and principal officers, if any, must be provided, in addition to any candidate controlling the committee. If the committee will have an assistant treasurer, their contact information must be also included.

5. Q. Are there any specific accounting qualifications for someone to serve as a committee's treasurer?

   A. No. An individual must be at a minimum 18 years of age to serve as a committee's treasurer. However, no individual should accept the position as a mere figurehead. To

adequately perform the duties, the treasurer must have a basic understanding of the campaign finance laws and the responsibilities of a committee treasurer.

6. Q. May a candidate serve as their own committee's treasurer?

   A. Yes.

7. Q. Who is considered the principal officer for a non-candidate controlled committee?

   A. The principal officer(s) is the individual or individuals responsible for approving the political activities of a committee, including: 1) authorizing the content of committee communications; 2) authorizing the committee's expenditures; and, 3) determining the committee's campaign strategy. The principal officer must ensure that accurate records are maintained and may be held liable for violations. A committee may have several principal officers. If there are more than three individuals serving as principal officers, only three must be identified on the Form 410. If no individual other than the treasurer is a principal officer, the treasurer must be identified as both the treasurer and the principal officer.

8. Q. After filing a Form 410, what is the next form required to be filed?

   A. Typically, the Form 497 (24-Hour Contribution Report) is the next required form. In fact, the Form 497 may be required to be filed *before* the Form 410 is required if the committee qualifies within the 90 days before the election or on the date of the election. During this period, a committee must file a Form 497 within 24 hours each time it receives contributions that total $1,000 or more in the aggregate from a single source.

9. Q. What are the requirements for naming a candidate's committee or a committee primarily formed to support or oppose a ballot measure?

   A. For a candidate's campaign committee, the name must include the candidate's last name, office sought, and year of the election. For example, "Wallace for Supervisor 2022" or "Re-Elect Rosa in 2022 for Water Board" would meet the naming requirements.

   For a primarily formed ballot measure committee, the name must include:

   - The measure's designation (e.g., Proposition 124; Measure BB);
   - The committee's position (support or oppose) on the measure;
   - If sponsored, the name(s) of the sponsor(s) (e.g., "sponsored by the Auto Dealers Association");

   For a comprehensive list of all committee naming requirements, see the Form 410 instructions.

10. Q. May a committee use an electronic recordkeeping system or are records required to be kept on paper?

    A. Electronic records are permitted so long as all of the required information is collected and recorded in a timely and uniform manner that ensures the information is accurate and reliable. Committees are responsible for ensuring that electronic records can be read and/or printed for auditing purposes during the required retention period – four years from the date the campaign statement was filed.

11. Q. Is a committee required to have a tax ID number?

    A. The FPPC does not require a tax ID number; however, some banks may require one in order to open a campaign bank account. A tax ID number may be requested through the Internal Revenue Service website, www.irs.gov.

Ballot Measure Committee Questions

12. Q. A group has raised $2,000 to circulate petitions for a ballot measure. When does the group trigger reporting obligations?

    A. Reporting obligations begin when proponents start gathering signatures (initiative) or when a legislative body acts to place the proposal on the ballot (referendum). Certain contributions received and expenditures made are required to be disclosed even if they were received or made before the proposal became a measure. (See Campaign Disclosure Manual 3 for details.)

13. Q. May a candidate control a ballot measure committee? If so, is the candidate required to file a Form 501 (Candidate Intention Statement)?

    A. Yes, a candidate may control a ballot measure committee so long as the committee's funds are not used to support the candidate's election or to support or oppose other candidates. The candidate's last name must be included in the committee name and the Form 410 requires specified information to be disclosed related to the measure or measures for which the committee is formed. A Form 501 is not required.

14. Q. Are there any special reporting requirements for ballot measure committees controlled by a candidate?

    A. Ballot measure committees controlled by a **state** officeholder (e.g., Governor, legislator) or a candidate for elective **state** office have additional disclosure requirements when reporting expenditures. For each expenditure of $100 or more, the committee must identify the measure or potential measure associated with the expenditure. For example, a payment to a campaign consultant for research or polling on a specific measure in a local jurisdiction could state: Research/polling for Measure B, City of Sacramento. A committee's expenditures for operating costs, administrative overhead, fundraising, travel, compliance costs and attorney fees do not require the itemization if the payment cannot be attributed to a specific measure or potential measure.

15. Q. During the 90 days before an election, a local primarily formed ballot measure committee for Measure A made a $10,000 contribution to another primarily formed ballot measure committee for Measure A. Does this contribution trigger the filing of a 24-Hour Contribution Report (Form 497)?

    A. Yes, both committees are required to file a Form 497, even if they are both formed to support the same ballot measure.

16. Q. During the 90 days before an election, supporters of a ballot measure, in coordination with the primarily formed ballot measure committee, will be paying for phone banks. The payments will be considered nonmonetary contributions to the primarily formed ballot measure committee. Rather than file several reports, may the committee file one Form 497 estimating the value of all nonmonetary contributions anticipated to be received from this source during the 90-day period before the election and on the date of the election?

A. Yes. The committee may make a good faith estimate of the value that will be contributed during the period. The Form 497 must be filed within 48 hours of receiving the initial $1,000 in nonmonetary contributions. If the actual value differs from the estimated amount by 20 percent or more, an amendment must be filed within 24 hours of determining the correct amount.

17. Q. If a non-profit organization makes a contribution to a primarily formed ballot measure committee, what are the campaign reporting requirements for the non-profit organization?

A. Depending on the amount of the contribution and several other factors, the organization may be required to register as a recipient committee and file campaign reports disclosing its donors or the organization may instead qualify as a major donor committee and be required to file the Form 461. To determine the applicable reporting requirements, see the detailed information in the Multipurpose Organizations Reporting Political Spending fact sheet.

Fundraising Questions

18. Q. If a committee receives two monetary contributions of $99 from one contributor, must the contributor be itemized?

A. Yes. When a person's contributions, including monetary, nonmonetary, and loans, aggregate to $100 or more in a calendar year, the contributor must be itemized on all applicable schedules of the Form 460.

19. Q. A committee is hosting a dinner fundraiser. The committee is charging $100 per person, but the actual cost of the event to the committee will be $25 per person. When a person purchases a ticket to attend, what amount is considered as the contribution received?

A. The contribution received is $100. The entire cost of the ticket for the fundraiser is the amount of the contribution – the actual costs to the committee are not subtracted from the ticket price.

20. Q. A committee is going to charge $50 per person at their next fundraiser. May an attendee pay with a $100 bill?

A. No. Even if change is immediately provided, a committee may not accept $100 or more in cash from a single source. The payment must be made by personal check, debit card, or credit card.

21. Q. Is volunteer work provided by some people considered a nonmonetary contribution because of the volunteer's profession, such as free legal advice provided by a lawyer or bookkeeping done by a CPA?

A. No. Volunteer personal services, regardless of the profession of the individual, are not reportable, so long as the individual providing the services is not paid by a third party.

22. Q. An individual is hosting a fundraising event in their home for a friend who is running for city council. They will spend $425 to provide tea, coffee, wine, cheese, and fruit. Is the amount they pay for the event considered a nonmonetary contribution to the candidate?

A. No. So long as the individual hosting does not spend more than $500, the event meets the home/office fundraiser exception. ***Note:*** The home/office fundraiser exception does not apply to a state lobbyist (or a cohabitant of a lobbyist) or a lobbying firm.

23. Q. May a private service, such as PayPal, be used to collect contributions electronically?

A. Yes, so long as for each contribution of $100 or more, (a) the service is able to provide the name of the contributor, and (b) the committee reports all the information needed to meet the statutory recordkeeping requirements, including the name, address, occupation, and employer of individual contributors of $100 or more. Even if the company deducts a fee from the amount of the contribution, the entire amount of the contribution must be disclosed. The fees charged by the private service are reported as expenditures.

24. Q. May a committee accept a contribution in the form of bitcoin, a type of digital currency?

A. Yes. Effective September 21, 2022, committees may solicit and accept contributions of cryptocurrency, or virtual currency, in any amount not exceeding any applicable contribution limit. Please note that committees cannot receive cryptocurrency contributions directly. Committees may receive these types of contributions through a payment processor selected to act as a vendor on behalf of the committee. Please see our Cryptocurrency Contributions Fact Sheet for more information on accepting these types of contributions.

25. Q. If a committee receives a contribution of $100 from an individual, but the individual did not provide the required occupation and employer information, what should the committee do?

A. The individual contributor should be contacted to obtain the occupation and employer information. If the committee is required to report the contribution before the information is received, the committee should indicate on its campaign statement that the information has been requested and the statement will be amended when the information is received. However, if an individual's occupation and employer information is not received within 60 days of receiving the contribution, the contribution must be returned.

26. Q. A business donated the use of an employee to work on two ballot measure campaigns during the month before the election. The employee spent a total of seven percent of their compensated time working on one measure and seven percent of their compensated time on the other measure. Since more than 10 percent of the employee's compensated time was not spent on a single campaign, is their compensated time required to be reported as a nonmonetary contribution to the ballot measure committees from their employer?

A. Yes. If an employee spends more than 10 percent of their compensated time working on campaign activity (one or multiple campaigns) in a calendar month, a nonmonetary contribution from the business must be reported. In this situation, each ballot measure committee must report a nonmonetary contribution in the amount of seven percent of the employee's compensated time. The value of the nonmonetary contribution is based on the employee's gross salary; standard benefits (i.e., retirement and health care) do not need to be counted.

27. Q. If a committee receives a large contribution from an individual or entity, are there any special noticing requirements?

    A. Yes. Generally, if a committee receives a contribution of $5,000 or more from an individual or entity, the committee must notify the contributor in writing *within two weeks* that they may need to file a major donor report. In the 90 days before an election, if a contribution of $10,000 or more is received, the notification must be sent *within one week*. Language for the notice is found in the applicable campaign disclosure manual. An individual or entity qualifies as a major donor if contributions totaling $10,000 or more are made in a calendar year to California (state and local) candidates and committees.

Expenditure Questions

28. Q. How does a committee report printing expenses of $100 or more paid for with the committee's credit card?

    A. The name and address of the credit card company and the amount paid must be listed on Schedule E or F of the Form 460, and the printing vendor's name and address must be listed underneath with the amount paid to that vendor. Another example of "subvendor" reporting is when a campaign consultant purchases television advertisements, the names of the stations that air the advertisements must be listed. The campaign disclosure manuals contain examples of how to report subvendors on the Form 460.

29. Q. Is it permissible for a committee to have an agreement with an independent contractor (e.g., committee fundraiser) to pay additional money if fundraising goals are surpassed?

    A. Yes, under the Act, a contingency agreement may be made, such as a committee paying a bonus to a contractor if fundraising goals are met or a committee not paying a contractor unless a particular outcome is achieved. The arrangement should be made as part of a written contract. (Note that the Act strictly prohibits contingency fees to a lobbyist for the outcome of legislation or to a placement agent for securing an investment from a state retirement board.)

30. Q. Is it permissible to purchase gifts using campaign funds?

    A. Campaign funds may be used to purchase a gift only if the payment is *directly related* to a political, legislative, or governmental purpose. Detailed information on the permissible use of campaign funds may be found in the campaign disclosure manuals. In addition, there are special reporting rules for candidate controlled committees when reporting expenditures for gifts, meals, and travel. (See Question #57 below.)

Communications Questions

31. Q. What are the disclosure requirements for a mass mailing sent by a candidate?

    A. When a candidate sends a mass mailing (more than 200 pieces of the same or similar mail in a calendar month), the words "paid for by" and the name and address of the candidate's committee must appear on the outside of the mailing in no less than six-point type and in a color that contrasts with the background. If two or more candidate controlled committees pay for the mailer, the name and address of at least one of the committees must be shown on the outside and the names and addresses of all committees must appear on at least one insert. The committee ID number is not required

to be included, but the FPPC recommends that committees include the committee ID number on all public campaign materials.

32. Q. If a committee has more than one address, may any of the addresses be used on mass mailings?

    A. Any address that is on the committee's Statement of Organization (Form 410) on file with the Secretary of State's office may be used.

33. Q. Are emails sent by a candidate's committee required to include an advertisement disclaimer statement?

    A. Yes. Mass mailings, including emails, must include a "paid for by" disclaimer (e.g., "Paid for by Jones for Supervisor 2022").

34. Q. How does a committee report payments made to a person to provide favorable or unfavorable content on an Internet site about a candidate or ballot measure?

    A. For each payment of $100 or more, use the code "WEB" and report the amount of the payment, the payee, the name of the individual providing content, and the website name or URL on which the communication is published in the first instance.

35. Q. Does a candidate or committee incur reporting obligations if an unpaid blogger or other individual endorses their candidacy in their Internet communications?

    A. No. Uncompensated Internet activity, including blogging, social networking, sending or forwarding an email, or providing a link to a website, does not trigger a reporting obligation.

36. Q. Does the FPPC have a summary of the requirements for disclaimers on advertisements?

    A. Yes, a summary of the requirements, as well as charts for each type of committee are available on the FPPC's website.

24-Hour Contribution (Form 497) Report Questions

37. Q. If a contribution of $1,000 or more is made to one of a candidate's campaign committees (e.g., legal defense, ballot measure, past election), but not to the committee that is formed for the election triggering the 90-day reporting, are the candidate and/or the donor required to file a Form 497?

    A. Yes. When a candidate is in a 90-day reporting period, each contribution of $1,000 or more to any of their committees requires the Form 497 to be filed by both the candidate and the donor.

38. Q. During the 90-day reporting period, must a candidate file a Form 497 if a contribution of $500 is received by one of the candidate's campaign committees (e.g., legal defense, ballot measure, past election) and another contribution of $500 from the same donor is received by the committee that is formed for the election triggering 90-day reporting?

    A. No. Because a single committee did not receive $1,000 or more, the candidate is not required to file a Form 497. The donor is also not required to file a Form 497 as the donor did not make a contribution of $1,000 or more to a single committee.

39. Q. A candidate received $500 from a donor for the special primary election a few days before the election, and another $500 from the same donor a few days after the primary election when the candidate moved to the special general election. Both contributions were received during the 90 days before the general election. Is a Form 497 required to be filed by the donor and/or the candidate?

    A. No. Because $1,000 or more was not received in connection with one election, the Form 497 is not required to be filed.

40. Q. Must a candidate file a Form 497 if, during the 90 days before the election or on the date of the election, they make a contribution of $1,000 or more from personal funds to their campaign?

    A. Yes. The candidate's personal funds are contributions and subject to reporting in the same manner as other contributions received.

41. Q. What are the 24-Hour Contribution Report (Form 497) requirements for contributions received by a political party committee?

    A. A political party must report each contribution of $1,000 or more received within 90 days of ***any*** state election or on the date of a state election (including a special election). If the contributor is a committee, the contributor must also file the Form 497 within 24 hours.

Enforcement Question

42. Q. If a campaign statement is filed late, what are the potential consequences?

    A. The filing officer with whom the statement is required to be filed may assess a fine of up to $10 for each day that the statement is late (or up to $20 per day for a statement and a copy). In addition, filing officers are required by law to refer non-filers to an enforcement authority. If a matter is referred to the FPPC's Enforcement Division for failure to file, the fine may increase up to a maximum of $5,000 per violation. In 2017, 149 committees were fined by the FPPC for failing to timely file campaign statements.

Candidate Questions

43. Q. When may a candidate begin to solicit and raise funds for an election?

    A. Upon filing a Candidate Intention Statement (Form 501), a candidate may begin to solicit and receive contributions. The Form 501 is considered filed when it is personally delivered or placed in the mail to the filing officer.

44. Q. Is a candidate required to file a Form 501 when running for reelection to the same office?

    A. Yes. A separate Form 501 is required for each election, including reelection to the same office. However, a new Form 501 is not required for the general election or special general election if the candidate filed a Form 501 for the connected primary or special primary election for the same office sought.

45. Q. If a candidate does not intend to raise any funds from others and will be spending personal funds only for the filing fee and ballot statement fee, is the candidate required to file a Form 501 and open a campaign bank account?

A. No, the candidate is not required to file a Form 501 or open a bank account; only the Form 470 (Campaign Statement – Short Form) is required.

46. Q. If a candidate does not intend to raise funds from others, but will be spending $2,000 or more of their personal funds on their campaign (in addition to the filing fees and ballot statement fees), is the candidate required to open a bank account?

A. Yes. Even if a candidate does not raise funds from others, if they spend $2,000 or more on the campaign (not counting personal funds spent on filing fees and ballot statement fees), they qualify as a committee and must open a campaign bank account. Campaign funds may not be commingled with personal funds.

47. Q. What are the rules related to a candidate spending personal funds on their own campaign?

A. Except for payments for the filing fee, ballot statement fee, and $50 Secretary of State annual committee fee, a candidate must deposit personal funds into the campaign bank account before making campaign expenditures, even if the candidate does not want to be reimbursed. Personal funds may be reported as loans or monetary contributions. Personal funds may not be commingled with campaign funds and campaign expenditures may not be made from a personal account.

48. Q. Prior to learning that it was not permitted, a candidate starting up their campaign used personal funds to pay for some campaign expenses. How is this reported on the Form 460?

A. So that the activity is properly disclosed, the amount of personal funds used should be reported on Schedule A as a contribution and the expenditure is reported on Schedule E. If the candidate has not yet been reimbursed by the committee, the amount may be reported on Schedule F as an accrued expense. Non-disclosure of the payments is a violation of the Act. All future payments must be made from the campaign bank account; personal funds must be deposited into the account before making expenditures.

49. Q. May a campaign worker use personal funds to make campaign expenditures and be reimbursed by the committee?

A. Yes. Anyone other than the candidate may use personal funds to make campaign expenditures, such as purchasing printing, and be reimbursed after providing a receipt or invoice to the campaign. However, if the campaign does not reimburse the individual who made the expenditure within 45 days, the committee must report the amount expended as a nonmonetary contribution received.

50. Q. What are the contribution limits for local elections?

A. Pursuant to Assembly Bill 571 (Stats. 2019, Ch. 556, AB 571 Mullin), effective January 1, 2021 a state campaign contribution limit will by default apply to city and county candidates when the city or county has not already enacted a contribution limit on such candidates. The FPPC's website posts contribution limit charts. However, many local jurisdictions have adopted campaign finance ordinances that include contribution limits. Contact the city clerk or county elections office to determine if there are local contribution limits. The FPPC's website also posts local campaign ordinances.

51. Q. If a candidate occasionally uses their own personal vehicle to attend campaign events and meet with voters, is the use of the vehicle reportable even if the candidate does not want to be reimbursed for the mileage?

    A. Incidental use of a candidate's personal vehicle for campaign purposes is not considered a contribution or expenditure and is not reportable. However, if the use of the vehicle is directly related to a political, legislative or governmental purpose, and the candidate would like to be reimbursed by the committee, the reimbursement must be made at the rate approved by the Internal Revenue Service pursuant to Section 162 of the Internal Revenue Code.

52. Q. If a candidate makes long-distance calls using their home phone to request support from organizations statewide, may committee funds be used to pay the phone bill?

    A. Committee funds may be used for the campaign portion of the bill; however, the non-campaign portion must be paid with personal funds.

53. Q. If a candidate is defeated in a local election, may the leftover funds be used to run again in the next local election?

    A. Yes, if specified requirements are met. An unsuccessful candidate for a city or county office in a jurisdiction that has enacted a local contribution limit who plans to run for the *same office* in a future election must file a new Form 501 and an amended Form 410 **before** the funds become surplus. Leftover funds become surplus 90 days after an official leaves office (incumbents) or 90 days after the end of the post-election reporting period, whichever is later. The end of the post-election reporting is June 30 for elections held between January 1 and June 30, and December 31 for elections held between July 1 and December 31. (Note: Candidates for a city or county office in a jurisdiction that has enacted a local contribution limit should check with the local jurisdiction to determine if there is a local ordinance that does not allow a candidate to use the same committee for a future election.) A city or county candidate in a jurisdiction that *has not* enacted a local contribution limit who plans to run for the same office must file a new Form 501 and a new Form 410 as well as open a new bank account and transfer the funds to a new committee **before** the funds become surplus.

    An unsuccessful candidate who plans to run for a *different office* must file a new Form 501, a new Form 410, and open a new campaign bank account and transfer the funds **before** the funds become surplus as described above.

54. Q. If a candidate receives a refund for a filing fee after their committee has already been terminated, must the committee and bank account be reopened in order to accept the refund?

    A. No. Candidates are allowed to accept refunds from a governmental entity without reopening the committee and campaign bank account.

55. Q. If a candidate controls a ballot measure committee, must the ballot measure committee file a preelection statement when the candidate's committee is required to?

    A. Yes. If a candidate has multiple controlled committees, each of the committees are required to file on the dates the candidate is required to file preelection statements in connection with their election to office. (See Regulation 18405.)

56. Q. May a law enforcement officer, who is running for city council, wear their uniform at campaign events or when appearing in political advertisements for their campaign?

    A. The Political Reform Act does not contain restrictions related to a candidate wearing a law enforcement uniform; however, other laws may apply. The candidate should contact the District Attorney or City Attorney.

57. Q. What are the special reporting requirements for expenditures made by a candidate controlled committee when purchasing gifts, travel, and meals?

    A. Itemized expenditures made by a candidate controlled committee for gifts, meals, or travel, must be further explained in the "Description of Payment" column, whether or not an expenditure code is used, as described below.

    Gifts: Briefly describe the political, legislative, or governmental purpose of the expenditure, and provide the date of the gift and a description of the gift. If the gift was made to an individual recipient, the name of the recipient must be included. If a gift was made to a group of recipients, the name of each recipient who received a benefit of $50 or more is required. When the recipient of a gift with a value of $50 or more is not known at the time the payment is required to be reported, the committee must report that the gift was for an "undetermined recipient." Once the gift has been given to the recipient, the campaign statement must be amended within 45 calendar days to disclose the name of the recipient.

    Meals: Briefly describe the political, legislative, or governmental purpose of the expenditure, and provide the date of the meal, the number of individuals who were present at the meal, and whether the candidate, a member of their household, or an individual with authority to approve expenditures of campaign funds was present at the meal. It is not necessary to include the names of individual attendees on the report. However, the names of the attendees must be maintained in the committee's records. For meals reported as an itemized expenditure for travel, the reporting rules below apply.

    Travel Payments (including lodging and meals): Briefly describe the political, legislative, or governmental purpose of the expenditure, and provide the date or dates of the travel, the destination, and the goods or services purchased. The description must also include the number of individuals for whom the payment was made and whether the trip included the candidate, a member of their household, or an individual with the authority to approve expenditures of campaign funds. The names of individuals who traveled are not required to be disclosed on the report. However, the names of the travelers must be maintained in the committee's records.

APPENDIX G

Government Code Section 84308

Government Code Section - 84308

(a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) “Party” means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) “Participant” means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if that person lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) “Agency” means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) “Officer” means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) “License, permit, or other entitlement for use” means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) “Contribution” includes contributions to candidates and committees in federal, state, or local elections.

(b) While a proceeding involving a license, permit, or other entitlement for use is pending, and for 12 months following the date a final decision is rendered in the proceeding, an officer of an agency shall not accept, solicit, or direct a contribution of more than two hundred fifty dollars ($250) from any party or a party’s agent, or from any participant or a participant’s agent if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution on the officer’s own behalf, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, permit, or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars ($250) from a party or from any participant shall disclose that fact on the record of

the proceeding. An officer of an agency shall not make, participate in making, or in any way attempt to use the officer's official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars ($250) within the preceding 12 months from a party or a party's agent, or from any participant or a participant's agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

(d) (1) If an officer receives a contribution which would otherwise require disqualification under this section, and returns the contribution within 30 days from the time the officer knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, the officer shall be permitted to participate in the proceeding.

(2) (A) Subject to subparagraph (B), if an officer accepts, solicits, or directs a contribution of more than two hundred fifty dollars ($250) during the 12 months after the date a final decision is rendered in the proceeding in violation of subdivision (b), the officer may cure the violation by returning the contribution, or the portion of the contribution in excess of two hundred fifty dollars ($250), within 14 days of accepting, soliciting, or directing the contribution, whichever comes latest.

(B) An officer may cure a violation as specified in subparagraph (A) only if the officer did not knowingly and willfully accept, solicit, or direct the prohibited contribution.

(C) An officer's controlled committee, or the officer if no controlled committee exists, shall maintain records of curing any violation pursuant to this paragraph.

(e) (1) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars ($250) made within the preceding 12 months by the party or the party's agent.

(2) A party, or agent to a party, to a proceeding involving a license, permit, or other entitlement for use pending before any agency or a participant, or agent to a participant, in the proceeding shall not make a contribution of more than two hundred fifty dollars ($250) to any officer of that agency during the proceeding and for 12 months following the date a final decision is rendered by the agency in the proceeding.

(3) When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in this section.

(f) This section shall not be construed to imply that any contribution subject to being reported under this title shall not be so reported.

(Amended by Stats. 2022, Ch. 848, Sec. 1. (SB 1439) Effective January 1, 2023.)

APPENDIX H

FPPC Requirements for Reporting Gifts, Meals and Travel

CANDIDATE CONTROLLED COMMITTEES
REQUIREMENTS FOR REPORTING EXPENDITURES
FOR GIFTS, MEALS, AND TRAVEL

The Political Reform Act[1] requires California state and local candidates and campaign committees to file periodic reports disclosing contributions received and expenditures made. Section 84211 requires expenditures of $100 or more to be itemized on campaign reports, including a brief description of the consideration for which the payment was made. The Commission has created a group of codes for describing expenditures on Schedules E, F, and G of the Recipient Committee Campaign Statement (Form 460). The instructions page for Schedule E contains an explanation of the codes. Expenditures not accurately described by the existing codes must be explained in the "Description of Payment" column of Schedules E, F, and G.

Whether or not a code is used to explain an expenditure by a candidate controlled committee for a gift, meal, or travel, **all** itemized expenditures for gifts, meals, or travel must be further explained in the "Description of Payment" column of Schedules E, F, and G under new Regulation 18421.7.[2] (A copy of Regulation 18421.7 is available on the FPPC website at *www.fppc.ca.gov*.)

Additional Requirements for Committees Controlled by State and Local Candidates When Reporting Expenditures for Gifts, Meals, and Travel

First, it is important to note that under the Act, all expenditures made from a committee's campaign funds must be *reasonably related* to a political, legislative, or governmental purpose. An expenditure must be *directly related* to a political, legislative, or governmental purpose if it confers a substantial personal benefit[3] on, or pays for the travel or accommodations of, the controlling candidate, elected officer, or an individual authorized to approve committee expenditures. An expenditure must also be directly related to a political, legislative, or governmental purpose if it is made for a personal gift.

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

[2] For purposes of electronic reporting, candidate controlled committees should utilize the "memo" field of the electronic Form 460 to provide the required description of expenditures for gifts, meals, and travel if the expenditures cannot be fully described within the character limitations of the "Description of Payment" column of Schedules E, F, and G.

[3] See Sections 89510-89519. "Substantial personal benefit" means a payment that results in a direct personal benefit of $200 or more on the candidate, elected officer, or any individual with the authority to approve the expenditure of campaign funds. Detailed information about the permissible uses of campaign funds can be found in the campaign disclosure manuals for state candidates (Manual 1) and local candidates (Manual 2), available on the FPPC website (www.fppc.ca.gov).

Under Regulation 18421.7, a candidate controlled committee reporting an expenditure for a gift, a meal, or travel on its campaign statement must briefly describe the political, legislative, or governmental purpose for the expenditure. In addition, the committee must include the following information:

- **Gifts –** When reporting an itemized expenditure for a gift, the committee must provide the date of the gift and a description of the gift. If the gift was made to an individual recipient, the name of the recipient must be included. If a gift was made to a group of recipients, the name of each recipient who received a benefit of $50 or more is required. When the recipient of a gift with a value of $50 or more is not known at the time the payment is required to be reported, the committee must report that the gift was for an "undetermined recipient." Once the gift has been given to the recipient, the campaign statement must be amended within 45 calendar days to disclose the name of the recipient.

Examples:

Senator Wilson spends $275 at Nordstrom to purchase sweaters as holiday gifts for three of her office staff. On Schedule E of her next campaign report (Form 460), she will itemize the $275 payment to Nordstrom. In the Description of Payment column, the following would adequately describe the payment: "12/5/08 – Sweaters purchased as holiday gifts for office staff Mary Jensen ($100), Linda Davis ($100), and Richard Bailey ($75)."

Richard Johnson, a candidate for County Board of Supervisors, purchased 50 watches for $750 ($15 each) from Target. He plans to give the watches to the first 50 individuals who purchase a ticket to his upcoming fundraiser. On Schedule E of his next campaign report, he will itemize the payment to Target. In the Description of Payment column, the following description could be used to describe the gifts: "9/12/08 – Watches purchased as gifts for campaign donors. No individual will receive a gift worth $50 or more."

- **Meals –** When reporting an itemized expenditure for a meal (other than a meal reported as an itemized expenditure for travel, as discussed below), the committee must also provide the date of the meal, the number of individuals who were present at the meal, and whether the candidate, a member of his or her household, or an individual with authority to approve expenditures of campaign funds was present at the meal. It is not necessary to include the names of individual attendees on the report. However, the names of the attendees must be maintained in the committee's records. (See "Additional Recordkeeping Required" below.)

Examples:

Senator Brendan Myers had dinner with his campaign manager, who also has the authority to approve expenditures of campaign funds, to discuss his upcoming reelection campaign. The Senator put the dinner on a campaign credit card, which had not been paid by the end of the reporting period for the next campaign statement. On Schedule F, he will itemize the accrued expense naming both the credit card company and the restaurant. In the Description of Payment column, the following description would be sufficient: "9/1/08 – Dinner meeting regarding reelection campaign attended by campaign manager and candidate."

Robyn Forrester, a candidate for city council, paid a caterer to provide lunch for committee volunteers the day after her election. She stopped by the event to personally thank them, but did not eat lunch. On Schedule E, she will itemize the payment to the caterer. In the Description of Payment column, the following description could be used: "11/5/08 – Catered lunch for 20 campaign volunteers." The names of the volunteers who attended the lunch must be kept in the committee's records.

- **Travel Payments –** When reporting an itemized expenditure for travel, including lodging and meals, the committee must also provide the date or dates of the travel, the destination, and the goods or services purchased. In addition, the description must include the number of individuals for whom the payment was made and whether the trip included the candidate, a member of his or her household, or an individual with the authority to approve expenditures of campaign funds. The names of individuals who traveled are not required to be disclosed on the report. However, the names of the travelers must be maintained in the committee's records. (See "Additional Recordkeeping Required" below.)

Examples:

Mayor Wanda Nelson used campaign funds to travel to Austin, Texas to attend a three-day conference of federal, state, and local officials relating to emergency preparedness. Her registered domestic partner accompanied her. When reporting this payment she will itemize her expenditure to the hotel. In the Description of Payment column, she could use the following description: "10/1/08 – 10/3/08 – Accommodations for candidate and a member of candidate's household in Austin, Texas to attend emergency preparedness conference for government officials." Her domestic partner's name must be included in the committee's records.

Up for reelection, Senator Larson used campaign funds to pay for a flight from Sacramento to San Diego for a campaign event. When reporting the payment to the airline on Schedule E, he will itemize the expenditure to the airline. In the

Description of Payment column the following would sufficiently describe the expenditure: "8/1/08 and 8/3/08 – Round trip airfare to San Diego for candidate to attend campaign event."

Additional Recordkeeping for Committees Controlled by State and Local Candidates When Making Expenditures for Gifts, Meals, and Travel

In addition to the recordkeeping requirements applicable to all committees, a candidate controlled committee must keep a dated memorandum or some other form of dated written record containing all of the required information described above. In addition, although names are not required to be disclosed on the campaign statement for meals and travel, the name of an individual must be maintained in the committee's records if campaign funds are used to purchase a meal or travel for the individual.

QUESTIONS AND ANSWERS

1. When do the new reporting and recordkeeping requirements go into effect?

A. July 1, 2008.

2. Do these new requirements apply to the semiannual statement due July 31, 2008, covering the period through June 30, 2008?

A. No. The requirements apply only to expenditures made on or after July 1, 2008.

3. Do the new reporting and recordkeeping rules apply to committees other than committees controlled by a candidate or officeholder?

A. No.

4. Do the new rules apply to ballot measure committees controlled by a candidate or officeholder?

A. Yes. The new rules apply to any committee that is controlled by a candidate or officeholder, including election committees, officeholder committees, legal defense funds, recall committees, and ballot measure committees.

5. Who is considered a member of a candidate or officeholder's household?

A. The term "household" includes the candidate or elected officeholder and his/her spouse or registered domestic partner, dependent children, and parents who reside with the candidate or elected officeholder.

6. Is it permissible to purchase gifts from campaign funds?

A. Campaign funds may be used to purchase a gift only if the payment is *directly related* to a political, legislative, or governmental purpose. Detailed information on the permissible uses of campaign funds can be found in the Commission's campaign manuals for state candidates and officeholders (Manual 1) and local candidates and officeholders (Manual 2).

7. Do the new reporting and recordkeeping requirements apply to an expenditure for meals provided during the course of a fundraising event at which a per plate contribution is required?

A. Yes. The new rules apply to meals provided at a fundraising event even if a per plate contribution is required. Note that the name of any attendee receiving a meal at the event must be maintained in the committee's records.

8. Do the new reporting and recordkeeping requirements apply to an expenditure for complimentary appetizers provided at a fundraising event at which a contribution is required to attend?

A. No. If attendees are served only complimentary appetizers, the expenditure for the appetizers is not an expenditure for a meal. Moreover, the expenditure for appetizers served at an event at which a contribution is required to attend is not an expenditure for a gift. Accordingly, the committee may report the expenditure for the appetizers as an expenditure for a fundraising event (Code FND) with no further explanation.

9. When reporting multiple expenditures to different vendors for a single gift, meal, or trip during the same reporting period, is it necessary to provide a full explanation for each expenditure?

A. If the detailed description provided for an expenditure fully explains a subsequent expenditure for the same gift, meal, or trip, a full explanation of the subsequent expenditure is not necessary so long as the description provided for the subsequent expenditure clearly identifies the previous expenditure.

APPENDIX I

IRS Section 527 Fact Sheet

INTERNAL REVENUE SERVICE
www.irs.gov

IRS Fact Sheet

Media Relations Office **Washington, D.C.** **Tel. 202.622.4000**
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SECTION 527 POLITICAL ORGANIZATIONS
REVISED TAX FILING REQUIREMENTS

Legislation adopted in 2002 altered filing requirements for certain political organizations that seek tax-exempt status under section 527 of the Internal Revenue Code. The new law generally reduces filing requirements for certain state/local political organizations that already disclose certain information to state agencies. In addition, the law relieves some political organizations from filing an annual income tax return or an annual information return. Except where noted, the revised filing requirements are retroactive to July 1, 2000. This fact sheet discusses the current filing requirements as revised by the new legislation. FS-2002-11, published May 2002, is superseded.

The new law:

- Exempts state and local candidate and party committees from filing Form 8871 and Form 990 (or 990-EZ);
- Exempts qualified state and local political organizations (QSLPOs) (as defined below) from filing Form 8872;
- Exempts political committees filing with the FEC from filing Form 990 (or 990-EZ);
- Exempts political organizations that are a caucus or association of state or local officials from filing Form 990 (or 990-EZ);
- Requires additional information on Form 8871 and Form 8872;
- Requires the filing of an amended Form 8871 after material changes to maintain tax-exempt status;
- Increases reporting thresholds for certain Form 990 filers;
- Eliminates the requirement to file Form 1120-POL except where an organization has taxable income after taking the $100 specific deduction (returning to pre-July 2000 requirements);
- Reinstates the pre-July 2000 confidentiality requirement for any Form 1120-POL filed after November 2, 2002; and
- Changes the electronic filing requirements by
    - Requiring that Form 8871 be filed electronically (as opposed to both in writing and electronically); and
    - Requiring that any Form 8872 due after June 30, 2003, be filed electronically if the filing organization has or expects to have contributions or expenditures of more than $50,000 during the calendar year.

Definition of Political Organization

Political organizations are organized and operated primarily to accept contributions and make expenditures for the purpose of influencing the "selection, nomination, election, or appointment of any individual to Federal, State, or local public office or office in a political organization, or the election of Presidential electors." Political organizations include political party committees, Federal, State and local candidate committees and other political committees such as political action committees (PACs).

The law also creates a new sub-category of political organization -- qualified state or local political organization (QSLPO). A state or local organization may be a QSLPO, if it meets the following criteria:

- All of its political activities relate solely to state or local public office (or office in a state or local political organization),
- It is subject to state law that requires it to report (and it does report) to a state agency information about contributions and expenditures that is similar to the information that the organization would otherwise be required to report to the IRS,
- The state agency and the organization make the reports publicly available, and
- No Federal candidate or office holder controls it or materially participates in its direction, solicits contributions for it, or directs any of its disbursements.

Filing Categories

Federal tax law divides political organizations into several different categories, and provides different filing requirements for each category. See the first chart below for the filing requirements for each category.

<u>Federal organizations</u>

- FEC political committee: A political organization (including federal candidate committees, political party committees and PACs) that is required to report as a political committee under the Federal Election Campaign Act.
- Other federal political organization: A political organization attempting to influence federal elections that is not required to report as a political committee under the Federal Election Campaign Act.

<u>State and Local organizations</u>

- Candidate committee: A campaign committee of a state or local candidate.
- Party committee: A state or local committee of a political party.
- Qualified state or local political organization (QSLPO): See above definition.
- Caucus or association: A group of state or local officials attempting to influence elections.
- Other political organization: Any other state or local political organization.

Filing Requirements

The filing requirements in the chart below apply to those political organizations that:

- Wish to be a tax-exempt political organization, and
- Receive or expect to receive $25,000 or more in gross receipts in any taxable year.

If You Are A	You May Be Required To File
FEC political committee, state or local candidate committee or state or local committee of a political party	➢ Form 1120-POL
Qualified state or local political organization (QSLPO)*	➢ Form 8871; ➢ Form 1120-POL; and ➢ Form 990
Caucus or association of state or local officials*	➢ Form 8871; ➢ Form 8872; and ➢ Form 1120-POL
Any other political organization, including other federal political organizations and other state or local political organizations	➢ Form 8871; ➢ Form 8872; ➢ Form 1120-POL; and ➢ Form 990 or Form 990-EZ

*An organization may be both a QSLPO and a caucus or association of state or local officials. If so, it is not required to file Form 8872 and Form 990.

NOTE: If you are:

- A political organization that is not tax-exempt, or
- A tax-exempt political organization that does not have gross receipts of at least $25,000

You must file Form 1120-POL if you have taxable income after taking the $100 specific deduction for any taxable year.

Description of Form Filing Requirements

1. Form 8871 – Notice of 527 Status

Unless excepted (see chart below), a political organization must file Form 8871, *Political Organization Notice of 527 Status*, with the IRS to be tax-exempt. Until it files the form, its income (including contributions) is subject to taxation. Form 8871 must be filed electronically, within 24 hours of the political organization's establishment. An amended Form 8871 must be filed within 30 days of any material change (including termination), or any income (including contributions) it receives after the material change will be subject to taxation.

2. Form 8872 - Report of Contributions and Expenditures

Tax-exempt political organizations, other than QSLPOs, that file Form 8871 must file Form 8872, *Political Organization Report of Contributions and Expenditures,* to disclose information concerning:

- expenditures that aggregate $500 or more per person, per calendar year; and
- contributions that aggregate $200 or more per person, per calendar year.

A tax-exempt political organization that does not disclose this information must pay an amount equal to the highest corporate tax rate (35 percent) multiplied by the amount of contributions and expenditures not disclosed.

The filing due dates are available on the IRS web site at www.irs.gov/polorgs.

A political organization is not required to file Form 8872 for any period of time that it is subject to tax on its income because it did not file or amend a Form 8871.

3. Form 1120-POL – U.S. Income Tax Return for Certain Political Organizations

Political organizations, whether or not tax-exempt, that have taxable income in excess of the $100 specific deduction in a taxable year must file Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations.*

Form 1120-POL is due by the 15th day of the 3rd month after the end of the organization's taxable year. Political organizations may request a six-month extension of the filing deadline by filing Form 7004, *Application for Automatic Extension of Time to File Corporate Income Tax Return*. This extension must be filed by the due date of Form 1120-POL. There is a penalty for failure to file Form 1120-POL.

4. Form 990 or 990-EZ – Return of Organization Exempt from Income Tax

Unless excepted (see chart below), a tax-exempt political organization must file an exempt organization annual information return if it has gross receipts of $25,000 or more for the taxable year ($100,000 for QSLPOs). A tax-exempt political organization with gross receipts of less than $100,000 and assets of less than $250,000 at the end of the year may file a Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*. Otherwise, it files a Form 990, *Return of Organization Exempt from Income Tax*.

Form 990 or Form 990-EZ is due on the 15th day of the 5th month after the end of the organization's taxable year. There is a penalty for failure to file this return. Organizations may request a three-month extension, without showing cause, by filing Form 8868, *Application for Extension of Time to File an Exempt Organization Return*, by the due date. A second three-month extension, with cause, may also be requested through Form 8868.

Form	When filed	Exceptions to filing requirement
8871	Within 24 hours of establishment or within 30 days of any material change, including termination	➢ Organization that does not seek tax-exempt status; ➢ Political committee required to report to the FEC; ➢ Campaign committee of state and local candidates; ➢ State or local committee of political parties; and ➢ Organization that reasonably expects annual gross receipts to always be less than $25,000.
8872	At organization's option, quarterly/semiannually or monthly, on same basis for entire calendar year (see form instructions for detailed information)	➢ Any organization excepted from Form 8871 filing requirement (see above); and ➢ Qualified state or local political organization (QSLPO).
1120-POL	Due the 15th day of the 3rd month after the close of the taxable year	➢ Political organization with no taxable income after taking the $100 specific deduction
990 or 990-EZ	Due the 15th day of the 5th month after the close of the taxable year	➢ Any organization excepted from Form 8871 filing requirement (see above); and ➢ Caucus or association of state or local officials

Disclosure Requirements

Tax-exempt section 527 organizations must make their forms (other than Form 1120-POL) publicly available for inspection and copying at their principal place of business. The IRS also posts Form 8871 and Form 8872 on its web site at www.irs.gov/polorgs.

For More Information

Questions about the filing requirements may be directed to the Tax Exempt and Government Entities Customer Account Services toll free number 1-877-829-5500. Assistance is available 8:00 a.m. to 6:30 p.m. ET, Monday through Friday.

APPENDIX J

Ordinance No. 08-03 Irvine City Council Ethical Public Service (Measure H)

INITIATIVE ORDINANCE NO. 08-03
(Approved by the Voters on June 3, 2008)

AN ORDINANCE OF THE CITY OF IRVINE PROHIBITING THE MAYOR AND THE MEMBERS OF THE CITY COUNCIL, AND THEIR EXECUTIVE ASSISTANTS AND APPOINTED COMMISSIONERS, FROM (1) ENGAGING IN COMPENSATED EMPLOYMENT OR SERVICE FOR LOBBYING FOR ANY PRIVATE PERSON OR ORGANIZATION BEFORE ANY LOCAL PUBLIC AGENCY LOCATED IN THE COUNTY OF ORANGE, AND (2) HAVING A PERSONAL INVESTMENT OR MONETARY INTEREST IN CITY CONTRACTS

The people of the City of Irvine do ordain as follows:

Section 1. Title. This Ordinance shall be known and referred to as the Irvine City Council Ethical Public Service Ordinance.

Section 2. Purpose. This Ordinance is adopted to ensure that the Mayor and members of the City Council, as elected representatives, and their Executive Assistants and appointed Commissioners, are engaged in public service not for private, personal gain, but to advance the interests of Irvine residents and the entire Irvine community.

Section 3. City allegiance and proper conduct.

A. *Incompatible employment or service.* Because of their uniquely important, visible, and elevated status and responsibilities as elected officials, the Mayor and members of the City Council, and by extension their Executive Assistants and their appointed Commissioners, shall not engage in compensated employment or service for the purpose of lobbying for any private person or organization before any local public agency (county, city or special district) located in the County of Orange.

1. Paragraph A shall not be applicable to lobbying as an in-house employee on behalf of his or her employer (as opposed to a client of the employer).

2. For purposes of paragraph A, "lobbying" shall mean any oral or written communication (including an electronic communication) to an official of a local agency other than the City, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the official's agency, including but not limited to proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption

of specifications, awards, grants, or contracts.

B. *Interest in City contracts.* The Mayor and members of the City Council, and by extension their Executive Assistants and their appointed Commissioners, shall not have a personal investment or monetary interest in any contract made by the City, except contracts relating to the performance of their official City duties.

C. *Knowledge of and agreement to abide by provisions.* The Mayor and members of the City Council and their Executive Assistants and appointed Commissioners shall at the time of their election or appointment or upon the effective date of this Section 3, whichever occurs earlier, sign an appropriate form prepared by the City Clerk reciting their knowledge of the provisions of this Section 3 and their agreement to abide by such provisions.

Section 4. Enforcement of City allegiance and proper conduct provisions.

A. The provisions of Section 3 above express standards of ethical conduct expected for City officials and employees. As an expression of such standards, the provisions of Section 3 are intended to be self-enforcing for the most part. City officials and employees themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. It will be most effective when City officials and employees are thoroughly familiar with the expressed standards and embrace them.

B. A violation of the provisions of Section 3 above shall not be considered and shall not constitute a basis for challenging the validity of any decision by the City Council or any other body or agency of the City.

C. All suspected violations of Section 3 above that also pertain to provisions of the Political Reform Act (California Government Code section 81000 et seq.) should be reported to the Fair Political Practices Commission of the State of California.

D. All suspected violations of Section 3 above that may independently constitute criminal offenses, including those outside of the purview of the Fair Political Practices Commission, should be reported to the office of the Orange County District Attorney.

E. Except as otherwise expressly provided by State law, the following shall constitute the exclusive means and procedures of enforcing the provisions of Section 3 above:

1. Alleged violations of Section 3 committed by the Mayor, a member of the City Council or a member of a City commission should be reported in writing to the City Attorney. Upon receipt of the report, the City Attorney shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation and endeavoring to avoid future violations in

the event one has occurred.

2. Alleged violations of Section 3 committed by a City Council Executive Assistant should be reported in writing to the City Manager or his/her designee. Upon receipt of the report, the City Manager, or his/her designee, shall commence an investigation to determine whether the alleged violation is substantiated. The City Manager, or his/her designee, shall discuss the matter with the person who is the subject of the allegation, advising such person of the alleged violation. In the event the City Manager, or his/her designee, determines that a violation has occurred, the City Manager or the appointing authority may take appropriate action in accordance with applicable City rules, regulations, and procedures related to employment and/or discipline.

3. In the event that the City Attorney or City Manager (or his/or her designee) determines that a violation of this division has occurred, appropriate documentation should be prepared to memorialize the determination.

Section 5. Effective date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

Section 6. Construction. To the maximum extent authorized by law, this Ordinance shall be interpreted in a manner consistent with the right of initiative reserved to the people by the California Constitution. Without limiting the foregoing, nothing in this Ordinance is intended to diminish or otherwise alter applicable requirements of state and federal law.

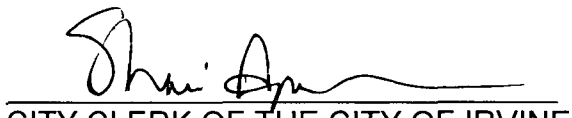
Section 7. Future amendments. Pursuant to article II, section 10(c) of the California Constitution, the provisions contained in this Ordinance may be amended by a four-fifths vote of the City Council only to the extent such amendments further or expand the intent and objectives set forth in this Ordinance, including but not limited to enforcement provisions. All other amendments or any proposed repeal of the provisions contained in this Ordinance shall become effective only when approved by the voters.

Section 8. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that determination of invalidity shall not affect other provisions or application of the Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are severable. The voters of the City hereby declare that they would have adopted this Ordinance and each portion thereof regardless of the fact that an invalid portion or portions may have been present in the Ordinance.

Section 9. Codification. Upon adoption of this Ordinance pursuant to the approval of the City's voters, the City Clerk, in consultation with the City Attorney, is hereby authorized and directed to appropriately codify this Ordinance in the City's Municipal Code.

ADOPTED by the vote of the people of the City of Irvine on June 3, 2008 at a Special Municipal Election as certified by the City Council of the City of Irvine on the 8th day of July, 2008, and becomes effective 10 days thereafter on July 18, 2008.

ATTEST:



CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was adopted by the voters of the City of Irvine as an initiative measure at an election held on June 3, 2008, as certified by the City Council of the City of Irvine on the 8th day of July, 2008, and that the ordinance becomes effective 10 days thereafter on July 18, 2008.



CITY CLERK OF THE CITY OF IRVINE

CITY COUNCIL ORDINANCE NO. 24-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, AMENDING TITLE 1, DIVISION 7, OF THE CITY OF IRVINE MUNICIPAL CODE RELATING TO LOBBYING

WHEREAS, the City of Irvine (the "City") is a municipal corporation and a Charter City, pursuant to which the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs and certain other matters in accordance with and as more particularly provided in Section 3, 5, and 7 of Article XI of the Constitution of the State of California and Section 200 of the charter of the City (the "Charter"); and

WHEREAS, on February 14, 2006, the City Council adopted Ordinance No. 06-02 creating a lobbying policy for the City, which was codified at Division 7 of Title 1 of the City of Irvine Municipal Code ("Lobbying Ordinance"); and

WHEREAS, on July 11, 2006, the City Council adopted Ordinance No. 06-06, which amended the Lobbying Ordinance; and

WHEREAS on February 11, 2020, the City Council adopted Ordinance No. 20-02, which further amended Lobbying Ordinance; and

WHEREAS, on September 12, 2023, the City Council considered potential modifications to the Lobbying Ordinance, including lower compensation thresholds, contingent fee arrangements, penalties for violations, report requirements, and whistleblower protections; and

WHEREAS, on September 12, 2023, the City Council directed City Staff and the City Attorney to return with proposed amendments to the Lobbying Ordinance that strengthens its provisions and enforcement mechanisms, study laws and details relevant to the practices of other cities related to lobbyists, and develop a plan tailored to the City; and

WHEREAS, on November 28, 2023, the City Council held a study session to discuss possible modifications to the Lobbying Ordinance; and

WHEREAS, the proposed amendments to the Lobbying Ordinance align with the direction and discussion of City Council; and

WHEREAS, the City has determined that the amendments contemplated herein are not considered a "project" pursuant to CEQA, and if a project are exempt from CEQA pursuant to applicable CEQA Guidelines.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY ORDAIN as follows:

SECTION 1. The Recitals set forth above are incorporated herein by this reference.

SECTION 2. Section 1-6-104 of Division 6 of Title 1 of the Irvine Municipal Code is amended to replace subsection A.1. of Irvine Municipal Code Section 1-6-104 to read in full as follows (deletions shown in ~~strikeout~~ and additions shown in double underlining):

A. *Incompatible employment or service.* Because of their uniquely important, visible, and elevated status and responsibilities as elected officials, the Mayor and members of the City Council, and by extension their Executive Assistants and appointed commissioners and committee members, shall not engage in compensated employment or service for the purpose of lobbying for any private person or organization before any local agency (county, city or special district) located in the County of Orange

1. This paragraph A shall not be applicable to lobbying as an in-house employee on behalf of a labor union.

2. For purposes of this paragraph A, "lobbying" shall mean any oral or written communication (including an electronic communication) to an official of a local agency, made directly or indirectly, in an effort to influence or persuade the official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any public policy issue of a discretionary nature pending before the official's agency, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts.

3. Notwithstanding any other provision of this division, this paragraph A shall not become effective until January 1, 2007.

B. *Interest in City contracts.* City officials and employees shall not have a personal investment or monetary interest in any contract made by the City, except contracts relating to the performance of their official City duties.

SECTION 3. Division 7 of Title 1 of the Irvine Municipal Code is amended and replaced to read in its entirety as shown on Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 4. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15060(c)(2) and 15061(b)(3) in that the proposed changes are not anticipated to result in a direct or reasonably foreseeable indirect physical change in the environment and it can be seen with certainty that they will not have the potential of creating a significant effect on the environment.

SECTION 5. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Irvine hereby declares the Council would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that anyone or more sections, subsections, sub-divisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional, invalid, or ineffective.

SECTION 6. This Ordinance shall take effect 30 days from the date of its adoption.

SECTION 7. The Mayor shall sign this Ordinance and the City Clerk shall attest and certify to the passage and adoption of this Ordinance and cause this Ordinance to be published using the alternative summary and posting procedure authorized under Government Code Section 36933.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 8th day of October 2024.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was introduced for first reading on the 24th day of September 2024 and duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 8th day of October 2024.

AYES:	5	COUNCILMEMBERS:	Agran, Carroll, Kim, Treseder, and Khan
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

CITY CLERK OF THE CITY OF IRVINE

Division 7 CITY LOBBYING

Sec. 1-7-101. Declaration of policy.

The City Council declares and finds as follows:

A. City government functions to serve the needs of all citizens.

B. The citizens of the City have a right to know the identity of interests which attempt to influence decisions of City government, as well as the means employed by those interests.

C. All persons engaged in compensated lobbying activities aimed at influencing decisions by City government must, when so engaged, be subject to the same regulations, restrictions and requirements, regardless of their background, training or other professional qualifications or license.

D. Complete public disclosure of the full range of activities by and financing of lobbyists and those who employ their services is essential to the maintenance of citizen confidence in the integrity of City government.

E. It is in the public interest to ensure that lobbyists do not misrepresent facts, their positions or attempt to deceive a City official through false communications; do not place a City official under personal obligation to themselves or their clients; and do not represent that they can control the actions of any City official.

F. It is in the public interest to adopt this division to ensure adequate and effective disclosure of information about efforts to lobby City government.

Sec. 1-7-102. Definitions.

The following words and phrases shall have the meanings set forth below, unless the context requires otherwise. Other terms used in this division shall have the meanings set forth in the California Political Reform Act of 1974 (Government Code § 81000 et seq.), as amended, and in the regulations of the California Fair Political Practices Commission, as amended, if defined therein.

A. *Affiliate* means each person who falls into one or more of the following categories:

1. Each person having, directly or indirectly, a controlling interest in company;

2. Each person in which company has, directly or indirectly, a controlling interest;

3. Each officer, director, general partner, limited partner holding an interest of five percent or more in a joint venture, or joint venture partner in company's cable system in the city; or

4. Each person, directly or indirectly, controlling, controlled by, or under common control with company.

B. *City official* means the Mayor, the Vice Mayor, the Interim Mayor, members of the City Council, City Council Executive Assistants, the City Manager, Assistant City Managers, Department Directors, , the Police Chief, the City Attorney, the City Clerk, the Zoning Administrator, members of the Planning Commission, members of the Community Services Commission, members of the Finance Commission, members of the Sustainability Commission, members of the Transportation Commission, members of any other commission that is advisory in nature, members of any committee, designees of any of the above listed individuals, and any person with authority to decide, any non-ministerial legislative, executive, or administrative action on behalf of the City or any agency on which the City has a seat.

C. *Client* means any person on whose behalf lobbying is conducted. In the case of a coalition or association that employs or retains persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

D. *Compensation* means money or any other thing of value that is received, or is to be received (even if the thing of value has not yet been transferred or received), in return for, or in connection with, lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying. Compensation includes the financial gain that a person may realize as a result of the determination of a municipal question, including gains in the form of a contingent fee (even if the fee has not yet been paid or received). If a lobbyist engages in both lobbying activities and other activities on behalf of a person, compensation for lobbying includes all amounts received from that person, if for the purpose of evading the obligations imposed by this division, the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities. Compensation which has not yet been received is considered to be received on the date that it is earned, if that date is ascertainable; otherwise, it is received on the date on which the contract or agreement for compensation is made, or on the date lobbying commences, whichever is first. Compensation does not include any amounts previously reported.

E. *Contact* means all oral and written (including electronic) communications directed to a City official, including, but not limited to, telephone calls and messages, voicemail and answer machine messages, e-mail messages, mail, facsimile, personally delivered material, meetings, and conversations. Electronic communication includes but is not limited to text or short message service messages, direct and private messages through electronic applications such as social media applications, use of instant messaging services, video conferences or chats, and use of document sharing services.

F. *Lobbyist* means a person who engages in lobbying, whether directly or through the acts of another. If an agent engages in lobbying for a principal, both the agent and the principal are lobbyists. A lobbyist includes, but is not limited to, an in-house employee who engages in lobbying for his or her employer or for a client of the employer, and a land use project applicant who is not the record owner of the subject real property. Lobbyist includes: (1) any individual who receives or is entitled to receive one thousand dollars ($1,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate directly or through agents with any City official, for the purpose of influencing any proposed or pending municipal question of the City; or (2) an "in house" lobbyist, which is any individual whose duties as a salaried employee, officer, or director, of any corporation, organization or association, frequently (i.e., more than one time per City official per municipal issue) include communication directly or through agents with any City official(s), for the purpose of influencing any proposed or pending municipal question of the City; or (3) an "expenditure" lobbyist which is an individual or entity who spends five thousand dollars ($5,000) or more in economic consideration in a calendar year on public relations and/or advertising activities designed to solicit or urge other persons to communicate directly with any City official in order to attempt to influence any proposed or pending municipal question of the City.

G. *Lobby* or *lobbying*, except as provided below, means any oral or written communication (including an electronic communication) to a City official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question. The term "lobby" or "lobbying" includes the expending of funds on public relations, media relations, public outreach, research, investigation, reports, analysis, studies, advertising, marketing, or similar activities to urge people or entities to communicate with a City official regarding a municipal question. The term "lobby" or "lobbying" does not include a communication:

1. Merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a City official;

2. Made by a public official or employee (including, but not limited to, an official or employee of the City of Irvine) acting in his or her official capacity;

3. Made in the form of a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

4. Made in writing as a petition for official action and required to be a public record pursuant to established City procedures;

5. Made in writing to provide information in response to an oral or written request by a City official for specific information, the content of which is compelled by law;

6. Made by a technical consultant on behalf of an applicant to provide information, analysis, or explanation necessary to the processing or review of an application.

7. Made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;

8. Made on behalf of an individual with regard to that individual's employment or benefits;

9. Made by a fact witness or expert witness at an official proceeding; or

10. Made by a person solely on behalf of that individual or his or her relative.

H. *Lobbying firm* means:

1. A self-employed lobbyist; or

2. A person that has one or more employees who are lobbyists on behalf of a client or clients other than that person.

I. *Municipal question* means a public policy issue of a discretionary nature pending before the City Council, another City body identified in the definition of City official, or a City official, including, but not limited to, proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The term "municipal question" includes a discretionary act of any City official. The term "municipal question" does not include the day-to-day application, administration, or execution of City programs and policies such as permitting, zoning and planning matters, but does include the amendment, modification or revision to the City's General Plan or Zoning Ordinance.

J. *Person* means an individual, business entity, trust, corporation, association, firm, partnership, committee, club, or any other organization or group of persons acting in concert.

K. *Registrant* means a person required to register under Section 1-7-103.

L. *Relative* means father, step-father, mother, step-mother, grandmother, grandfather, grandchild, brother, step-brother, sister, step-sister, spouse, aunt, uncle, cousin, child or step-child, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

Sec. 1-7-103. Persons required to register as lobbyists.

Except as provided otherwise in this division, every lobbyist, including without limitation in house lobbyists and expenditure lobbyists must register with the City Clerk.

Sec. 1-7-104. Exceptions.

The following persons are exempt from the provisions of this division to the extent, and only to the extent, that their activities fall within one of the following categories:

A. *Media outlets.* A person who owns, publishes or is employed by:

1. A newspaper;
2. Any other regularly published periodical;
3. A radio station;
4. A television station;
5. A wire service;
6. Any other bona fide news medium that in the ordinary course of business disseminates news, opinions, or paid advertisements that directly or indirectly oppose or promote municipal questions or seek to influence official action relating thereto, if the person does not engage in other activities that require registration; or
7. Any employee of such media outlet or other person engaged in gathering or preparing information for dissemination therein.

B. *Governmental entities.* Governmental entities and their officials and employees, provided the communications relate solely to subjects of governmental interest concerning the respective governmental bodies and the City.

C. *Unknown municipal questions.* A person who does not know and has no reason to know that a municipal question is pending at the time of contact with a City official. This exception does not apply if the existence of a municipal question is discovered during on-going contacts with a City official and the person then engages in additional lobbying of the same official or other City officials with respect to that municipal question.

D. *Dispute resolution.* An attorney or other person whose contact with a City official is made solely as part of resolving a dispute with the City, provided that the contact is solely with City officials who do not vote on or have final authority over any municipal question involved.

E. *Social Media.* Posts on social media platforms that are not sponsored or otherwise paid for by an expenditure lobbyist.

F. *Land Owners.* A land owner, its employees, and employees of its affiliates, that owns real property that is the subject of an application or agreement to be acted upon by the City.

G. *Homeowners' Associations*: A Homeowners Association, and its employees, with regard to an application for development, demolitioin, or modification of property that is within its geographic boundaries.

Sec. 1-7-105. Registration.

A. *Separate registrations.* A person required to register as a lobbyist under Section 1-7-103 must file a separate registration form for each client. A registrant who makes more than one lobbying contact for the same client shall file a single registration form covering all lobbying contacts for that client. Each registration form must be signed under oath. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form.

B. *Initial registration.* An initial registration form relating to a client must be filed by a person required to register under Section 1-7-103 within 30 days after the start of lobbying activity for that client. However, in no event shall a registrant knowingly fail to register, or knowingly fail to disclose such registration to relevant City officials, prior to official city action relating to the subject matter of the lobbying activity.

C. *Subsequent annual registration.* Except as provided in paragraph E of this Section, subsequent registration forms must be filed annually each January for each client for whom a registrant previously filed, or was required to file, an initial registration form.

D. *Required disclosures.* Initial or subsequent registration shall be on a form prescribed by the City Clerk and shall include, to the extent applicable:

1. The full name, phone number, permanent address, and nature of the business of:

   a. The registrant;

   b. The client;

   c. Any person, other than the client, on whose behalf the registrant has been engaged by the client to lobby;

   d. Any person, other than the client, who is known by the registrant to contribute financially to the compensation of the registrant, or which in whole or in major part plans, supervises, or controls the registrant's lobbying activities on behalf of the client;

   e. Any lobbying firm for which the registrant is an agent or employee with respect to the client; and

   f. Each employee or agent of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client;

2. A statement of all municipal questions on which the registrant has lobbied for the client in the year preceding the filing of the registration or foreseeably will lobby; and

3. If the registrant is a former City official or employee, a statement that the registrant's lobbying activities have not violated and will not foreseeably violate Section 1-6-107 of this Municipal Code. Also the registrant shall list any positions held as a City official or employee during the past year.

4. Such other information as is necessary and appropriate to describe the registrant and its clients, agents, and employees.

E. *Termination of registration.* A registrant shall file a notice of termination of registration with the City Clerk if the registrant is no longer required by Section 1-7-103 to register. A filing under this paragraph E does not relieve the registrant of reporting requirements imposed for the reporting period in question.

F. *Fee.* At the time of initial or subsequent annual registration with respect to a client, a registrant shall pay to the City, and the City Clerk shall collect, a fee in an amount to be determined by the City Council. All lobbyist registration fees shall be deposited into a separate account within the general fund, which account shall be used to offset the costs of administering this division and the costs of handling disclosure filings.

Sec. 1-7-106. Activity reports.

A. *Required disclosures*. Except as provided in Section 1-7-104, each registrant shall file with the City Clerk a separate report signed under oath concerning the registrant's lobbying activities for each client during the prior calendar quarter. The report for the preceding calendar quarter shall be filed between the first and 15th day of April, July, October, or January, or on the date registration on behalf of the client is required, whichever comes later. If the registrant is not an individual, an authorized officer or agent of the registrant shall sign the form. The report shall be on the form prescribed by the City Clerk and shall include, with respect to the previous calendar quarter, to the extent applicable:

1. The name of the registrant, the name of the client, and any changes or updates in the information provided in the most recent registration statement filed;

2. A list of the specific issues upon which the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of specific municipal questions and/or legislative proposals and other proposed, pending, or completed official actions;

3. A list of all City officials contacted by the registrant on behalf of the client with regard to a municipal question;

4. A list of the employees or agents of the registrant who acted as lobbyists on behalf of the client;

5. The name and position of each City official or City official's relative who is employed by the registrant;

6. The date of time of each lobbying activity;

7. The means and medium of each lobbying activity (e.g., meeting, text message, email, video conference);

8. For an expenditure lobbyist, information regarding each expenditure on activities designed to solicit or urge other persons to communicate directly with any City official in order to attempt to influence any proposed or pending municipal question of the City; such disclosures should include a description of the date of expenditure, subject of expenditure, and amount of expenditure.; and

9. An itemization of any contributions totaling $100 or more made by the lobbyist to any of the following committees: (a) a candidate's election committee; (b) a candidate-controlled ballot measure committee; (c) a candidate's (including an elected City official's) professional expense committee; or (d) a committee primarily formed to support or oppose one or more candidates. The itemization shall include the date and amount of each contribution and the name of the applicable committee. For purposes of this subsection, "candidate" shall mean any person who is a candidate for the Office of Mayor or member of the City Council of the City.

10. Such other information as is necessary and appropriate to describe the extent of a registrant's lobbying activities.

B. *Preservation of records*. Each registrant shall obtain and preserve all books, papers and documents necessary to substantiate the activity reports required to be made pursuant to this section for five years from the date of filing of the report containing such items.

C. *No activity or changes*. No quarterly activity report is required if there is no activity during the preceding quarter calendar year and there are no other changes to items required to be reported.

D. *Contingent fees*. A person shall disclose employment to lobby on a contingent fee basis as well as any arrangement to engage in lobbying activities on a contingent fee arrangement.

E. *Public Record*. All activity reports filed pursuant to this section shall be a public record.

Sec. 1-7-107. Restricted activities.

A. *Personal obligation of City officials.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not do any act, or refrain from doing any act, with the express purpose and intent of placing any City official under personal obligation to such lobbyist or person.

B. *Improper influence.* A registrant shall not cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination, or amendment thereto for the purpose of thereafter being employed as a lobbyist to secure its granting, denial, confirmation, rejection, passage, or defeat.

C. *False appearances.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not cause any communication to be sent to a City official in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

D. *Prohibited representations.* A person who lobbies or engages another person to lobby, or any other person acting on behalf of such person, shall not represent, either directly or indirectly, orally or in writing, that that person can control or obtain the vote or action of any City official.

Sec. 1-7-108. Identification of clients.

A. *Appearances.* To the extent otherwise permitted by law, each person who lobbies or engages another person to lobby appearing before the City Council or another City body identified in the definition of "City official" shall complete a speaker identification card prior to that appearance and shall orally identify himself or herself and the client(s) he or she represents upon beginning an address. Each person who lobbies or engages another person to lobby shall also disclose on appropriate sign-in sheets his or her identity, the identity of the client he or she represents, and whether or not he or she is registered as a lobbyist.

B. *Oral lobbying contacts.* Any registrant who makes an oral lobbying contact with an official shall, at the time of the initial lobbying contact with each official, identify himself or herself as a registered lobbyist and identify the client or clients on whose behalf the lobbying contact is made.

C. *Written lobbying contacts.* Any registrant who makes a written lobbying contact (including an electronic communication) with a City official shall identify the client(s) on whose behalf the lobbying contact is made and identify himself or herself as a registered lobbyist.

Sec. 1-7-109. Timeliness of filing registrations and reports.

A. A registration or report filed by first class United States mail or by common or contract carrier is timely if:

1. It is properly addressed with postage and handling charges prepaid; and

2. It bears a post office cancellation mark or a receipt mark from a common or contract carrier indicating a time within the applicable filing period or before the applicable filing deadline, or if the person required to file furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period or before that deadline.

B. If the City Clerk determines that any registration or report is incomplete, inaccurate, or otherwise requires updating or revision, the City Clerk may order such update or revision and the registrant shall complete the required revision within thirty (30) days of receipt of notification from the City Clerk

Sec. 1-7-110. Administration.

The City Clerk shall:

A. Provide guidance and assistance on the registration and reporting requirements for lobbyists and develop common standards, rules, and procedures for compliance;

B. Review for completeness and timelines of registrations and reports.

C. Maintain filing, coding, and cross-indexing systems to carry out the purposes of this important provision of the Ethics Code, including:

1. A publicly available list of all registered lobbyists, lobbying firms, and their clients; and

2. Computerized systems designed to minimize the burden of filing and maximize public access to materials filed;

D. Make available for public inspection and copying at reasonable times the registrations and reports filed;

E. Retain registrations and reports in accordance with the California Public Records Act; and

F. Upon receipt of a complaint filed with the Clerk's office alleging that a violation of the rules applicable to lobbyists may have been committed, forward information to the City Attorney's Office to determine whether to file a complaint and initiate an investigation.

Sec. 1-7-111. Enforcement and Remedies.

A. It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Division. Such a violation may be prosecuted in the name of the people of the State, redressed by civil action, and/or resolved by administrative remedies.

B. Any person who violates or fails to comply with any provision of this Division is guilty of a misdemeanor or an infraction; provided, however, that (i) the City Attorney has discretion to charge any offense in this Division as either a misdemeanor or an infraction, (ii) in no event shall a first violation of this Ordinance by any lobbyist be charged as a misdemeanor.

C. As a penalty for the failure to comply with this Division, the violator shall pay an administrative fine in the amount of $1,000 per day that the violation continues.

D. Violations of this Division are matters of public record.

E. Provisions of this Division need not be enforced if it is determined that the violation was not willful and that enforcement of the violation would not further the purposes of this Division.

F. Retaliation against anyone for good faith reporting a violation or alleged violation of this Division is prohibited.

APPENDIX K

City Council Policies/Procedures Ordinance No. 22-02 Resolution No. 22-21

CITY COUNCIL ORDINANCE NO. 22-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE REVISING DIVISION 15 OF TITLE 1 OF THE IRVINE MUNICIPAL CODE - PUBLIC MEETINGS AND PUBLIC RECORDS AND MAKING MODIFICATIONS TO CHAPTER 2-1 (GENERAL) OF DIVISION 2 OF TITLE 1, CHAPTER 2-3 (RULES OF ORDER) OF DIVISION 2 OF TITLE 1, CHAPTER 4-1 (IN GENERAL) OF DIVISION 4 OF TITLE 1; CHAPTER 4-2 (IN GENERAL), CHAPTER 4-2 (COMMISSIONS), AND CHAPTER 4-3 (COMMITTEES) OF DIVISION 4 OF TITLE 1, DIVISION 13 (FINANCIAL COMMISSION) OF TITLE 2, DIVISION 3 (COMMUNITY SERVICES COMMISSION) OF TITLE 3, DIVISION 3 (PLANNING COMMISSION) OF TITLE 5, AND CHAPTER 9 (TRANSPORTATION COMMISSION) OF DIVISION 3 OF TITLE 6 OF THE IRVINE MUNICIPAL CODE

WHEREAS, the City has a duty to serve the public and to accommodate those who wish to obtain information about or participate in the City's decision-making processes; and

WHEREAS, the City Council, City Commissions, and City Committees exist to conduct the people's business; and

WHEREAS, the City Council recognizes and appreciates the enormous value of direct, active participation by citizens in their government, and of the primary importance of guaranteeing public access to and participation in the operation and development of the community; and

WHEREAS, Government Code section 54953.6 provides "Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in [the Brown Act]. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body"; and

WHEREAS, the City has historically met and exceeded the requirements of California's open meeting law, the Ralph M. Brown Act (Government Code §§ 54950 *et seq.* [Brown Act]), regarding the timelines for posting meeting agendas for special meetings, and generally exceeds the Brown Act requirements for posting meeting agendas for regular meetings; and

WHEREAS, the City Council values and appreciates the input and participation of members of the public in the open meeting process, and believes that providing notice beyond the minimum requirements set forth in the Brown Act makes public participation easier and more meaningful; and

WHEREAS, revisions to the Irvine Municipal Code that will preserve public transparency while also streamlining the conduct of City business in a manner that maintains ample opportunities for participation and accountability in public processes include: (a) providing seven days advanced publication of regular meeting agendas; (b) clarifying that the Rules of Order applicable during City Council meetings apply equally to all City commissions and committees; and (c) clarifying the process for ordering agenda items and providing public comments during City Council meetings.

NOW, THEREFORE, the City Council of the City of Irvine DOES HEREBY ORDAIN as follows:

SECTION 1. The above recitals are true and correct and incorporated herein.

SECTION 2: Division 15 of Title 1 Public Meetings and Public Records is hereby replaced to read in full as follows:

Division 15 of Title 1
PUBLIC MEETINGS AND PUBLIC RECORDS

Sections:

Sec. 15-1-101	**Findings and purpose.**
Sec. 15-1-102	**[Reserved]**
Sec. 15-1-103	**Definitions.**
Sec. 15-1-104	**Meetings to be open and public – Application of Brown Act.**
Sec. 15-1-105	**[Reserved]**
Sec. 15-1-106	**Conduct of business – Time and place for meetings.**
Sec. 15-1-107	**Notice and agenda requirements – Special meetings.**
Sec. 15-1-108	**Notice and agenda requirements – Regular meetings.**
Sec. 15-1-109	**Conduct at meetings.**
Sec. 15-1-110	**Minutes and recordings.**
Sec. 15-1-111	**Responsibility for implementation and administration.**

Sec. 15-1-101 Findings and purpose

The Irvine City Council finds and declares:

A. The City has a duty to serve the public and to accommodate those who wish to obtain information about or participate in the decision-making process. The City, the City Council, City Commissions and City Committees exist to conduct the people's business.

B. The City Council, in prescribing the provisions of this division, hereby states its recognition of the enormous value of direct, active participation by citizens in their government, and of the primary importance of guaranteeing public access to and participation in the operation and development of the community.

C. The provisions of this division shall be interpreted to further the intent of the City Council to assure that the City's deliberations and operations are open to the public. This division is intended to clarify and supplement the Irvine City Charter, the Ralph M. Brown Act, and the California Public Records Act to assure that the people of the City of Irvine can be fully informed and thereby retain control over the instruments of local government in their city.

Sec. 1-15-102. [RESERVED]

Sec. 1-15-103. Definitions.

Words or phrases in this division shall be defined pursuant to the Ralph M. Brown Act, Government Code § 54950 *et seq.* and the Public Records Act, Government Section 6250 *et seq.* unless otherwise specified as follows:

A. *Agenda* means the agenda of a local body which has scheduled a meeting. The agenda shall meet the requirements of Government Code § 54954.2. For closed sessions, the agenda shall meet the requirements set forth in Government Code § 54954.5. The agenda shall contain a brief, general description of each item of business to be transacted or discussed during the meeting and shall avoid the use of abbreviations or acronyms not in common usage and terms whose meaning is not known to the general public. The agenda may refer to explanatory documents, including but not limited to, correspondence or reports, in the agenda related material. A description of an item on the agenda is adequate if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item.

B. *Agenda related materials* means the agenda, all reports, correspondence and any other document prepared and forwarded by staff to any local body, and other documents forwarded to the local body, which provide background information or recommendations concerning the subject matter of any agenda item.

C. *Local body* means the Irvine City Council, and every commission and committee of the City of Irvine that is otherwise subject to the Ralph M. Brown Act, Government Code § 54950 *et seq.* "Local body" shall not mean any congregation or gathering which consists solely of employees of the City of Irvine.

Sec. 1-15-103. Definitions.

Words or phrases in this division shall be defined pursuant to the Ralph M. Brown Act, Government Code § 54950 *et seq.* and the Public Records Act, Government Section 6250 *et seq.* unless otherwise specified as follows:

D. *Agenda* means the agenda of a local body which has scheduled a meeting. The agenda shall meet the requirements of Government Code § 54954.2. For closed sessions, the agenda shall meet the requirements set forth in Government Code § 54954.5. The agenda shall contain a brief, general description of each item of business to be transacted or discussed during the meeting and shall avoid the use of abbreviations or acronyms not in common usage and terms whose meaning is not known to the general public. The agenda may refer to explanatory documents, including but not limited to, correspondence or reports, in the agenda related material. A description of an item on the agenda is adequate if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item.

E. *Agenda related materials* means the agenda, all reports, correspondence and any other document prepared and forwarded by staff to any local body, and other documents forwarded to the local body, which provide background information or recommendations concerning the subject matter of any agenda item.

F. *Local body* means the Irvine City Council, and every commission and committee of the City of Irvine that is otherwise subject to the Ralph M. Brown Act, Government Code § 54950 *et seq.* "Local body" shall not mean any congregation or gathering which consists solely of employees of the City of Irvine.

G. *Meeting* shall have the meaning set forth in Government Code § 54952.2(b)(1).

H. *Notice* means the posting of an agenda in a location that is freely accessible to the public 24 hours a day and as additionally specified in Section 1-15-107 and Section 1-15-108.

I. *On line* means accessible by computer without charge to the user.

J. *Software or hardware impairment* means a circumstance where the City is unable to utilize computer software, hardware and/or network services to produce agendas, agenda related material or to post agendas on-line due to inoperability of software or hardware caused by the introduction of a malicious program (including but not limited to a computer virus), electrical outage affecting the City's computer network, or unanticipated system or equipment failure. "Software or hardware impairment" may also include situations when the City is unable to access the internet due to required or necessary maintenance or the installation of system upgrades that necessitates de-activating the system network; however, the City shall make reasonable efforts to avoid a delay in the preparation, distribution, or posting of agendas and agenda related material as a result of required or necessary maintenance or installation of system upgrades.

Sec. 1-15-104. Meetings to be open and public—Application of Brown Act.

All meetings of local bodies specified in Section 1-15-103(C) shall be open and public, to the same extent as if that body were governed by the provisions of the Ralph M. Brown Act (Government Code § 54950 et seq.) unless greater public access is required by this division, in which case this division shall be applicable.

Sec. 1-15-105. [RESERVED]

Sec. 1-15-106. Conduct of business—Time and place for meetings.

A. Every local body, or the authority creating each local body, shall establish by formal action the time and place for holding regular meetings and shall conduct such regular meetings in accordance with such formal action.

B. Except as otherwise authorized by the Ralph M. Brown Act (Government Code § 54950 *et seq.*), regular and special meetings of local bodies shall be held within the City of Irvine.

Sec. 1-15-106. Conduct of business—Time and place for meetings.

A. Every local body, or the authority creating each local body, shall establish by formal action the time and place for holding regular meetings and shall conduct such regular meetings in accordance with such formal action.

B. Except as otherwise authorized by the Ralph M. Brown Act (Government Code § 54950 *et seq.*), regular and special meetings of local bodies shall be held within the City of Irvine.

C. If, because of fire, flood, earthquake, or other emergency, it would be unsafe to meet in the customary location, the meetings may be held for the duration of the emergency at some other place specified by the City Manager or his or her designee. The change of meeting site shall be announced, by the most rapid means of communication available at the time, in a notice to media organizations who have requested written notice of meetings.

Sec. 1-15-107. Notice and agenda requirements—Regular meetings.

A. *Seven-day advance notice requirement.* Local bodies shall provide notice no later than seven (7) days before the date of each of their respective regular meetings by:

1. Posting a copy or image of the agenda in no fewer than four (4) locations freely accessible to the public twenty-four (24) hours per day;

2. Making a copy or image of the agenda available in the City Clerk's office and at the Irvine Police Department during regular business hours; and

3. Posting a copy or image of the agenda on-line on the City's website; provided, however, the failure to timely post a copy or image of the agenda online because of software or hardware impairment shall not constitute a defect in the notice for a regular meeting, if the local body complies with all other posting and noticing requirements.

C. *Agenda Modifications Prior to Brown Act Deadline.* Notwithstanding the notice provisions of Section 1-15-107(A), agendas for the local bodies may be amended or supplemented up to seventy-two (72) hours before a regular meeting to add an item that requires or would materially benefit from action prior to the next regularly-scheduled meeting of the local body, to add an item at the request of the Mayor or members of the City Council in a manner consistent with an adopted City Council policy and/or procedure, to continue an agendized item to a future regular meeting of the local body, or to remove any item from a posted agenda.

D. *Action on items not appearing on the agenda.* Except as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.

E. *Future meeting.* Nothing in this section shall prohibit the local body from taking action to schedule items for a future meeting to which regular or special meeting notice requirements will apply.

F. *Conforming documents and errata.* Nothing in this section shall prohibit the City Attorney from conforming a document to comply with technical requirements as to form and legality, nor shall this section prohibit the distribution of an errata prepared by City staff to make corrections or clarifications to, or to provide supplemental information for, published agenda materials.

G. *Submittal of additional documents.* The City Manager, City Attorney, City Clerk and their designees, in their capacities with the City, shall diligently attempt to submit public agenda related materials to the City Clerk or other responsible department in sufficient time to meet the deadlines of this section and Section 1-15-108. However, the referenced officers may submit additional documents to the local body, and that body may accept the documents if such information are relevant to the local body's decision making process. Documents submitted by outside parties may be distributed to and accepted by the local body at any time prior to or during the subject meeting. Documents submitted by outside parties prior to the meeting shall be made available to the public at the subject meeting. Documents submitted by outside parties at the meeting shall be made available to the public the following business day. Nothing in this section or in any other provision of this division shall be interpreted to require that the City Manager, City Attorney or City Clerk submit to the City Clerk any documents that are not public records.

Sec. 1-15-108. Notice and agenda requirements—Special meetings.

A. Special meetings of the local body may be called at any time by the presiding officer thereof or by a majority of the members thereof in accordance with the Ralph M. Brown Act (Government Code § 54950 *et seq.*).

Sec. 1-15-109. Conduct at meetings.

A. The Rules of Order of the City Council, as provided in Chapter 3 of Division 2 of this title, and the City Council Policies and Procedures for agendas and meetings, any amendments thereto, shall govern all proceedings of local bodies and are hereby incorporated into this division; provided, however. that references to the "Mayor" shall refer to the presiding officer of each local body, and references to "City Council" and/or "Council" shall refer to the local body.

B. No local body shall abridge or prohibit public criticism of the policies, procedures, programs or services of the local body or agency, or of any other aspect of its proposals or activities, or of the acts or omissions of the local body, even if the criticism implicates the performance of one or more public employees. Nothing in this subsection shall change the operation of law in the area of defamation.

Sec. 1-15-110. Minutes and recordings.

A. The City Council shall make a visual and audio recording of every open meeting. All other local bodies shall make an audio recording of every open meeting. Any recording of any open meeting shall be a public record subject to inspection and copying and shall not be erased, deleted or destroyed for at least five (5) years, provided that if during that five-year period a written request for inspection or copying of any recording is made, the recording shall not be erased, deleted or destroyed until the requested inspection or copying has been accomplished. A copy of any such recording shall be provided, free of charge, upon request.

B. All local bodies shall record the minutes for each regular and special meeting convened under the provisions of this division. The minutes of the City Council shall be kept by the clerk of the local body with a record of each particular type of business transacted set off in paragraphs, with proper subheadings; provided that the clerk of the local body shall be required to make a record only of such business as was actually passed by a vote of the local body, and shall not be required to record any remarks of a member of the local body, or of any other person, except at the special request of a member of the local body (per Section 1-2-311(E)); provided, further, that a record shall be made of the names of persons addressing the local body, the title of the subject matter to which the remarks related, and whether they spoke in support of or in opposition to such matter.

Sec. 1-15-111. Responsibility for administration.

A. The City Manager shall administer and coordinate the implementation of the provisions of this division for all local bodies, agencies and departments under his or her authority, responsibility or control.

B. The City Clerk or other responsible department shall timely post all agendas and shall make available for immediate public inspection and copying all agendas and agenda-related material filed with it.

Sec. 1-15-111. Precedence.

In the event of any inconsistency between this Division and any bylaws or procedures of any City Commission or committee, this Division shall control.

SECTION 3. Division 2 of Title 1 City Council is amended as follows and shall in all other respects remain in full force and effect:

CHAPTER 2-1

GENERAL

Sec. 1-2-102. Special Meetings.

Special meetings may be called by the Mayor or a majority of the members of the City Council pursuant to the notice and agenda requirements for special meetings set forth in Division 15 of this Title, and Government Code § 54956. Only matters contained in such notice may be considered and only urgency ordinances may be adopted. No regular ordinances or orders for payment of money shall be considered at such special meetings.

Sec. 1-2-103. Public meetings.

All meetings of the City Council shall be open to the public and comply with the Ralph M. Brown Act (Government Code § 54950 *et seq.*) and with Division 15 of this Title 1 except "closed session" matters, as provided by law. Such closed sessions may be held only during the course of a duly called meeting.

CHAPTER 2-3

RULES OF ORDER

Sec. 1-2-301. Agenda.

All meetings of the City Council shall be noticed via posting of the agenda in accordance with the notice and agenda requirements set forth in (Division 15 of this Title 1). Except as provided in Section 15-1-107 and/or as otherwise provided in Government Code § 54954.2, no action shall be taken on matters not appearing on the posted agenda.

Sec. 1-2-309. Preparation of minutes.

The minutes of the City Council shall be kept by the City Clerk with a record of each particular type of business transacted set off in paragraphs, with proper subheadings; provided that the City Clerk shall be required to make a record only of such business as was actually passed by a vote of the Council, and shall not be required to record any remarks of a member of the Council, or of any other person, except at the special request of a member of the Council (Section 1-2-311(E) is applicable); provided, further, that a record shall be made of the names of persons addressing the Council, the title of the subject matter to which the remarks related, and whether they spoke in support of or in opposition to such matter. Such minutes shall meet the minimum standards set forth in Chapter 2 of Division 2 of this Title, Section 15-1-108(B) (Minutes and Recordings).

Sec. 1-2-313. Addressing the Council.

A. *Securing permission, right to address Council.* Any person desiring to address the City Council shall first secure the permission of the presiding officer so to do; provided, however, that under the following headings of business, unless the presiding officer rules otherwise, any qualified and interested person shall have the right to address the Council upon obtaining recognition by the presiding officer:

1. *Staff reports.* Interested parties or their authorized representatives may address the Council with regard to written communications referred to in the report of the City Manager or any department head.
2. *Public hearings.* Interested persons or their authorized representatives may address the Council in regard to matters then under consideration.
3. *Oral communications.* Taxpayers or residents of the City, or their authorized representatives, may address the Council by oral communication on any matter concerning the City's business, or any matter over which the Council has control

B. *Manner of addressing of Council; time limit, spokesperson for group.* Each person addressing the Council on agendized items and non-agendized items that are within the subject matter jurisdiction of the City shall step up to the microphone in front of the rail and limit his or her comments to the time specified in an adopted City Council policy or procedure. No person, other than a member of the Council, and the person having the floor, shall be permitted to enter into any discussion without the permission of the presiding officer.

Whenever a group of persons wishes to address the Council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and, in case additional matters that have been presented at the time by any other member of said group, to limit the numbers of persons addressing the Council, so as to avoid unnecessary repetition before the Council.

C. *Addressing the Council after close of public hearing.* After a public hearing has been closed and before action is taken by the Council, no person shall address the Council without first securing the permission of the presiding officer so to do.

Sec. 1-2-314. Decorum.

A. *By Council members.* While the Council is in session, the members must preserve order and decorum; and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace of the Council or disturb any member while speaking or refuse to obey the orders of the Council or the presiding officer, except as otherwise herein provided.

B. *By other persons.* The primary purpose of oral communications is to allow citizens the opportunity to formally communicate with the City Council as a whole, for matters that cannot be handled during the regular working hours of the City government. Each person who addresses the City Council shall do so in an orderly manner and shall not make personal, impertinent, slanderous or profane remarks to any member of the City Council, staff or general public. Any person who makes such remarks, or who utters loud, threatening, personal or abusive language, or engages in any other disorderly conduct which disrupts, disturbs or otherwise impedes the orderly conduct of any City Council meeting shall, at the discretion of the presiding officer or a majority of the City Council, be barred from further addressing the City Council at the meeting. If such conduct thereafter continues so as to disrupt the orderly conduct of the public's business, the Mayor shall order the person removed from the City Council chambers. Aggravated cases may be prosecuted on appropriate complaint signed by the Mayor, a member of the City Council or any other authorized City representative. The members of Council may, pursuant to Government Code § 54957.9, order the meeting room cleared and continue with the session when the orderly conduct of the meeting becomes unfeasible and order cannot be restored.

SECTION 4. Division 4 of Title 1 Commissions and Committees is amended as follows and shall in all other respects remain in full force and effect:

CHAPTER 4-1

IN GENERAL

Sec. 1-4-104. Application of State law and Irvine Municipal Code Enhancements to State Law.

All commissions and committees shall be subject to those sections of the California Government Code known as the "Ralph M. Brown Act" (Government Code § 54950 *et seq.*), and shall conduct their business in conformity therewith. All local bodies as defined in Section 15-1-103(C) shall comply with the additional requirements of Division 15 of Title 1, and shall conduct their business in conformity therewith.

CHAPTER 4-2

COMMISSIONS

Sec. 1-4-207. Meetings.

The commission shall meet at such times as may be established by the City Council. All meetings shall be opened to the public and shall conform to the provisions of the "Ralph M. Brown Act" (Government Code § 54950 *et seq.*) and to the extent such commission constitutes a local body under Section 15-1-103(C), it shall comply with the additional requirements of the Division 15 of Title 1. Special meetings may be called by the chair of the commission or upon the written request of at least a majority of its members.

Sec. 1-4-208. Procedures.

A. Unless otherwise specifically provided by law or elsewhere in the Code, including the provisions of Division 15 of Title 1, Robert's Rules of Order, Newly Revised, shall govern the general conduct of meetings of commissions. The adoption of Robert's Rules of Order is for the purpose of establishing a procedural framework for the conduct of meetings only. Any failure to adhere thereto shall in no way affect the validity of any action taken by the commission.

B. It shall be the duty of each commissioner to take an active part in the commission's deliberation and to act in whatever capacity the commissioner may be called. Absence from three consecutive meetings without the formal consent of the commission shall be deemed to constitute the retirement of the commissioner, and the position shall automatically become vacant.

CHAPTER 4-3

COMMITTEES

Sec. 1-4-302. Structure.

The structure, composition, number of members, manner of their appointment or selection, and other matters necessary to the creation and operation of each committee shall be determined in each case by the authority which establishes such committee, subject, however, to compliance with this division and Division 15 of Title 1

SECTION 5. Division 13 of Title 2 Finance Commission is amended as follows and shall in all other respects remain in full force and effect:

Sec. 2-13-108. Meetings and procedures.

A. The Finance Commission shall meet regularly at least once each month, at a time and place to be fixed by the City Council, and shall hold such other meetings as from time-to-time shall be called in the manner and form required by law, including the provisions of Division 15 of Title 1.

B. The meetings and procedures of the Finance Commission shall be subject to and governed by the resolutions and ordinances of the City Council establishing rules and regulations for commissions and committees.

SECTION 6. Division 3 of Title 3 Community Services Commission is amended as follows and shall in all other respects remain in full force and effect:

Sec. 3-3-109. Meetings and procedures.

A. The Community Services Commission shall meet regularly at least once each month, on a day to be fixed by the City Council, and shall hold such other meetings as from time-to-time shall be called in the manner and form required by law, including the provisions of Division 15 of Title 1.

B. The meetings and procedures of the Community Services Commission shall be subject to and governed by the rules and regulations for commissions and committees set forth in Chapter 2 of Division 4 of Title 1 of the Code.

SECTION 7. Division 3 of Title 5 Commission (Planning) is amended as follows and shall in all other respects remain in full force and effect:

Sec. 5-3-107. Meetings and procedures.

A. The Planning Commission shall meet regularly at least once each month, on a day and place to be fixed by the City Council, and shall hold such other meetings as from time-to-time shall be called in the manner and form required by law, including the provisions of Division 15 of Title 1.

B. The meetings of the Planning Commission shall be subject to and governed by the rules and regulations for commissions and committees set forth in Chapter 2 of Division 4 of Title 1 of the Code.

SECTION 8. Chapter 9 of Division 3 of Title 6 (Transportation Commission) is amended as follows and shall in all other respects remain in full force and effect:

Sec. 6-3-906. Meetings and procedures.

A. The Transportation Commission shall meet regularly twice per month, on a day and place to be fixed by the City Council, and shall hold such other meetings as from time-to-time as called in the manner and form required by law, including the provisions of Division 15 of Title 1.

B. The meetings and procedures of the Transportation Commission shall be subject to and governed by the rules and regulations for commissions and committees set forth in Chapter 2 of Division 4 of Title 1 of the Code, as well as any bylaws which are approved by the City Council.

SECTION 9. CEQA Determination. In adopting this Ordinance, the City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations Sections 15061(b)(3) and 15378, in that it can be seen with certainty that the Municipal Code amendments propose no activity that may have a significant effect on the environment and will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

SECTION 10: This Ordinance shall become effective thirty (30) days after adoption.

SECTION 11: If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

SECTION 12. The City Clerk shall certify to the passage of this Ordinance and this Ordinance shall be published as required by law and shall take effect as provided by law.

PASSED, APPROVED, and ADOPTED by the City Council of the City of Irvine, California, on the 12th day of April, 2022.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing ordinance was introduced for first reading on the 22nd day of March 2022, and duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 12th day of April, 2022.

AYES:	4	COUNCILMEMBERS:	Carroll, Kim, Kuo, and Khan
NOES:	1	COUNCILMEMBERS:	Agran
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

CITY CLERK OF THE CITY OF IRVINE

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that on the 12th day of April, 2022, I caused to have published and posted a foregoing true and correct copy of Ordinance No. 22-02 of the City of Irvine in the following public places in the City:

1) Bulletin Board in Walnut Village Shopping Center, Culver and Walnut, Irvine.

2) Bulletin Board in University Park Shopping Center, Culver at Michelson, Irvine.

3) Bulletin Board in Northwood Shopping Center, Irvine Boulevard at Yale, Irvine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City Council of the City of Irvine, California, the 12th day of April, 2022.

CITY CLERK OF THE CITY OF IRVINE

CITY COUNCIL RESOLUTION NO. 22-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, UPDATING POLICIES AND PROCEDURES FOR MEETINGS AND AGENDAS AND REPLACING AND SUPERSEDING CITY COUNCIL RESOLUTIONS 87-05 AND 05-09, AND REPLACING AND SUPERSEDING CITY COUNCIL MINUTE ORDERS FROM APRIL 8, 1975, JANUARY 10, 1995, FEBRUARY 14, 2006, AND DECEMBER 8, 2020

WHEREAS, the City Council of the City of Irvine selected a subcommittee of councilmembers to review the existing City Council policies and procedures relating to meeting agendas, and relating to the conduct of meetings; and

WHEREAS, the City Council subcommittee reviewed policies and procedures used by other agencies and, based on their experiences in Irvine, made recommendations for adjustments and modifications to existing City Council policies and procedures; and

WHEREAS, in evaluating potential changes to City Council policies and procedures, careful consideration has been given to balancing the City Council's ability to conduct its agendized business with the ability of members of the public to meaningfully participate in, and provide input on, matters within the subject matter jurisdiction of the City Council; and

WHEREAS, further consideration has been given to the uniform application of meeting and agenda procedures to all City commissions and committees, in addition to the City Council.

NOW, THEREFORE, BE IT RESOLVED, ORDERED, DECLARED, AND DETERMINED by the City Council of the City of Irvine, California as follows:

SECTION 1. The above recitals are true and correct and incorporated herein.

SECTION 2. The City Council hereby adopts the City Council Policy / Procedure for agendas and meetings, attached hereto as Exhibit A, which shall supersede and replace the previously-adopted City Council Policy / Procedure for agendas and the previously-adopted City Council Policy / Procedure for meetings.

SECTION 3. As required by Irvine Municipal Code section 1-2-302, the City Council hereby specifies the following order of business:

1. Call to Order
2. Roll Call
3. Study Sessions/Workshops/Scoping Sessions
4. Closed Sessions
5. Pledge of Allegiance
6. Invocation
7. Presentations
8. Public Comments – Agendized Items*
9. Public Comments –Non-Agendized Items, other than Public Hearings*
10. City Manager's Report
11. Announcements, Committee Reports, Council Reports
12. Additions and Deletions**
13. Consent Calendar
14. Public Hearings (Includes Public Comments on Public Hearing Items)
15. Council Business
16. Adjournment

*Public comments will be heard no sooner than 5:00 p.m.
**Additions to the agenda are limited by California Government Code Section 54954.2 (of the Brown Act).

SECTION 4. To the extent they conflict with the City Council Policy / Procedure for agendas and meetings as set forth in Exhibit A and/or with the order of business set forth in Section 3 of this Resolution, Resolutions 87-05 and 05-09 are hereby superseded.

SECTION 5. To the extent they conflict with the City Council Policy / Procedure for agendas and meetings as set forth in Exhibit A, minute orders issued by the City Council on April 8, 1975 (seating arrangements), January 10, 1995 (electronic voting lights), February 14, 2006 (distribution of motions), and December 8, 2020 (council-initiated agenda items) are hereby superseded.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the 22nd day of March, 2022.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, CARL PETERSEN, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the City Council of the City of Irvine, held on the 22nd day of March, 2022.

AYES:	4	COUNCILMEMBERS:	Carroll, Kim, Kuo and Khan
NOES:	1	COUNCILMEMBERS:	Agran
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

CITY CLERK OF THE CITY OF IRVINE

City Council Policy / Procedure

Agendas and Meetings

Reference: Municipal Code: Div. 2
Municipal Code Div. 15
Resolution 22-21

In addition to procedures set forth in the Ralph M. Brown Act (Government Code § 54950 *et seq.*) and Divisions 2 and 15 of Title 1 of the Irvine Municipal Code, the following policies and procedures have been adopted by, and shall be followed by, the City Council and City commissions and committees with regard to agenda preparation and the conduct of public meetings.

1. **Agendas**

   a. ***Agenda Posting and Descriptions***: The City Manager shall cause an agenda to be posted in accordance with the Irvine Municipal Code and the Ralph M. Brown Act (Government Code § 54950 *et seq.*). The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting together with the time and location of the meeting. The description shall be sufficient to apprise interested persons of the subject matter of the discussion or the business to be conducted.

   b. ***Councilmember-Initiated Agenda Items***: Councilmembers wishing to place items on City Council Agendas shall adhere to the following.

      i. All Councilmember-initiated items must either be (*i*) sponsored by the Mayor, or (*ii*) jointly sponsored by two Councilmembers.
      ii. Councilmember-initiated agenda requests shall be presented in a memorandum to the City Manager, with a copy to the Mayor and City Council, no later than noon, seven days prior to the next scheduled City Council meeting.

   c. ***Order of Business***: The order of business at City Council meetings has been established pursuant to City Council Resolution No. 22-21, as follows:

      i. Call to Order
      ii. Roll Call
      iii. Study Sessions/Workshops/Scoping Sessions
      iv. Closed Sessions

v. Pledge of Allegiance
vi. Invocation
vii. Presentations
viii. Public Comments – Agendized Items*
ix. Public Comments –Non-Agendized Items, other than Public Hearings*
x. City Manager's Report
xi. Announcements, Committee Reports, Council Reports
xii. Additions and Deletions**
xiii. Consent Calendar
xiv. Public Hearings (Includes Public Comments on Public Hearing Items)
xv. Council Business
xvi. Adjournment

**Public comments will be heard no sooner than 5:00 p.m.
*Additions to the agenda are limited by California Government Code Section 54954.2 (of the Brown Act).

d. ***Public Comments***

i. ***Public Comments – All Agenda Items, Except Public Hearings***: Each meeting agenda shall include a single item providing for members of the public to address the City Council on all agendized items other than public hearings. If 20 or fewer comment requests are submitted, each speaker shall be limited to three minutes per requested item. If between 21 and 30 comment requests are submitted, each speaker shall be limited to two minutes per requested item. If more than 30 comment requests are submitted, each speaker shall be limited to 90 seconds per item. The time limit per speaker shall be established based on the number of comment requests submitted to the City Clerk before the first speaker is called. Comment requests submitted after the first speaker is called shall receive 90 seconds per item. These time limits may be shortened or extended, or a cumulative limit on the time for all public speakers may be imposed, at the discretion of the Mayor or by a majority vote of the City Council.

ii. ***Public Comments –Non-Agenda Items***: Each meeting agenda shall include a single item providing for members of the public to address the City Council on items of interest to the public and within the subject matter jurisdiction of the City Council, but that are not otherwise on the agenda. If 20 or fewer comment requests are submitted, each speaker shall be limited to three minutes. If between 21 and 30 comment requests are submitted, each speaker shall be limited to two minutes. If more than 30 comment requests are submitted, each speaker shall be limited to 90 seconds. The time limit per speaker shall be established based on the number of comment requests submitted to the City Clerk before the first speaker is called. Comment requests submitted after the

first speaker is called shall receive 90 seconds. These time limits may be shortened or extended, or a cumulative limit on the time for all public speakers may be imposed, at the discretion of the Mayor or by a majority vote of the City Council.

The City Council shall not discuss items which are raised by the public as a part of the public comment period and not included within the posted agenda.

iii. ***Public Hearing Items***: Public comments on public hearing items shall occur during the public hearing. If 20 or fewer requests to provide public comments are submitted, each speaker shall be limited to three minutes. If between 21 and 30 speakers submit public comments, each speaker shall be limited to two minutes. If more than 30 speakers submit public comments, each speaker shall be limited to 90 seconds. The time limit per speaker shall be established based on the number of requests to speak submitted before the first speaker is called. Requests to speak submitted after the first speaker is called shall receive 90 seconds. These time limits may be shortened or extended, or a cumulative limit on the time for all public speakers may be imposed, at the discretion of the Mayor or by a majority vote of the City Council.

iv. ***Unused Time***: For all categories of public comments, public speakers may not transfer unused time to another public speaker.

v. ***Groupings of Commenters***: For all categories of public comments, whenever a group of persons wishes to address the City Council on the same subject matter, it shall be proper for the presiding officer to request that the group appoint a spokesperson to address the City Council. If the group does not appoint a spokesperson, or if members of the group other than the spokesperson, seek to address the City Council, the presiding officer may limit the numbers of such speakers so as to avoid unnecessary repetition before the City Council.

vi. ***Multi-Media***: For all categories of public comments, when using multi-media presentations, the following rules shall apply: (1) the presentation shall be provided in a time and format specified by the City Clerk and described on posted agendas, (2) multi-media presentations shall not include testimony from another person providing public comments, (3) a single multi-media presentation shall not be divided among multiple multi-media presenters, (4) unless otherwise directed by the Mayor or a majority vote of the City Council, all multi-media public comments shall be taken last in order.

e. ***Announcements, Committee Reports, and Council Reports***: Announcements, Committee Reports, and Council Reports shall be limited to a maximum of 15 minutes, 3 minutes per member of the City Council. In addition, the Mayor shall receive any necessary additional time to deliver announcements of community events and opportunities.

f. ***Consent Agenda***: Items of a routine nature will be considered under the Consent Calendar and will be acted upon as one item. Any member of the City Council shall have the right to remove any item from the Consent Calendar for separate discussion.

g. ***Reordering***: Recognizing the occasional need to rearrange the order of business, it shall be done at the discretion of the Mayor or by a majority vote of the City Council.

h. ***City Council Questions, Comments, and Deliberation***: City Council questions, comments, and deliberations shall be conducted in rounds, with each councilmember receiving an opportunity to speak in each round. Speaking time shall be limited to five minutes per councilmember per round. That time limit may be shortened or extended at the discretion of the Mayor or by a majority vote of the City Council.

2. **Decorum**

Public Safety will assign at least one (1) officer to remain present through all City Council meetings. His/her responsibilities will include: security; maintaining the peace at all times; enforcement of the no smoking regulation; escorting Councilmembers to their vehicles if need be; and general enforcement of any order given by the Chief of Police or City Manager. The officer shall at all times be noticeably visible to the public and City Council.

3. **Seating Arrangements**

The seating arrangement for the City Council shall be determined by the Mayor, unless overturned by a majority vote of the City Council. (Adopted by City Council action on 4-08-75.)

4. **Motions**

Whenever possible, motions of a substantive nature shall be drafted, copied and distributed on the dais at least one (1) hour prior to a City Council meeting at which the motion is to be considered. Councilmembers must be notified by phone or in person that new material awaits them. This distribution and notification notice does not automatically indicate that appropriate time has been given for individual Councilmember's or staff's consideration, but serves to help address last minute information.

5. **Voting**

By City Council action roll call votes shall be taken by the use of electronic voting lights, unless otherwise mandated by law or directed by the Mayor.

6. **Supplemental Information**

Councilmembers who wish to present supplemental information at a City Council meeting, i.e., overheads, visuals, handouts, etc., should provide that information to the City Manager

no less than 4 hours prior to the scheduled City Council meeting to insure adequate time to arrange for the presentation.

7. **Applicability to Commissions and Committees**

These policies and procedures shall apply to all City commissions and committees (to the extent they are otherwise subject to the Brown Act). When applying these policies to City commissions and committees, the word "commissioner" or "committee member" shall be substituted for the word "councilmember" and the word "presiding officer" shall be substituted for the word "mayor." In the event of any inconsistency between these policies and any adopted rule or regulation of a City commission or committee (e.g., bylaws), this policy shall control.

APPENDIX L

A Guide to the Ralph M. Brown Act

Open & Public VI

A GUIDE TO THE RALPH M. BROWN ACT

REVISED JANUARY 2024



LEAGUE OF CALIFORNIA CITIES

Photo credit: Courtesy of the City of West Hollywood. Photo by Jon Viscott.

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Open & Public VI

A GUIDE TO THE RALPH M. BROWN ACT

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IT IS THE PEOPLE'S BUSINESS

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Chapter 1

IT IS THE PEOPLE'S BUSINESS



The right of access

Two key parts of the Brown Act have not changed since its adoption in 1953. One is the act's initial section, declaring the Legislature's intent:

"In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

"The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."[1]

The people reconfirmed that intent 50 years later in the November 2004 election by adopting Proposition 59, amending the California Constitution to include a public right of access to government information:

> *"The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny."*[2]

The Brown Act's other unchanged provision is a single sentence:

> *"All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter."*[3]

That one sentence is by far the most important of the entire Brown Act. If the opening is the soul, that sentence is the heart of the Brown Act.

PRACTICE TIP: The key to the Brown Act is a single sentence. In summary, all meetings shall be **open and public** except when the Brown Act authorizes otherwise.

Broad coverage

The Brown Act covers members of virtually every type of local government body, elected or appointed, decision-making or advisory. Some types of private organizations are covered, as are newly elected members of a legislative body, even before they take office.

Similarly, meetings subject to the Brown Act are not limited to face-to-face gatherings. They also include any communication medium or device through which a majority of a legislative body discusses, deliberates, or takes action on an item of business outside of a noticed meeting. They include meetings held from remote locations by teleconference or videoconference.

New communication technologies present new Brown Act challenges. For example, common email practices of forwarding or replying to messages can easily lead to a serial meeting prohibited by the Brown Act, as can participation by members of a legislative body in an internet chatroom or blog dialogue. Social Media posts, comments, and "likes" can result in a Brown Act violation. Communicating during meetings using electronic technology (such as laptop computers, tablets, or smart phones) may create the perception that private communications are influencing the outcome of decisions, and some state legislatures have banned the practice. On the other hand, widespread video streaming and videoconferencing of meetings has greatly expanded public access to the decision-making process.

Narrow exemptions

The express purpose of the Brown Act is to ensure that local government agencies conduct the public's business openly and publicly. Courts and the California Attorney General usually broadly construe the Brown Act in favor of greater public access and narrowly construe exemptions to its general rules.[4]

Generally, public officials should think of themselves as living in glass houses, and that they may only draw the curtains when it is in the public interest to preserve confidentiality. Closed sessions may be held only as specifically authorized by the provisions of the Brown Act itself.

The Brown Act, however, is limited to meetings among a majority of the members of multimember government bodies when the subject relates to local agency business. It does not apply to independent conduct of individual decision-makers. It does not apply to social, ceremonial, educational, and other gatherings as long as a majority of the members of a body do not discuss issues related to their local agency's business. Meetings of temporary advisory committees — as distinguished from standing committees — made up solely of less than a quorum of a legislative body are not subject to the Brown Act.

The law does not apply to local agency staff or employees, but they may facilitate a violation by acting as a conduit for discussion, deliberation, or action by the legislative body. [5]

The law, on the one hand, recognizes the need of individual local officials to meet and discuss matters with their constituents and staff. On the other hand, it requires — with certain specific exceptions to protect the community and preserve individual rights — that the decision-making process be public. Sometimes the boundary between the two is not easy to draw.

PRACTICE TIP: Think of the government's house as being made of glass. The curtains may be drawn only to further the public's interest. A local policy on the use of laptop computers, tablets, and smart phones during Brown Act meetings may help avoid problems.

Public participation in meetings

In addition to requiring the public's business to be conducted in open, noticed meetings, the Brown Act also extends to the public the right to participate in meetings. Individuals, lobbyists, and members of the news media possess the right to attend, record, broadcast, and participate in public meetings. The public's participation is further enhanced by the Brown Act's requirement that a meaningful agenda be posted in advance of meetings, by limiting discussion and action to matters listed on the agenda, and by requiring that meeting materials be made available.

Legislative bodies may, however, adopt reasonable regulations on public testimony and the conduct of public meetings, including measures to address disruptive conduct and limits on the time allotted to each speaker. For more information, see chapter 4.

Controversy

Not surprisingly, the Brown Act has been a source of confusion and controversy since its inception. News media and government watchdogs often argue the law is toothless, pointing out that there has never been a single criminal conviction for a violation. They often suspect that closed sessions are being misused.

Some public officials complain that the Brown Act makes it difficult to respond to constituents and requires public discussions of items better discussed privately, such as why a particular person should not be appointed to a board or commission. Many elected officials find the Brown Act inconsistent with their private business experiences. Closed meetings can be more efficient; they eliminate grandstanding and promote candor. The techniques that serve well in business — the working lunch, the sharing of information through a series of phone calls or emails, the backroom conversations and compromises — are often not possible under the Brown Act.

As a matter of public policy, California (along with many other states) has concluded that there is more to be gained than lost by conducting public business in the open. Government behind closed doors may well be efficient and businesslike, but it may be perceived as unresponsive and untrustworthy.

PRACTICE TIP: Transparency is a foundational value for ethical government practices. The Brown Act is a floor, not a ceiling, for conduct.

Beyond the law — good business practices

Violations of the Brown Act can lead to invalidation of an agency's action, payment of a challenger's attorney fees, public embarrassment, even criminal prosecution. But the Brown Act is a floor, not a ceiling, for conduct of public officials. This guide is focused not only on the Brown Act as a minimum standard, but also on meeting practices or activities that, legal or not, are likely to create controversy. Problems may crop up, for example, when agenda descriptions are too brief or vague, when an informal get-together takes on the appearance of a meeting, when an agency conducts too much of its business in closed session or discusses matters in closed session that are beyond the authorized scope, or when controversial issues arise that are not on the agenda.



The Brown Act allows a legislative body to adopt practices and requirements for greater access to meetings for itself and its subordinate committees and bodies that are more stringent than the law itself requires.[6] Rather than simply restate the basic requirements of the Brown Act, local open meeting policies should strive to anticipate and prevent problems in areas where the Brown Act does not provide full guidance. As with the adoption of any other significant policy, public comment should be solicited.

A local policy could build on these basic Brown Act goals:

- A legislative body's need to get its business done smoothly.
- The public's right to participate meaningfully in meetings, and to review documents used in decision-making at a relevant point in time.

- A local agency's right to confidentially address certain negotiations, personnel matters, claims, and litigation.
- The right of the press to fully understand and communicate public agency decision-making.

A detailed and comprehensive public meeting and information policy, especially if reviewed periodically, can be an important element in maintaining or improving public relations. Such a policy exceeds the absolute requirements of the law — but if the law were enough, this guide would be unnecessary. A narrow legalistic approach will not avoid or resolve potential controversies. An agency should consider going beyond the law and look at its unique circumstances to determine if there is a better way to prevent potential problems and promote public trust. At the very least, local agencies need to think about how their agendas are structured in order to make Brown Act compliance easier. They need to plan carefully to make sure public participation fits smoothly into the process.

PRACTICE TIP: The Brown Act should be viewed as a tool to facilitate the business of local government agencies. Local policies that go beyond the minimum requirements of law may help instill public confidence and avoid problems.

Achieving balance

The Brown Act should be neither an excuse for hiding the ball nor a mechanism for hindering efficient and orderly meetings. The Brown Act represents a balance among the interests of constituencies whose interests do not always coincide. It calls for openness in local government, yet should allow government to function responsively and productively.

There must be both adequate notice of what discussion and action are to occur during a meeting as well as a normal degree of spontaneity in the dialogue between elected officials and their constituents.

The ability of an elected official to confer with constituents or colleagues must be balanced against the important public policy prohibiting decision-making outside of public meetings.

In the end, implementation of the Brown Act must ensure full participation of the public and preserve the integrity of the decision-making process, yet not stifle government officials and impede the effective and natural operation of government.

Historical note

In late 1951, *San Francisco Chronicle* reporter Mike Harris spent six weeks looking into the way local agencies conducted meetings. State law had long required that business be done in public, but Harris discovered secret meetings or caucuses were common. He wrote a 10-part series titled "Your Secret Government" that ran in May and June 1952.

Out of the series came a decision to push for a new state open-meeting law. Harris and Richard (Bud) Carpenter, legal counsel for the League of California Cities, drafted such a bill and Assembly Member Ralph M. Brown agreed to carry it. The Legislature passed the bill, and Governor Earl Warren signed it into law in 1953.

The Ralph M. Brown Act, known as the Brown Act, has evolved under a series of amendments and court decisions, and has been the model for other open-meeting laws, such as the Bagley-Keene Act, enacted in 1967 to cover state agencies.

Assembly Member Brown is best known for the open-meeting law that carries his name. He was elected to the Assembly in 1942 and served 19 years, including the last three years as Speaker. He then became an appellate court justice.

Updates to this publication responding to changes in the Brown Act or new court interpretations are available at **https://www.calcities.org/home/resources/open-government2**. A current version of the Brown Act may be found at **https://leginfor.legislature.ca.gov**.

ENDNOTES

1 Cal. Gov. Code, § 54950.

2 Cal. Const., Art. 1, § 3, subd. (b)(1).

3 Cal. Gov. Code, § 54953, subd. (a).

4 This principle of broad construction when it furthers public access and narrow construction if a provision limits public access is also stated in the amendment to the State's Constitution adopted by Proposition 59 in 2004. California Const., Art. 1, § 3, subd. (b)(2).

5 Cal. Gov. Code, § 54952.2, subds. (b)(2) and (c)(1); Wolfe v. City of Fremont (2006) 144 Cal.App.4th 533.

6 Cal. Gov. Code, § 54953.7.



Chapter 2

LEGISLATIVE BODIES

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Chapter 2

LEGISLATIVE BODIES

The Brown Act applies to the legislative bodies of local agencies. It defines "legislative body" broadly to include just about every type of decision-making body of a local agency.[1]



What is a "legislative body" of a local agency?

A "legislative body" includes the following:

- The **"governing body** of a local agency" and certain of its subsidiary bodies; "or any other local body created by state or federal statute."[2] This includes city councils, boards of supervisors, school boards, and boards of trustees of special districts. A "local agency" is any city, county, city and county, school district, municipal corporation, successor agency to a redevelopment agency, district, political subdivision, or other local public agency.[3] A housing authority is a local agency under the Brown Act even though it is created by and is an agent of the state.[4] The California Attorney General has opined that air pollution control districts and regional open space districts are also covered.[5] Entities created pursuant to joint powers agreements are also local agencies within the meaning of the Brown Act.[6]
- **Newly elected members** of a legislative body who have not yet assumed office must conform to the requirements of the Brown Act as if already in office.[7] Thus, meetings between incumbents and newly elected members of a legislative body, such as a meeting between two outgoing members and a member-elect of a five-member body, could violate the Brown Act.

PRACTICE TIP: The prudent presumption is that an advisory committee or task force is subject to the Brown Act. Even if one clearly is not, it may want to comply with the Brown Act. Public meetings may reduce the possibility of misunderstandings and controversy.

Q. On the morning following the election to a five-member legislative body of a local agency, two successful candidates, neither an incumbent, meet with an incumbent member of the legislative body for a celebratory breakfast. Does this violate the Brown Act?

A. *It might, and absolutely would if the conversation turns to agency business. Even though the candidates-elect have not officially been sworn in, the Brown Act applies. If purely a social event, there is no violation, but it would be preferable if others were invited to attend to avoid the appearance of impropriety.*

- **Appointed bodies** — whether permanent or temporary, decision-making or advisory — including planning commissions, civil service commissions, and other subsidiary committees, boards, and bodies. Volunteer groups, executive search committees, task forces, and blue ribbon committees created by formal action of the governing body are legislative bodies. When the members of two or more legislative bodies are appointed to serve on an entirely separate advisory group, the resulting body may be subject to the Brown Act. In one reported case, a city council created a committee of two members of the city council and two members of the city planning commission to review qualifications of prospective planning commissioners and make recommendations to the council. The court held that their joint mission made them a legislative body subject to the Brown Act. Had the two committees remained separate and met only to exchange information and report back to their respective boards, they would have been exempt from the Brown Act.[8]
- **Standing committees** of a legislative body, irrespective of their composition, which have either (1) a continuing subject matter jurisdiction or (2) a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body.[9] Even if it comprises less than a quorum of the governing body, a standing committee is subject to the Brown Act. For example, if a governing body creates committees on budget and finance or on public safety that are not limited in duration or scope, those are standing committees subject to the Brown Act. Further, according to the California Attorney General, function over form controls. For example, a statement by the legislative body that the advisory committee "shall not exercise continuing subject matter jurisdiction" or the fact that the committee does not have a fixed meeting schedule is not determinative.[10] "Formal action" by a legislative body includes authorization given to the agency's executive officer to appoint an advisory committee pursuant to agency-adopted policy.[11] A majority of the members of a legislative body may attend an open and public meeting of a standing committee of that body, provided the members who are not part of the standing committee only observe.[12] For more information, see chapter 3.
- The governing body of any **private organization** either (1) created by the legislative body in order to exercise authority that may lawfully be delegated by such body to a private corporation, limited liability company, or other entity or (2) that receives agency funding and whose governing board includes a member of the legislative body of the local agency appointed by the legislative body as a full voting member of the private entity's governing board.[13] These include some nonprofit corporations created by local agencies.[14] If a local agency contracts with a private firm for a service (for example, payroll, janitorial, or food services), the private firm is not covered by the Brown Act.[15] When a member of a legislative body sits on a board of a private organization as a private person and is not appointed by the legislative body, the board will not be subject to the Brown Act. Similarly, when the legislative body appoints someone other than one of its own members to such boards, the Brown Act does not apply. Nor does it apply when a private organization merely receives agency funding.[16]

PRACTICE TIP: It can be difficult to determine whether a subcommittee of a body falls into the category of a standing committee or an exempt temporary committee. Suppose a committee is created to explore the renewal of a franchise or a topic of similarly limited scope and duration. Is it an exempt temporary committee or a nonexempt standing committee? The answer may depend on factors such as how meeting schedules are determined, the scope of the committee's charge, or whether the committee exists long enough to have "continuing jurisdiction."

Q. The local chamber of commerce is funded in part by the city. The mayor sits on the chamber's board of directors. Is the chamber board a legislative body subject to the Brown Act?

A. *Maybe. If the chamber's governing documents require the mayor to be on the board and the city council appoints the mayor to that position, the board is a legislative body. If, however, the chamber board independently appoints the mayor to its board, or the mayor attends chamber board meetings in a purely advisory capacity, it is not.*

Q. If a community college district board creates an auxiliary organization to operate a campus bookstore or cafeteria, is the board of the organization a legislative body?

A. *Yes. But if the district instead contracts with a private firm to operate the bookstore or cafeteria, the Brown Act would not apply to the private firm.*

- **Certain types of hospital operators.** A lessee of a hospital (or portion of a hospital) first leased under Health and Safety Code subsection 32121(p) after Jan. 1, 1994, which exercises "material authority" delegated to it by a local agency, whether or not such lessee is organized and operated by the agency or by a delegated authority.[17]

What is not a "legislative body" for purposes of the Brown Act?

- A temporary advisory committee composed **solely of less than a quorum** of the legislative body that serves a limited or single purpose, that is not perpetual, and that will be dissolved once its specific task is completed is not subject to the Brown Act.[18] Temporary committees are sometimes called *ad hoc* committees, a term not used in the Brown Act. Examples include an advisory committee composed of less than a quorum created to interview candidates for a vacant position or to meet with representatives of other entities to exchange information on a matter of concern to the agency, such as traffic congestion.[19]
- Groups advisory to a single decision-maker or appointed by staff are not covered. The Brown Act applies only to committees created by formal action of the legislative body and not to committees created by others. A committee advising a superintendent of schools would not be covered by the Brown Act. However, the same committee, if created by formal action of the school board, would be covered.[20]

Q. A member of the legislative body of a local agency informally establishes an advisory committee of five residents to advise her on issues as they arise. Does the Brown Act apply to this committee?

A. *No, because the committee has not been established by formal action of the legislative body.*

Q. During a meeting of the city council, the council directs the city manager to form an advisory committee of residents to develop recommendations for a new ordinance. The city manager forms the committee and appoints its members; the committee is instructed to direct its recommendations to the city manager. Does the Brown Act apply to this committee?

A. *Possibly, because the direction from the city council might be regarded as a formal action of the body, notwithstanding that the city manager controls the committee.*

- Individual decision-makers who are not elected or appointed members of a legislative body are not covered by the Brown Act. For example, a disciplinary hearing presided over by a department head or a meeting of agency department heads is not subject to the Brown Act since such assemblies are not those of a legislative body.[21]
- Public employees, each acting individually and not engaging in collective deliberation on a specific issue, such as the drafting and review of an agreement, do not constitute a legislative body under the Brown Act, even if the drafting and review process was established by a legislative body.[22]
- County central committees of political parties are also not Brown Act bodies.[23]

Legal counsel for a governing body is not a member of the governing body, therefore, the Brown Act does not apply to them. But counsel should take care not to facilitate Brown Act violations by members of the governing body.[24]

ENDNOTES

1 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1127.

2 Cal. Gov. Code, § 54952, subds. (a) and (b).

3 Cal. Gov. Code, § 54951; Cal. Health & Saf. Code, § 34173, subd. (g) (successor agencies to former redevelopment agencies subject to the Brown Act). But see Cal. Ed. Code § 35147, which exempts certain school councils and school site advisory committees from the Brown Act and imposes upon them a separate set of rules.

4 *Torres v. Board of Commissioners of Housing Authority of Tulare County* (1979) 89 Cal.App.3d 545, 549-550.

5 71 Ops.Cal.Atty.Gen. 96 (1988); 73 Ops.Cal.Atty.Gen. 1 (1990).

6 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App.4th 354, 362.

7 Cal. Gov. Code, § 54952.1.

8 *Joiner v. City of Sebastopol* (1981) 125 Cal.App.3d 799, 804-805.

9 Cal. Gov. Code, § 54952, subd. (b)

10 79 Ops.Cal.Atty.Gen. 69 (1996).

11 *Frazer v. Dixon Unified School District* (1993) 18 Cal.App.4th 781, 793.

12 Cal. Gov. Code § 54952, subd. (c)(6).

13 Cal. Gov. Code, § 54952, subd. (c)(1). Regarding private organizations that receive local agency funding, the same rule applies to a full voting member appointed prior to February 9, 1996, who, after that date, is made a nonvoting board member by the legislative body. Cal. Gov. Code § 54952, subd. (c)(2).

14 Cal. Gov. Code, § 54952(c)(1)(A); *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 300; *Epstein v. Hollywood Entertainment Dist. II Business Improvement District* (2001) 87 Cal.App.4th 862, 876; see also 85 Ops.Cal.Atty.Gen. 55 (2002).

15 *International Longshoremen's and Warehousemen's Union v. Los Angeles Export Terminal, Inc.* (1999) 69 Cal.App.4th 287, 300 fn. 5.

16 *"The Brown Act, Open Meetings for Local Legislative Bodies,"* California Attorney General's Office (2003), p. 7.

17 Cal. Gov. Code, § 54952, subd. (d).

18 Cal. Gov. Code, § 54952, subd. (b); see also *Freedom Newspapers, Inc. v. Orange County Employees Retirement System Board of Directors* (1993) 6 Cal.4th 821, 832.

19 *Taxpayers for Livable Communities v. City of Malibu* (2005) 126 Cal.App.4th 1123, 1129.

20 56 Ops.Cal.Atty.Gen. 14, 16-17 (1973).

21 *Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870, 878-879.

22 *Golightly v. Molina* (2014) 229 Cal.App.4th 1501, 1513.

23 59 Ops.Cal.Atty.Gen. 162, 164 (1976).

24 *GFRCO, Inc. v. Superior Court of Riverside County* (2023) 89 Cal.App.5th 1295, 1323; *Stockton Newspapers, Inc. v. Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95, 105 (a series of individual telephone calls between the agency attorney and the members of the body constituted a meeting).



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Chapter 3

MEETINGS



The Brown Act only applies to meetings of local legislative bodies. It defines a meeting as "any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take any action on any item that is within the subject matter jurisdiction of the legislative body."[1] The term *meeting* is not limited to gatherings at which action is taken but includes deliberative gatherings as well. A hearing before an individual hearing officer is not a meeting under the Brown Act because it is not a hearing before a legislative body.[2]

Brown Act meetings

Brown Act meetings include a legislative body's regular meetings, special meetings, emergency meetings, and adjourned meetings.

- **"Regular meetings"** are meetings occurring at the dates, times, and location set by resolution, ordinance, or other formal action by the legislative body and are subject to 72-hour posting requirements.[3]
- **"Special meetings"** are meetings called by the presiding officer or majority of the legislative body to discuss only discrete items on the agenda under the Brown Act's notice requirements for special meetings and are subject to 24-hour posting requirements.[4]
- **"Emergency meetings"** are a limited class of meetings held when prompt action is needed due to actual or threatened disruption of public facilities and are held on little notice.[5]
- **"Adjourned meetings"** are regular or special meetings that have been adjourned or re-adjourned to a time and place specified in the order of adjournment, with no agenda required for regular meetings adjourned for less than five calendar days as long as no additional business is transacted.[6]

Six exceptions to the meeting definition

The Brown Act creates six exceptions to the meeting definition:[7]

Individual contacts

The first exception involves individual contacts between a member of the legislative body and any other person. The Brown Act does not limit a legislative body member acting on their own. This exception recognizes the right to confer with constituents, advocates, consultants, news reporters, local agency staff, or a colleague.

Individual contacts, however, cannot be used to do in stages what would be prohibited in one step. For example, a series of individual contacts that leads to discussion, deliberation, or action among a majority of the members of a legislative body is prohibited. Such serial meetings are discussed below.

Conferences

The second exception allows a legislative body majority to attend a conference or similar gathering open to the public that addresses issues of general interest to the public or to public agencies of the type represented by the legislative body.

Among other things, this exception permits legislative body members to attend annual association conferences of city, county, school, community college, and other local agency officials, as long as those meetings are open to the public. However, a majority of members cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within their local agency's subject matter jurisdiction.

Community meetings

The third exception allows a legislative body majority to attend an open and publicized meeting held by another organization to address a topic of local community concern. A majority cannot discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the legislative body's subject matter jurisdiction. Under this exception, a legislative body majority may attend a local service club meeting or a local candidates' night if the meetings are open to the public.

> **"I see we have four distinguished members of the city council at our meeting tonight," said the chair of the Environmental Action Coalition. "I wonder if they have anything to say about the controversy over enacting a slow growth ordinance?"**
>
> *The Brown Act permits a majority of a legislative body to attend and speak at an open and publicized meeting conducted by another organization. The Brown Act may nevertheless be violated if a majority discusses, deliberates, or takes action on an item during the meeting of the other organization. There is a fine line between what is permitted and what is not; hence, members should exercise caution when participating in these types of events.*

Q. The local chamber of commerce sponsors an open and public candidate debate during an election campaign. Three of the five agency members are up for reelection and all three participate. All of the candidates are asked their views on a controversial project scheduled for a meeting to occur just after the election. May the three incumbents answer the question?

A. *Yes, because the chamber of commerce, not the city, is organizing the debate. The city should not sponsor the event or assign city staff to help organize or run the event. Also, the Brown Act does not constrain the incumbents from expressing their views regarding important matters facing the local agency as part of the political process the same as any other candidates. Finally, incumbents participating in the event should take care to limit their remarks to the program set by the chamber and safeguard due process by indicating they will keep an open mind regarding specific applications that might come before the council.*

Q. May the three incumbents accept an invitation from the editorial board of a local paper to all candidates to meet as a group and answer questions about and/or debate city issues?

A. *No, unlike the chamber of commerce event, this would not be allowed under the Brown Act because it is not an open and publicized meeting.*

Other legislative bodies

The fourth exception allows a majority of a legislative body to attend an open and publicized meeting of (1) another body of the local agency and (2) a legislative body of another local agency.[8] Again, the majority cannot discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within their subject matter jurisdiction. This exception allows, for example, a city council or a majority of a board of supervisors to attend a controversial meeting of the planning commission.

Nothing in the Brown Act prevents the majority of a legislative body from sitting together at such a meeting. They may choose not to, however, to preclude any possibility of improperly discussing local agency business and to avoid the appearance of a Brown Act violation. Further, aside from the Brown Act, there may be other reasons, such as due process considerations, why the members should avoid giving public testimony, trying to influence the outcome of proceedings before a subordinate body, or discussing the merits with interested parties.

Q. The entire legislative body intends to testify against a bill before the Senate Local Government Committee in Sacramento. Must this activity be noticed as a meeting of the body?

A. *No, because the members are attending and participating in an open meeting of another governmental body that the public may attend.*

Q. The members then proceed upstairs to the office of their local assembly member to discuss issues of local interest. Must this session be noticed as a meeting and be open to the public?

A. *Yes, because the entire body may not meet behind closed doors except for proper closed sessions. The same answer applies to a private lunch or dinner with the assembly member.*

Standing committees

The fifth exception authorizes the attendance of a majority at an open and noticed meeting of a standing committee of the legislative body, provided that the legislative body members who are not members of the standing committee attend only as observers (meaning that they cannot speak or otherwise participate in the meeting, and they must sit where members of the public sit).[9]

Q. The legislative body establishes a standing committee of two of its five members that meets monthly. A third member of the legislative body wants to attend these meetings and participate. May she?

A. *She may attend, but only as an observer; she may not participate.*

Q. Can the legislative body establish multiple standing committees with partially overlapping jurisdiction?

A. *Yes. One result of this overlap in jurisdiction may be that three or more of the members of the legislative body ultimately end up discussing an issue as part of a standing committee meeting. This is allowed under the Brown Act provided each standing committee meeting is publicly noticed and no more than two of the five members discuss the issue at any given standing committee meeting.*

Social or ceremonial events

The final exception permits a majority of a legislative body to attend a purely social or ceremonial occasion. Once again, a majority cannot discuss business among themselves of a specific nature that is within the subject matter jurisdiction of the legislative body.

Nothing in the Brown Act prevents a majority of members from attending the same football game, party, wedding, funeral, reception, or farewell. The test is not whether a majority of a legislative body attend the function, but whether business of a specific nature within the subject matter jurisdiction of the body is discussed. As long as no such business is discussed, there is no violation of the Brown Act.

Grand Jury Testimony

In addition, members of a legislative body, either individually or collectively, may give testimony in private before a grand jury.[10] This is the equivalent of a seventh exception to the Brown Act's definition of a "meeting."

Collective briefings

None of these exceptions permits a majority of a legislative body to meet together with staff in advance of a meeting for a collective briefing. Any such briefings that involve a majority of the body in the same place and time must be open to the public and satisfy Brown Act meeting notice and agenda requirements. Staff may provide written briefings (e.g., staff updates, emails from the city manager, confidential memos from the city attorney) to the full legislative body, but apart from privileged memos, the written materials may be subject to disclosure as public records as discussed in chapter 4.



Retreats, trainings, and workshops of legislative bodies

Gatherings by a majority of legislative body members at the legislative body's retreats, study sessions, trainings, or workshops are subject to the requirements of the Brown Act. This is the case whether the gathering focuses on long-range agency planning, discussion of critical local issues, satisfying state-mandated ethics training requirements, or team building and group dynamics.[11]

Q. The legislative body wants to hold a team-building session to improve relations among its members. May such a session be conducted behind closed doors?

A. *No, this is not a proper subject for a closed session, and there is no other basis to exclude the public. Council relations are a matter of public business.*

Serial meetings

One of the most frequently asked questions about the Brown Act involves serial meetings. At any one time, such meetings include only a portion of a legislative body, but eventually they comprise a majority. The Brown Act provides that "[a] majority of the members of a legislative body shall not, outside a meeting … use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body."[12] The problem with serial meetings is the process, which deprives the public of an opportunity for meaningful observation of and participation in legislative body decision-making.



Photo credit: Courtesy of the City of West Hollywood. Photo by Jon Viscott.

The serial meeting may occur by either a "daisy chain" or a "hub and spoke" sequence. In the daisy chain scenario, Member A contacts Member B, Member B contacts Member C, Member C contacts Member D, and so on until a quorum has discussed, deliberated, or taken action on an item within the legislative body's subject matter jurisdiction. The hub and spoke process involves at least two scenarios. In the first scenario, Member A (the hub) sequentially contacts Members B, C, D, and so on (the spokes) until a quorum has been contacted. In the second scenario, a staff member (the hub), functioning as an intermediary for the legislative body or one of its members, communicates with a majority of members (the spokes) one by one for discussion, deliberation, or a decision on a proposed action.[13] Another example of a serial meeting is when a chief executive officer (the hub) briefs a majority of members (the spokes) prior to a formal meeting and, in the process, information about the members' respective views is revealed. Each of these scenarios violates the Brown Act.

A legislative body member has the right, if not the duty, to meet with constituents to address their concerns. That member also has the right to confer with a colleague (but not with a majority of the body, counting the member) or appropriate staff about local agency business. An employee or official of a local agency may engage in separate conversations or communications outside of an open and noticed meeting "with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body."[14]

The Brown Act is violated, however, if several one-on-one meetings or conferences lead to a discussion, deliberation, or action by a majority. In one case, a violation occurred when a quorum

of a city council, by a letter that had been circulated among members outside of a formal meeting, directed staff to take action in an eminent domain proceeding.[15]

A unilateral written communication to the legislative body, such as an informational or advisory memorandum, does not violate the Brown Act.[16] Such a memo, however, may be a public record.[17]

The phone call was from a lobbyist. "Say, I need your vote for that project in the south area. How about it?"

"Well, I don't know," replied Board Member Aletto. "That's kind of a sticky proposition. You sure you need my vote?"

"Well, I've got Bradley and Cohen lined up and another vote leaning. With you, I'd be over the top."

Moments later, the phone rings again. "Hey, I've been hearing some rumbles on that south area project," said the newspaper reporter. "I'm counting noses. How are you voting on it?"

The lobbyist and the reporter are facilitating a violation of the Brown Act. The board member may have violated the Brown Act by hearing about the positions of other board members and indeed coaxing the lobbyist to reveal the other board members' positions by asking, "You sure you need my vote?" The prudent course is to avoid such leading conversations and to caution lobbyists, staff, and news media against revealing such positions of others.

The mayor sat down across from the city manager. "From now on," he declared, "I want you to provide individual briefings on upcoming agenda items. Some of this material is very technical, and the council members don't want to sound like idiots asking about it in public. Besides that, briefings will speed up the meeting."

Agency employees or officials may have separate conversations or communications outside of an open and noticed meeting "with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body."[18] Members should always be vigilant when discussing local agency business with anyone to avoid conversations that could lead to a discussion, deliberation, or action taken among the majority of the legislative body.

"Thanks for the information," said Council Member Kim. "These zoning changes can be tricky, and now I think I'm better equipped to make the right decision."

"Glad to be of assistance," replied the planning director. "I'm sure Council Member Jones is OK with these changes. How are you leaning?"

"Well," said Council Member Kim, "I'm leaning toward approval. I know that two of my colleagues definitely favor approval."

PRACTICE TIP: When briefing legislative body members, staff must exercise care not to disclose other members' views and positions.

The planning director should not disclose Jones' prospective vote, and Kim should not disclose the prospective votes of two colleagues. Under these facts, there likely has been a serial meeting in violation of the Brown Act.

Q. Various social media platforms and websites include forums where agency employees and officials can discuss issues of local agency business. Members of the legislative body participate regularly. Does this scenario present a potential for violation of the Brown Act?

A. *Yes, because it is a technological device that may serve to allow for a majority of members to discuss, deliberate, or take action on matters of agency business.*

Q. A member of a legislative body contacts two other members on a five-member body relative to scheduling a special meeting. Is this an illegal serial meeting?

A. *No, the Brown Act expressly allows a majority of a body to call a special meeting, though the members should avoid discussing the merits of what is to be taken up at the meeting.*

Particular care should be exercised when staff briefings of legislative body members occur by email because of the ease of using the "reply all" option that may inadvertently result in a Brown Act violation. Staff should consider using the "bcc" (blind carbon copy) option when addressing an email to multiple members of the legislative body and remind recipients not to "reply all."

Social media should also be used with care. A member of the legislative body cannot respond directly to any communication on an internet-based social media platform that is made, posted, or shared by any other member of the legislative body. This applies to matters within the subject matter jurisdiction of the legislative body. For example, if one member of a legislative body "likes" a social media post of one other member of the same body, that could violate the Brown Act, depending on the nature of the post.[19]

Finally, electronic communications (such as text messaging) among members of a legislative body during a public meeting should be discouraged. If such communications are sent to a majority of members of the body, either directly or through an intermediary, on a matter on the meeting agenda, that could violate the Brown Act. Electronic communications sent to less than a majority of members of the body during a quasi-judicial proceeding could potentially raise due process concerns, even if not per se prohibited by the Brown Act. Additionally, some legislative bodies have rules governing electronic communications during meetings of the legislative body and how their members should proceed if they receive a communication on an agenda item that is not part of the record or not part of an agenda packet.

Informal gatherings

Members of legislative bodies are often tempted to mix business with pleasure — for example, by holding a post-meeting gathering. Informal gatherings at which local agency business is discussed or transacted violate the law if they are not conducted in conformance with the Brown Act.[20] A gathering at which a quorum of the legislative body discusses matters within their jurisdiction violates the Brown Act even if that gathering occurs in a public place. The Brown Act is not satisfied by public visibility alone. It also requires public notice and an opportunity to attend, hear, and participate.

Thursday at 11:30 a.m., as they did every week, the board of directors of the Dry Gulch Irrigation District trooped into Pop's Donut Shoppe for an hour of talk and fellowship. They sat at the corner window, fronting on Main and Broadway, to show they had nothing to hide. Whenever he could, the managing editor of the weekly newspaper down the street hurried over to join the board.

A gathering like this would not violate the Brown Act if board members scrupulously avoided talking about irrigation district issues — which might be difficult. This kind of situation should be avoided. The public is unlikely to believe the board members could meet regularly without discussing public business. A newspaper executive's presence does not lessen the potential for a violation of the Brown Act.

Technological conferencing



Photo credit: Courtesy of the City of West Hollywood. Photo by Jon Viscott.

Except for certain non-substantive purposes, such as scheduling a special meeting, a conference call including a majority of the members of a legislative body is an unlawful meeting. But in an effort to keep up with modern technologies, the Brown Act specifically allows a legislative body to use any type of teleconferencing to meet, receive public comment and testimony, deliberate, or conduct a closed session.[21] While the Brown Act contains specific requirements for conducting a teleconference, the decision to use teleconferencing is entirely discretionary with the body. No person has a right under the Brown Act to have a meeting by teleconference.

Teleconference is defined as "a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both."[22] In addition to the specific requirements relating to teleconferencing, the meeting must comply with all provisions of the Brown Act otherwise applicable. The Brown Act contains the following teleconferencing requirements:[23]

- Teleconferencing may be used for all purposes during any meeting.
- At least a quorum of the legislative body must participate from locations within the local agency's jurisdiction.
- Additional teleconference locations may be made available for the public.
- Each teleconference location must be specifically identified in the notice and agenda of the meeting, including a full address and room number, as may be applicable.
- Agendas must be posted at each teleconference location, even if a hotel room or a residence.
- Each teleconference location, including a hotel room or residence, must be accessible to the public and have technology, such as a speakerphone, to enable the public to participate
- The agenda must provide the opportunity for the public to address the legislative body directly at each teleconference location.
- All votes must be by roll call.

Q. A member on vacation wants to participate in a meeting of the legislative body and vote by cellular phone from her car while driving from Washington, D.C., to New York. May she?

A. *She may not participate or vote because she is not in an open, noticed, and posted teleconference location.*

Until Jan. 1, 2026, teleconferencing may also be used on a limited basis where a member indicates their need to participate remotely for "just cause" (e.g., childcare or a contagious illness) or due to "emergency circumstances" (e.g., a physical or family medical emergency). This teleconferencing option has extremely detailed requirements, and careful review is needed. If the City experiences a technical issue that prevents members of the public from viewing the meeting and/or offering comments virtually, then no further action can be taken until the technical issue is resolved.[24]



The use of teleconferencing to conduct a legislative body meeting presents a variety of issues beyond the scope of this guide to discuss in detail. Therefore, before teleconferencing a meeting, legal counsel for the local agency should be consulted.

Location of meetings

The Brown Act generally requires all regular and special meetings of a legislative body, including retreats and workshops, to be held within the boundaries of the territory over which the local agency exercises jurisdiction.[25]

An open and publicized meeting of a legislative body may be held outside of agency boundaries if the purpose of the meeting is one of the following:[26]

- Comply with state or federal law or a court order, or attend a judicial conference or administrative proceeding in which the local agency is a party.
- Inspect real or personal property that cannot be conveniently brought into the local agency's territory, provided the meeting is limited to items relating to that real or personal property.

Q. The agency is considering approving a major retail mall. The developer has built other similar malls and invites the entire legislative body to visit a mall outside the jurisdiction. May the entire body go?

A. *Yes, the Brown Act permits meetings outside the boundaries of the agency for specified reasons and inspection of property is one such reason. The field trip must be treated as a meeting and the public must be allowed to attend.*

- Participate in multiagency meetings or discussions; however, such meetings must be held within the boundaries of one of the participating agencies, and all of those agencies must give proper notice.
- Meet in the closest meeting facility if the local agency has no meeting facility within its boundaries, or meet at its principal office if that office is located outside the territory over which the agency has jurisdiction.

- Meet with elected or appointed federal or California officials when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.
- Meet in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.
- Visit the office of its legal counsel for a closed session on pending litigation when to do so would reduce legal fees or costs.[27]

In addition, the governing board of a school or community college district may hold meetings outside of its boundaries to attend a conference on nonadversarial collective bargaining techniques, interview candidates for school district superintendent, or interview a potential employee from another district.[28] A school board may also interview members of the public residing in another district if the board is considering employing that district's superintendent.

Similarly, meetings of a joint powers authority can occur within the territory of at least one of its member agencies, and a joint powers authority with members throughout the state may meet anywhere in the state.[29]

Finally, if a fire, flood, earthquake, or other emergency makes the usual meeting place unsafe, the presiding officer can designate another meeting place for the duration of the emergency. News media that have requested notice of meetings must be notified of the designation by the most rapid means of communication available.[30] State law has also allowed for virtual meetings under certain emergency situations.[31]

ENDNOTES

1 Cal. Gov. Code, § 54952.2, subd. (a).

2 *Wilson v. San Francisco Municipal Railway* (1973) 29 Cal.App.3d 870.

3 Cal. Gov. Code, § 54954, subd. (a).

4 Cal. Gov. Code, § 54956.

5 Cal. Gov. Code, § 54956.5.

6 Cal. Gov. Code, § 54955.

7 Cal. Gov. Code, § 54952.2, subd. (c).

8 Cal. Gov. Code, § 54952.2, subd. (c)(4).

9 Cal. Gov. Code, § 54952.2, subd. (c)(6). See 81 Ops.Cal.Atty.Gen. 156 (1998).

10 Cal. Gov. Code, § 54953.1.

11 *"The Brown Act,"* California Attorney General (2003), p. 10.

12 Cal. Gov. Code, § 54952.2, subd. (b)(1).

13 *Stockton Newspapers, Inc. v. Redevelopment Agency* of the City of Stockton (1985) 171 Cal.App.3d 95.

14 Cal. Gov. Code, § 54952.2, subd. (b)(2).

15 *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518.

16 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363.

17 Cal. Gov. Code, § 54957.5, subd. (a).

18 Cal. Gov. Code, § 54952.2, subd. (b)(2).

19 Cal. Gov. Code, § 54952.2, subd. (b)(3).

20 Cal. Gov. Code, § 54952.2; 43 Ops.Cal.Atty.Gen. 36 (1964).

21 Cal. Gov. Code, § 54953, subd. (b)(1).

22 Cal. Gov. Code, § 54953, subd. (b)(4).

23 Cal. Gov. Code, § 54953. Until Jan. 1, 2024, the legislative body could use teleconferencing "during a proclaimed state of emergency" by the Governor in specified circumstances, and teleconference locations were exempt from certain requirements, such as identification in and posting of the agenda.

24 Cal Gov. Code, § 54953, subd. (f) (which will become Govt. §54953(e) as of Jan. 1, 2024).

25 Cal. Gov. Code, § 54954, subd. (b).

26 Cal. Gov. Code, § 54954, subd. (b)(1)-(7).

27 94 Ops.Cal.Atty.Gen. 15 (2011).

28 Cal. Gov. Code, § 54954, subd. (c).

29 Cal. Gov. Code, § 54954, subd. (d).

30 Cal. Gov. Code, § 54954, subd. (e).

31 Cal. Gov. Code, § 54953, subd. (e) (exp. January 1, 2026).



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Chapter 4

AGENDAS, NOTICES, AND PUBLIC PARTICIPATION



Effective notice is essential for an open and public meeting. Whether a meeting is open or how the public may participate in that meeting is academic if nobody knows about the meeting.

Agendas for regular meetings

Every regular meeting of a legislative body of a local agency — including advisory committees, commissions, or boards, as well as standing committees of legislative bodies — must be preceded by a posted agenda that advises the public of the meeting and the matters to be transacted or discussed.

The agenda must be posted at least 72 hours before the regular meeting in a location "freely accessible to members of the public."[1] The courts have not definitively interpreted the "freely accessible" requirement. The California Attorney General has interpreted this provision to require posting in a location open and accessible to the public 24 hours a day during the 72-hour period, but any of the 72 hours may fall on a weekend.[2] This provision may be satisfied by posting on a touch screen electronic kiosk accessible without charge to the public 24 hours a day during the 72-hour period.[3] While posting an agenda on an agency's internet website will not, by itself, satisfy the "freely accessible" requirement since there is no universal access to the internet, an agency has a supplemental obligation to post the agenda on its website if (1) the local agency has a website and (2) the legislative body whose meeting is the subject of the agenda is either (a) a governing body or (b) has members that are compensated, with one or more members that are also members of a governing body.[4]

Q. May the meeting of a governing body go forward if its agenda was either inadvertently not posted on the city's website or if the website was not operational during part or all of the 72-hour period preceding the meeting?

A. *At a minimum, the Brown Act calls for "substantial compliance" with all agenda posting requirements, including posting to the agency website.[5] Should website technical difficulties arise, seek a legal opinion from your agency attorney. The California Attorney General has opined that technical difficulties that cause the website agenda to become inaccessible for a portion of the 72 hours preceding a meeting do not automatically or inevitably lead to a Brown Act violation, provided the agency can demonstrate substantial compliance.[6] This inquiry requires a fact-specific examination of whether the agency or its legislative body made "reasonably effective efforts to notify interested persons of a public meeting" through online posting and other available means.[7] The Attorney General's opinion suggests that this examination would include an evaluation of how long a technical problem persisted, the efforts made to correct the problem or otherwise ensure that the public was informed, and the actual effect the problem had on public*

awareness, among other factors.[8] For these reasons, obvious website technical difficulties might not require cancellation of a meeting, provided that the agency meets all other Brown Act posting requirements and the agenda is available on the website once the technical difficulties are resolved.

The agenda must state the meeting time and place and must contain "a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session."[9] For a discussion of descriptions for open and closed-session agenda items, see chapter 5. Special care should be made to describe on the agenda each distinct action to be taken by the legislative body, while an overbroad description of a "project" must be avoided if the "project" is actually a set of distinct actions, in which case each action must be listed separately on the agenda.[10] For example, the listing of an "initiative measure" alone on an agenda was found insufficient where the agency was also deciding whether to accept a gift from the measure proponent to pay for the election.[11]

PRACTICE TIP: Putting together a meeting agenda requires careful thought.

Q. The agenda for a regular meeting contains the following items of business:

- Consideration of a report regarding traffic on Eighth Street.
- Consideration of a contract with ABC Consulting.

Are these descriptions adequate?

A. *If the first is, it is barely adequate. A better description would provide the reader with some idea of what the report is about and what is being recommended. The second is not adequate. A better description might read, "Consideration of a contract with ABC Consulting in the amount of $50,000 for traffic engineering services regarding traffic on Eighth Street."*

Q. The agenda includes an item entitled City Manager's Report, during which time the city manager provides a brief report on notable topics of interest, none of which is listed on the agenda.

Is this permissible?

A. *Yes, as long as it does not result in extended discussion or action by the body.*

A brief general description may not be sufficient for closed-session agenda items. The Brown Act provides safe harbor language for the various types of permissible closed sessions.[12] Substantial compliance with the safe harbor language is recommended to protect legislative bodies and elected officials from legal challenges.

Mailed agenda upon written request

The legislative body, or its designee, must mail a copy of the agenda or, if requested, the entire agenda packet, to any person who has filed a written request for such materials. These copies shall be mailed at the time the agenda is posted or upon distribution to all, or a majority of all, of the members of the legislative body, whichever occurs first. If the local agency has an internet website, this requirement can be satisfied by emailing a copy of, or website link to, the agenda or agenda packet if the person making the request asks for it to be emailed. Further, if requested, these materials must be made available in appropriate alternative formats to persons with disabilities.

A request for notice is valid for one calendar year and renewal requests must be filed following January 1 of each year. The legislative body may establish a fee to recover the cost of providing the service. Failure of the requesting person to receive the agenda does not constitute grounds for invalidation of actions taken at the meeting.[13]



Notice requirements for special meetings

There is no express agenda requirement for special meetings, but the notice of the special meeting effectively serves as the agenda and limits the business that may be transacted or discussed. Written notice must be sent to each member of the legislative body (unless waived in writing by that member) and to each local newspaper of general circulation and each radio and television station that has requested such notice in writing. This notice must be delivered at least 24 hours before the time of the meeting by personal delivery or any other means that ensures receipt.

The notice must state the time and place of the meeting as well as all business to be transacted or discussed. It is recommended that the business to be transacted or discussed be described in the same manner that an item for a regular meeting would be described on the agenda, that is, with a brief general description. Some items must appear on a regular, not special, meeting agenda (e.g., general law city adoption of an ordinance or consideration of local agency executive compensation).[14]

As noted above, closed session items should be described in accordance with the Brown Act's safe harbor provisions to protect legislative bodies and elected officials from challenges of noncompliance with notice requirements.

The special meeting notice must also be posted at least 24 hours prior to the special meeting using the same methods as posting an agenda for a regular meeting: at a site that is freely accessible to the public, and on the agency's website if (1) the local agency has a website and (2) the legislative body whose meeting is the subject of the agenda is either (a) a governing body or (b) has members that are compensated, with one or more members that are also members of a governing body.[15]

Notices and agendas for adjourned and continued meetings and hearings

A regular or special meeting can be adjourned and re-adjourned to a time and place specified in the order of adjournment.[16] If no time is stated, the meeting is continued to the hour for regular meetings. Whoever is present (even if they are less than a quorum) may so adjourn a meeting; if no member of the legislative body is present, the clerk or secretary may adjourn the meeting. If a meeting is adjourned for less than five calendar days, no new agenda need be posted so long as a new item of business is not introduced.[17] A copy of the order of adjournment must be posted within 24 hours after the adjournment, at or near the door of the place where the meeting was held.

A hearing can be continued to a subsequent meeting. The process is the same as for continuing adjourned meetings, except that if the hearing is continued to a time less than 24 hours away, a copy of the order or notice of continuance must be posted immediately following the meeting.[18]

Notice requirements for emergency meetings

The special meeting notice provisions apply to emergency meetings, except for the 24-hour notice.[19] News media that have requested written notice of special meetings must be notified by telephone at least one hour in advance of an emergency meeting, and all telephone numbers provided in that written request must be tried. If telephones are not working, the notice requirements are deemed waived. However, the news media must be notified as soon as possible of the meeting and any action taken.

News media may make a practice of having written requests on file for notification of special or emergency meetings. Absent such a request, a local agency has no legal obligation to notify news media of special or emergency meetings — although notification may be advisable in any event to avoid controversy.

Notice of compensation for simultaneous or serial meetings

A legislative body that has convened a meeting and whose membership constitutes a quorum of another legislative body, may convene a simultaneous or serial meeting of the other legislative body only after a clerk or member of the convened legislative body orally announces (1) the amount of compensation or stipend, if any, that each member will be entitled to receive as a result of convening the meeting of the other legislative body; and (2) that the compensation or stipend is provided as a result of convening the meeting of that body.[20]

No oral disclosure of the amount of the compensation is required if the entire amount of such compensation is prescribed by statute and no additional compensation has been authorized by the local agency. Further, no disclosure is required with respect to reimbursements for actual and necessary expenses incurred in the performance of the member's official duties, such as for travel, meals, and lodging.



Educational agency meetings

The Education Code contains some special agenda and special meeting provisions.[21] However, they are generally consistent with the Brown Act. An item is probably void if not posted.[22] A school district board must also adopt regulations to make sure the public can place matters affecting the district's business on meeting agendas and can address the board on those items.[23]

Notice requirements for tax or assessment meetings and hearings

The Brown Act prescribes specific procedures for adoption by a city, county, special district, or joint powers authority of any new or increased tax or assessment imposed on businesses.[24] Although written broadly, these Brown Act provisions do not apply to new or increased real property taxes or assessments, as those are governed by the California Constitution, Article XIIIC or XIIID, enacted by Proposition 218. At least one public meeting must be held to allow public testimony on the tax or assessment. In addition, there must also be at least 45 days notice of a public hearing at which the legislative body proposes to enact or increase the tax or assessment. Notice of the public meeting and public hearing must be provided at the same time and in the same document. The public notice relating to general taxes must be provided by newspaper publication. The public notice relating to new or increased business assessments must be provided through a

mailing to all business owners proposed to be subject to the new or increased assessment. The agency may recover the reasonable costs of the public meetings, hearings, and notice.

The Brown Act exempts certain fees, standby or availability charges, recurring assessments, and new or increased assessments that are subject to the notice and hearing requirements of the Constitution.[25] As a practical matter, the Constitution's notice requirements have preempted this section of the Brown Act.

Non-agenda items

The Brown Act generally prohibits any action or discussion of items not on the posted agenda. However, there are three specific situations in which a legislative body can act on an item not on the agenda:[26]

- When a majority decides there is an "emergency situation" (as defined for emergency meetings).
- When two-thirds of the members present (or all members if less than two-thirds are present) determine there is a need for immediate action, and the need to take action "came to the attention of the local agency subsequent to the agenda being posted." This exception requires a degree of urgency. Further, an item cannot be considered under this provision if the legislative body or the staff knew about the need to take immediate action before the agenda was posted. A new need does not arise because staff forgot to put an item on the agenda or because an applicant missed a deadline.
- When an item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier.

PRACTICE TIP: Subject to very limited exceptions, the Brown Act prohibits any action or discussion of an item not on the posted agenda.

The exceptions are narrow, as indicated by this list. The first two require a specific determination by the legislative body. That determination can be challenged in court and, if unsubstantiated, can lead to invalidation of an action.

> **"I'd like a two-thirds vote of the board so we can go ahead and authorize commencement of phase two of the East Area Project," said Chair Lopez.**
>
> **"It's not on the agenda. But we learned two days ago that we finished phase one ahead of schedule — believe it or not — and I'd like to keep it that way. Do I hear a motion?"**

The desire to stay ahead of schedule generally would not satisfy "a need for immediate action." Too casual an action could invite a court challenge by a disgruntled resident. The prudent course is to place an item on the agenda for the next meeting and not risk invalidation.

> **"We learned this morning of an opportunity for a state grant," said the chief engineer at the regular board meeting, "but our application has to be submitted in two days. We'd like the board to give us the go-ahead tonight, even though it's not on the agenda."**

A legitimate immediate need can be acted upon even though not on the posted agenda by following a two-step process:

- First, make two determinations: (1) that there is an immediate need to take action
  and (2) that the need arose after the posting of the agenda. The matter is then
  placed on the agenda.
- Second, discuss and act on the added agenda item.



Responding to the public

The public can talk about anything within the jurisdiction of the legislative body, but the legislative body generally cannot act on or discuss an item not on the agenda. What happens when a member of the public raises a subject not on the agenda?

While the Brown Act does not allow discussion or action on items not on the agenda, it does allow members of the legislative body, or its staff, to "briefly respond" to comments or questions from members of the public, provide a reference to staff or other resources for factual information, or direct staff to place the issue on a future agenda. In addition, even without a comment from the public, a legislative body member or a staff member may ask for information, request a report back, request to place a matter on the agenda for a subsequent meeting (subject to the body's rules or procedures), ask a question for clarification, make a brief announcement, or briefly report on their own activities.[27] However, caution should be used to avoid any discussion or action on such items.

> **Council Member Jefferson: I would like staff to respond to Resident Joe's complaints during public comment about the repaving project on Elm Street. Are there problems with this project?**
>
> **City Manager Frank: The public works director has prepared a 45-minute PowerPoint presentation for you on the status of this project and will give it right now.**
>
> **Council Member Brown: Take all the time you need; we need to get to the bottom of this. Our residents are unhappy.**

It is clear from this dialogue that the Elm Street project was not on the council's agenda but was raised during the public comment period for items not on the agenda. Council Member Jefferson properly asked staff to respond; the city manager should have given at most a brief response. If a lengthy report from the public works director was warranted, the city manager should have stated that it would be placed on the agenda for the next meeting. Otherwise, both the long report and the likely discussion afterward will improperly embroil the council in a matter that is not listed on the agenda.

The right to attend and observe meetings

A number of Brown Act provisions protect the public's right to attend, observe, and participate in meetings.

Members of the public cannot be required to register their names, provide other information, complete a questionnaire, or otherwise "fulfill any condition precedent" to attending a meeting. Any attendance list, questionnaire, or similar document posted at or near the entrance to the meeting room or circulated at a meeting must clearly state that its completion is voluntary and that all persons may attend whether or not they fill it out.[28]

No meeting can be held in a facility that prohibits attendance based on race, religion, color, national origin, ethnic group identification, age, sex, sexual orientation, or disability, or that is inaccessible to the disabled. Nor can a meeting be held where the public must make a payment or purchase in order to be present.[29] This does not mean, however, that the public is entitled to free entry to a conference attended by a majority of the legislative body.[30]

While a legislative body may use teleconferencing in connection with a meeting, the public must be given notice of and access to the teleconference location. Members of the public must be able to address the legislative body from the teleconference location.[31]

Action by secret ballot, whether preliminary or final, is flatly prohibited.[32]

All actions taken by the legislative body in open session, and the vote of each member thereon, must be disclosed to the public at the time the action is taken.[33]

Q. The agenda calls for election of the legislative body's officers. Members of the legislative body want to cast unsigned written ballots that would be tallied by the clerk, who would announce the results. Is this voting process permissible?

A. *No. The possibility that a public vote might cause hurt feelings among members of the legislative body or might be awkward — or even counterproductive — does not justify a secret ballot.*

The legislative body may remove persons from a meeting who willfully interrupt or disrupt proceedings.[34] Ejection is justified only when audience members actually disrupt the proceedings,[35] or, alternatively, if the presiding member of the legislative body warns a person that their behavior is disruptive and that continued disruption may result in their removal (but no prior warning is required if there is a use of force or true threat of force).[36] If order cannot be restored after ejecting disruptive persons, the meeting room may be cleared. Members of the news media who have not participated in the disturbance must be allowed to continue to attend the meeting. The legislative body may establish a procedure to readmit an individual or individuals not responsible for the disturbance.[37]

Records and recordings

The public has the right to review agendas and other writings distributed by any person to a majority of the legislative body in connection with a matter subject to discussion or consideration at a meeting. Except for privileged documents, those materials are public records and must be made available upon request without delay.[38] A fee or deposit as permitted by the California Public Records Act may be charged for a copy of a public record.[39]

Q. In connection with an upcoming hearing on a discretionary use permit, counsel for the legislative body transmits a memorandum to all members of the body outlining the litigation risks in granting or denying the permit. Must this memorandum be included in the packet of agenda materials available to the public?

A. *No. The memorandum is a privileged attorney-client communication.*

Q. In connection with an agenda item calling for the legislative body to approve a contract, staff submits to all members of the body a financial analysis explaining why the terms of the contract favor the local agency. Must this memorandum be included in the packet of agenda materials available to the public?

A. *Yes. The memorandum has been distributed to the majority of the legislative body, relates to the subject matter of a meeting, and is not a privileged communication.*

A legislative body may discuss or act on some matters without considering written materials. But if writings are distributed to a majority of a legislative body in connection with an agenda item, they must also be available to the public. A nonexempt or otherwise non-privileged writing distributed to a majority of the legislative body less than 72 hours before the meeting must be made available for inspection at the time of distribution at a public office or location designated for that purpose, and the agendas for all meetings of the legislative body must include the address of this office or location.[40] The location designated for public inspection must be open to the public, not a locked or closed office. Alternatively, the documents can be posted on the city's website for public review if statutory requirements are met.[41]

A writing distributed during a meeting must be made public:

- At the meeting if prepared by the local agency or a member of its legislative body.
- After the meeting if prepared by some other person.[42]

This requirement does not prevent assessing a fee or deposit for providing a copy of a public record pursuant to the California Public Records Act except where required to accommodate persons with disabilities.[43]

Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the local agency is subject to the California Public Records Act; however, it may be erased or destroyed 30 days after the taping or recording. Any inspection of a video or tape recording is to be provided without charge on a video or tape player made available by the local agency.[44] The agency may impose its ordinary charge for copies that is consistent with the California Public Records Act.[45]

In addition, the public is specifically allowed to use audio or videotape recorders or still or motion picture cameras at a meeting to record meetings of legislative bodies, absent a reasonable finding by the body that noise, illumination, or obstruction of view caused by recorders or cameras would persistently disrupt the proceedings.[46]

Similarly, a legislative body cannot prohibit or restrict the public broadcast of its open and public meetings without making a reasonable finding that the noise, illumination, or obstruction of view would persistently disrupt the proceedings.[47]

PRACTICE TIP: Public speakers cannot be compelled to give their name or address as a condition of speaking. The clerk or presiding officer may request speakers to complete a speaker card or identify themselves for the record but must respect a speaker's desire for anonymity.

The public's right to speak during a meeting

Every agenda for a regular meeting must allow members of the public to speak on any item of interest, as long as the item is within the subject matter jurisdiction of the legislative body. Further, the public must be allowed to speak on a specific item of business before or during the legislative body's consideration of it.[48]

Q. Must the legislative body allow members of the public to show videos or make a PowerPoint presentation during the public comment part of the agenda, as long as the subject matter is relevant to the agency and is within the established time limit?

A. *Probably, although the agency is under no obligation to provide equipment.*

Moreover, the Brown Act, as well as case law, prevents legislative bodies from prohibiting public criticism of policies, procedures, programs, or services of the agency or the acts or omissions of the legislative body itself.[49] However, this prohibition does not provide immunity for defamatory statements.[50]

Q. May the presiding officer prohibit a member of the audience from publicly criticizing an agency employee by name during public comments?

A. *No, as long as the criticism pertains to job performance.*

Q. During the public comment period of a regular meeting of the legislative body, a resident urges the public to support and vote for a candidate vying for election to the body. May the presiding officer gavel the speaker out of order for engaging in political campaign speech?

A. *There is no case law on this subject. Some would argue that purely campaign issues are outside the subject matter jurisdiction of the body within the meaning of Section 54954.3(a). Others take the view that the speech must be allowed under paragraph (c) of that section where relevant to the governing of the agency and an implicit criticism of the incumbents' performance of city business.*

The legislative body may adopt reasonable regulations, including a limit on the total time permitted for public comment and a limit on the time permitted per speaker.[51] Such regulations should be enforced fairly and without regard to speakers' viewpoints. The legislative body has discretion to modify its regulations regarding time limits on public comment if necessary. For example, the time limit could be shortened to accommodate a lengthy agenda or lengthened to allow additional time for discussion on a complicated matter.[52]

The public does not need to be given an opportunity to speak on an item that has already been considered by a committee made up exclusively of members of the legislative body at a regular (but not special) public meeting if all interested members of the public had the opportunity to

speak on the item before or during its consideration, and if the item has not been substantially changed.[53]

Notices and agendas for special meetings must also give members of the public the opportunity to speak before or during consideration of an item on the agenda but need not allow members of the public an opportunity to speak on other matters within the jurisdiction of the legislative body.[54]



ENDNOTES

1 Cal. Gov. Code, § 54954.2, subd. (a)(1).

2 78 Ops.Cal.Atty.Gen. 327 (1995).

3 88 Ops.Cal.Atty.Gen. 218 (2005).

4 Cal. Gov. Code, §§ 54954.2, subd. (a)(1) and 54954.2, subd. (d).

5 Cal. Gov. Code, § 54960.1, subd. (d)(1).

6 99 Ops.Cal.Atty.Gen. 11 (2016).

7 *North Pacifica LLC v. California Coastal Commission* (2008) 166 Cal.App.4th 1416, 1432.

8 99 Ops.Cal.Atty.Gen. 11 (2016).

9 Cal. Gov. Code, § 54954.2, subd. (a)(1).

10 *San Joaquin Raptor Rescue v. County of Merced* (2013) 216 Cal.App.4th 1167 (legislative body's approval of California Environmental Quality Act [CEQA] action [mitigated negative declaration] without specifically listing it on the agenda violates the Brown Act, even if the agenda generally describes the development project that is the subject of the CEQA analysis). See also *GI Industries v. City of Thousand Oaks* (2022) 84 Cal.App.5th 814 (depublished) (Brown Act requires CEQA finding of exemption to be listed on agenda items that are projects under CEQA).

11 *Hernandez v. Town of Apple Valley* (2017) 7 Cal.App.5th 194.

12 Cal. Gov. Code, § 54954.5.

13 Cal. Gov. Code, § 54954.1.

14 Cal. Gov. Code, §§ 36934; 54956, subd. (b).

15 Cal. Gov. Code, § 54956, subds. (a) and (c).

16 Cal. Gov. Code, § 54955.

17 Cal. Gov. Code, § 54954.2, subd. (b)(3).

18 Cal. Gov. Code, § 54955.1.

19 Cal. Gov. Code, § 54956.5.

20 Cal. Gov. Code, § 54952.3.

21 Cal. Edu. Code, §§ 35144, 35145, and 72129.

22 *Carlson v. Paradise Unified School District* (1971) 18 Cal.App.3d 196.

23 Cal. Edu. Code, § 35145.5

24 Cal. Edu. Code, § 54954.6

25 See Cal. Const. Art. XIIIC, XIIID; Cal. Gov. Code, § 54954.6, subd. (h).

26 Cal. Gov. Code, § 54954.2, subd. (b).

27 Cal. Gov. Code, § 54954.2, subd. (a)(2); *Cruz v. City of Culver City* (2016) 2 Cal.App.5th 239 (six-minute colloquy on non-agenda item with staff answering questions and advising that matter could be placed on future agenda fell within exceptions to discussing or acting upon non-agenda items).

28 Cal. Gov. Code, § 54953.3.

29 Cal. Gov. Code, § 54961, subd. (a); Cal. Gov. Code, § 11135, subd. (a).

30 Cal. Gov. Code, § 54952.2, subd. (c)(2).

31 Cal. Gov. Code, § 54953, subd. (b).

32 Cal. Gov. Code, § 54953, subd. (c).

33 Cal. Gov. Code, § 54953, subd. (c)(2).

34 Cal. Gov. Code, §§ 54957.9, 54957.95.

35 *Norse v. City of Santa Cruz* (9th Cir. 2010) 629 F.3d 966 (silent and momentary Nazi salute directed toward mayor is not a disruption); *Acosta v. City of Costa Mesa* (9th Cir. 2013) 718 F.3d 800 (city council may not prohibit "insolent" remarks by members of the public absent actual disruption); but see *Kirkland v. Luken* (S.D. Ohio 2008) 536 F.Supp.2d 857 (finding no First Amendment violation by mayor for turning off microphone and removing speaker who used foul and inflammatory language that was deemed as "likely to incite the members of the audience during the meeting, cause disorder, and disrupt the meeting").

36 Cal. Gov. Code, § 54957.95.

37 Cal. Gov. Code, § 54957.9.

38 Cal. Gov. Code, § 54957.5.

39 Cal. Gov. Code, § 54957.5, subd. (d).

40 Cal. Gov. Code, § 54957.5(b); see also *Sierra Watch v. Placer County* (2021) 69 Cal.App.5th 1.

41 Cal. Gov. Code § 54957.5.

42 Cal. Gov. Code, § 54957.5, subd. (c).

43 Cal. Gov. Code, § 54957.5, subd. (d).

44 Cal. Gov. Code, § 54953.5, subd. (b).

45 Cal. Gov. Code, § 54957.5, subd. (d).

46 Cal. Gov. Code, § 54953.5, subd. (a).

47 Cal. Gov. Code, § 54953.6.

48 Cal. Gov. Code, § 54954.3, subd. (a).

49 Cal. Gov. Code, § 54954.3, subd. (c); Acosta v. City of Costa Mesa (9th Cir. 2013) 718 F.3d 800.

50 Cal. Gov. Code, § 54954.3, subd. (c).

51 *Ribakoff v. City of Long Beach* (2018) 27 Cal.App.5th 150 (public comment time limit of three minutes for each speaker did not violate First Amendment).

52 Cal. Gov. Code, § 54954.3. subd. (b); *Chaffee v. San Francisco Public Library Commission* (2005) 134 Cal.App.4th 109; 75 Ops.Cal.Atty.Gen. 89 (1992).

53 Cal. Gov. Code, § 54954.3, subd. (a); *Preven v. City of Los Angeles* (2019) 32 Cal.App.5th 925.

54 Cal. Gov. Code, § 54954.3, subd. (a).



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Chapter 5

CLOSED SESSIONS

A closed session is a meeting of a legislative body conducted in private without the attendance of the public or press. A legislative body is authorized to meet in closed session only to the extent expressly authorized by the Brown Act.[1]



As summarized in chapter 1 of this guide, it is clear that the Brown Act must be interpreted liberally in favor of open meetings, and exceptions that limit public access (including the exceptions for closed session meetings) must be narrowly construed.[2] The most common purposes of the closed session provisions in the Brown Act are to avoid revealing confidential information (e.g., prejudicing the city's position in litigation or compromising the privacy interests of employees). Closed sessions should be conducted keeping those narrow purposes in mind. It is not enough that a subject is sensitive, embarrassing, or controversial. Without specific authority in the Brown Act for a closed session, a matter to be considered by a legislative body must be discussed in public. However, there is no prohibition in putting overlapping exceptions on an agenda in order to provide an opportunity for more robust closed session discussions. As an example, a city council cannot give direction to the city manager about a property negotiation during a performance evaluation exception. However, if both real property negotiation and performance evaluation exceptions are on the agenda, those discussions might be conducted. Similarly, a board of police commissioners cannot meet in closed session to provide general policy guidance to a police chief, even though some matters are sensitive and the commission considers their disclosure contrary to the public interest.[3]

PRACTICE TIP: Some problems over closed sessions arise because secrecy itself breeds distrust. The Brown Act does not require closed sessions and legislative bodies may do well to resist the tendency to call a closed session simply because it may be permitted. A better practice is to go into closed session only when necessary.

In this chapter, the grounds for convening a closed session are called "exceptions" because they are exceptions to the general rule that meetings must be conducted openly. In some circumstances, none of the closed session exceptions applies to an issue or information the legislative body wishes to discuss privately. In these cases, it is not proper to convene a closed session, even to protect confidential information. For example, although the Brown Act does authorize closed sessions related to specified types of contracts (e.g., specified provisions of real property agreements, employee labor agreements, and litigation settlement agreements),[4] the Brown Act does not authorize closed sessions for other contract negotiations.

Agendas and reports

Closed session items must be briefly described on the posted agenda, and the description must state the specific statutory exemption.[5] An item that appears on the open meeting portion of the agenda may not be taken into closed session until it has been properly put on the agenda as a

closed session item or unless it is properly added as a closed-session item by a two-thirds vote of the body after making the appropriate urgency findings.[6]

The Brown Act supplies a series of fill-in-the-blank sample agenda descriptions for various types of authorized closed sessions that provide a "safe harbor" from legal attacks. These sample agenda descriptions cover license and permit determinations, real property negotiations, existing or anticipated litigation, liability claims, threats to security, public employee appointments, evaluations and discipline, labor negotiations, multijurisdictional law enforcement cases, hospital boards of directors, medical quality assurance committees, joint powers agencies, and audits by the California State Auditor's Office.[7]

If the legislative body intends to convene in closed session, it must include the section of the Brown Act authorizing the closed session in advance on the agenda, and it must make a public announcement prior to the closed session discussion. In most cases, the announcement may simply be a reference to the agenda item.[8] The legislative body must take public comment on the closed session item before convening in a closed session.

PRACTICE TIP: Pay close attention to closed session agenda descriptions. Using the wrong label can lead to invalidation of an action taken in closed session if not substantially compliant.

Following a closed session, the legislative body must provide an oral or written report on certain actions taken and the vote of every elected member present. The timing and content of the report vary according to the reason for the closed session and the action taken.[9] The announcements may be made at the site of the closed session, as long as the public is allowed to be present to hear them.

If there is a standing or written request for documentation, any copies of contracts, settlement agreements, or other documents finally approved or adopted in closed session must be provided to the requestor(s) after the closed session if final approval of such documents does not rest with any other party to the contract or settlement. If substantive amendments to a contract or settlement agreement approved by all parties requires retyping, such documents may be held until retyping is completed during normal business hours, but the substance of the changes must be summarized for any person inquiring about them.[10]

The Brown Act does not require minutes, including minutes of closed sessions. However, a legislative body may adopt an ordinance or resolution to authorize a confidential "minute book" be kept to record actions taken at closed sessions.[11] If one is kept, it must be made available to members of the legislative body, provided that the member asking to review minutes of a particular meeting was not disqualified from attending the meeting due to a conflict of interest.[12] A court may order the disclosure of minute books for the court's review if a lawsuit makes sufficient claims of an open meeting violation.

Litigation

The Brown Act expressly authorizes closed sessions to discuss what is considered pending litigation.[13] The rules that apply to holding a litigation closed session involve complex, technical definitions and procedures. Essentially, a closed session can be held by the body to confer with, or receive advice from, its legal counsel when open discussion would prejudice the position of the local agency in litigation in which the agency is, or could become, a party.[14] The litigation exception under the Brown Act is narrowly construed and does not permit activities beyond a legislative body's conferring with its own legal counsel and required support staff.[15] For example, it is not permissible to hold a closed session in which settlement negotiations take place between a legislative body, a representative of an adverse party, and a mediator.[16]

The California Attorney General has opined that if the agency's attorney is not a participant, a litigation closed session cannot be held.[17] In any event, local agency officials should always consult the agency's attorney before placing this type of closed session on the agenda in order to be certain that it is being done properly.

Before holding a closed session under the pending litigation exception, the legislative body must publicly state the basis for the closed session by identifying one of the following three types of matters: existing litigation, anticipated exposure to litigation, or anticipated initiation of litigation.[18]

Existing litigation

Q. May the legislative body agree to settle a lawsuit in a properly noticed closed session without placing the settlement agreement on an open session agenda for public approval?

A. *Yes, but the settlement agreement is a public document and must be disclosed on request. Furthermore, a settlement agreement cannot commit the agency to matters that are required to have public hearings.*[19]

Existing litigation includes any adjudicatory proceedings before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. The clearest situation in which a closed session is authorized is when the local agency meets with its legal counsel to discuss a pending matter that has been filed in a court or with an administrative agency and names the local agency as a party. The legislative body may meet under these circumstances to receive updates on the case from attorneys, participate in developing strategy as the case develops, or consider alternatives for resolution of the case. Generally, an agreement to settle litigation may be approved in closed session. However, an agreement to settle litigation cannot be approved in closed session if it commits the city to take an action that is required to have a public hearing.[20]



Anticipated exposure to litigation against the local agency

Closed sessions are authorized for legal counsel to inform the legislative body of a significant exposure to litigation against the local agency, but only if based on "existing facts and circumstances" as defined by the Brown Act.[21] The legislative body may also meet under this exception to determine whether a closed session is authorized based on information provided by legal counsel or staff. In general, the "existing facts and circumstances" must be publicly disclosed unless they are privileged written communications or not yet known to a potential plaintiff. If an agency receives a documented threat of litigation, and intends to discuss that matter in closed session, the record of a litigation threat must be included in the body's agenda packet.[22]

Anticipated initiation of litigation by the local agency

A closed session may be held under the exception for the anticipated initiation of litigation when the legislative body seeks legal advice on whether to protect the agency's rights and interests by initiating litigation.

Certain actions must be reported in open session at the same meeting following the closed session. Other actions, such as when final approval rests with another party or the court, may be announced when they become final and upon inquiry of any person.[23] Each agency attorney should be aware of and make the disclosures that are required by the particular circumstances.

Real estate negotiations

A legislative body may meet in closed session with its negotiator to discuss the purchase, sale, exchange, or lease of real property by or for the local agency. A "lease" includes a lease renewal or renegotiation. The purpose is to grant authority to the legislative body's negotiator on price and terms of payment.[24] Caution should be exercised to limit discussion to price and terms of payment without straying to other related issues, such as site design, architecture, or other aspects of the project for which the transaction is contemplated.[25]

Q. May other terms of a real estate transaction, aside from price and terms of payment, be addressed in closed session?

A. *No. However, there are differing opinions over the scope of the phrase "price and terms of payment" in connection with real estate closed sessions. Many agency attorneys argue that any term that directly affects the economic value of the transaction falls within the ambit of "price and terms of payment." Others take a narrower, more literal view of the phrase.*

The agency's negotiator may be a member of the legislative body itself. Prior to the closed session, or on the agenda, the legislative body must identify its negotiators, the real property that the negotiations may concern,[26] and the names of the parties with whom its negotiator may negotiate.[27]

After real estate negotiations are concluded, the approval and substance of the agreement must be publicly reported. If its own approval makes the agreement final, the body must report in open session at the public meeting during which the closed session is held. If final approval rests with another party, the local agency must report the approval and the substance of the agreement upon inquiry by any person as soon as the agency is informed of it.[28]

"Our population is exploding, and we have to think about new school sites," said Board Member Jefferson.

"Not only that," interjected Board Member Tanaka, "we need to get rid of a couple of our older facilities."

"Well, obviously the place to do that is in a closed session," said Board Member O'Reilly. "Otherwise we're going to set off land speculation. And if we even mention closing a school, parents are going to be in an uproar."

A closed session to discuss potential sites is not authorized by the Brown Act. The exception is limited to meeting with its negotiator over specific sites — which must be identified at an open and public meeting.

PRACTICE TIP: Discussions of who to appoint to an advisory body and whether or not to censure a fellow member of the legislative body must be held in the open.

Public employment

The Brown Act authorizes a closed session "to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee."[29] The purpose of this exception — commonly referred to as the "personnel exception" — is to avoid undue publicity or embarrassment for an employee or applicant for employment and to allow full and candid discussion by the legislative body; thus, it is restricted to discussing individuals, not general personnel policies.[30] The body must possess the power to appoint, evaluate, or dismiss the employee to hold a closed session under this exception.[31] That authority may be delegated to a subsidiary appointed body.[32]

An employee must be given at least 24 hours' notice of any closed session convened to hear specific complaints or charges against them. This occurs when the legislative body is reviewing evidence, which could include live testimony, and adjudicating conflicting testimony offered as evidence. A legislative body may examine (or exclude) witnesses,[33] and the California Attorney General has opined that, when an affected employee and advocate have an official or essential role to play, they may be permitted to participate in the closed session.[34] The employee has the right to have the specific complaints and charges discussed in a public session rather than closed session.[35] If the employee is not given the 24-hour prior notice, any disciplinary action is null and void.[36]

However, an employee is not entitled to notice and a hearing where the purpose of the closed session is to consider a performance evaluation. The Attorney General and the courts have determined that personnel performance evaluations do not constitute complaints and charges, which are more akin to accusations made against a person.[37]

Q. Must 24 hours' notice be given to an employee whose negative performance evaluation is to be considered by the legislative body in closed session?

A. *No, the notice is reserved for situations where the body is to hear complaints and charges from witnesses.*

Correct labeling of the closed session on the agenda is critical. A closed session agenda that identified discussion of an employment contract was not sufficient to allow dismissal of an employee.[38] An incorrect agenda description can result in invalidation of an action and much embarrassment.

For purposes of the personnel exception, "employee" specifically includes an officer or an independent contractor who functions as an officer or an employee. Examples of the former include a city manager, district general manager, or superintendent. Examples of the latter include a legal counsel or engineer hired on contract to act as local agency attorney or chief engineer.

Elected officials, appointees to the governing body or subsidiary bodies, and independent contractors other than those discussed above are not employees for purposes of the personnel exception.[39] Action on individuals who are not "employees" must also be public — including discussing and voting on appointees to committees, debating the merits of independent contractors, or considering a complaint against a member of the legislative body itself.

The personnel exception specifically prohibits discussion or action on proposed compensation in closed session except for a disciplinary reduction in pay. That means, among other things, there can be no personnel closed sessions on a salary change (other than a disciplinary reduction) between any unrepresented individual and the legislative body. However, a legislative body may address the compensation of an unrepresented individual, such as a city manager, in a closed session as part of a labor negotiation (discussed later in this chapter), yet another example of the importance of using correct agenda descriptions.

Reclassification of a job must be public, but an employee's ability to fill that job may be considered in closed session.

Any closed session action to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee must be reported at the public meeting during which the closed session is held. That report must identify the title of the position, but not the names of all persons considered for an employment position.[40] However, a report on a dismissal or non-renewal of an employment contract must be deferred until administrative remedies, if any, are exhausted.[41]

> **"I have some important news to announce," said Mayor Garcia. "We've decided to terminate the contract of the city manager effective immediately. The council has met in closed session, and we've negotiated six months' severance pay."**
>
> **"Unfortunately, that has some serious budget consequences, so we've had to delay phase two of the East Area Project."**
>
> *This may be an improper use of the personnel closed session if the council agenda described the item as the city manager's evaluation. In addition, other than labor negotiations, any action on individual compensation must be taken in open session. Caution must be exercised not to discuss in closed session issues, such as budget impacts in this hypothetical, beyond the scope of the posted closed session notice.*

PRACTICE TIP: The personnel exception specifically prohibits discussion or action on proposed compensation in closed session except for a disciplinary reduction in pay.

Labor negotiations

The Brown Act allows closed sessions for some aspects of labor negotiations. Different provisions (discussed below) apply to school and community college districts.

A legislative body may meet in closed session to instruct its bargaining representatives, which may be one or more of its members,[42] on employee salaries and fringe benefits for both represented ("union") and unrepresented employees. For represented employees, it may also consider working conditions that by law require negotiation. For the purpose of labor negotiation closed sessions, an "employee" includes an officer or an independent contractor who functions as an officer or an employee, but independent contractors who do not serve in the capacity of an officer or employee are not covered by this closed session exception.[43]

PRACTICE TIP: Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

These closed sessions may take place before or during negotiations with employee representatives. Prior to the closed session, the legislative body must hold an open and public session in which it identifies its designated representatives.

During its discussions with representatives on salaries and fringe benefits, the legislative body may discuss available funds and funding priorities, but only to instruct its representative. The body may also meet in closed session with a conciliator who has intervened in negotiations.[44]

The approval of an agreement concluding labor negotiations with represented employees must be reported after the agreement is final and has been accepted or ratified by the other party. The report must identify the item approved and the other party or parties to the negotiation.[45] The labor closed sessions specifically cannot include final action on proposed compensation of one or more unrepresented employees.

Labor negotiations — school and community college districts

Employee relations for school districts and community college districts are governed by the Rodda Act, where different meeting and special notice provisions apply. The entire board, for example, may negotiate in closed sessions.

Four types of meetings are exempted from compliance with the Rodda Act:

1. A negotiating session with a recognized or certified employee organization.
2. A meeting of a mediator with either side.
3. A hearing or meeting held by a fact finder or arbitrator.
4. A session between the board and its bargaining agent, or the board alone, to discuss its position regarding employee working conditions and instruct its agent.[46]

Public participation under the Rodda Act also takes another form.[47] All initial proposals of both sides must be presented at public meetings and are public records. The public must be given reasonable time to inform itself and to express its views before the district may adopt its initial proposal. In addition, new topics of negotiations must be made public within 24 hours. Any votes on such a topic must be followed within 24 hours by public disclosure of the vote of each member.[48] The final vote must be in public.

Other Education Code exceptions

The Education Code governs student disciplinary meetings by boards of school districts and community college districts. District boards may hold a closed session to consider the suspension or discipline of a student if a public hearing would reveal personal, disciplinary, or academic information about the student contrary to state and federal pupil privacy law. The student's parent or guardian may request an open meeting.[49]

PRACTICE TIP: Attendance by the entire legislative body before a grand jury would not constitute a closed session meeting under the Brown Act.

Community college districts may also hold closed sessions to discuss some student disciplinary matters, awarding of honorary degrees, or gifts from donors who prefer to remain anonymous.[50] Kindergarten through 12th grade districts may also meet in closed session to review the contents of the statewide assessment instrument.[51]

Joint powers authorities

The legislative body of a joint powers authority may adopt a policy regarding limitations on disclosure of confidential information obtained in closed session, and may meet in closed session to discuss information that is subject to the policy.[52]

License applicants with criminal records

A closed session is permitted when an applicant who has a criminal record applies for a license or license renewal and the legislative body wishes to discuss whether the applicant is sufficiently rehabilitated to receive the license. The applicant and the applicant's attorney are authorized to attend the closed session meeting. If the body decides to deny the license, the applicant may withdraw the application. If the applicant does not withdraw it, the body must deny the license in public, either immediately or at its next meeting. No information from the closed session can be revealed without consent of the applicant, unless the applicant takes action to challenge the denial.[53]

Public security

Legislative bodies may meet in closed session to discuss matters posing a threat to the security of public buildings; essential public services, including water, sewer, gas, or electric service; or to the public's right of access to public services or facilities over which the legislative body has jurisdiction. Closed session meetings for these purposes must be held with designated security or law enforcement officials, including the Governor, Attorney General, district attorney, agency attorney, sheriff or chief of police, or their deputies or agency security consultant or security operations manager.[54] Action taken in closed session with respect to such public security issues is not reportable action.

Multijurisdictional law enforcement agency

A joint powers agency formed to provide law enforcement services (involving drugs; gangs; sex crimes; firearms trafficking; felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft) to multiple jurisdictions may hold closed sessions to discuss case records of an ongoing criminal investigation, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.[55]

The exception applies to the legislative body of the joint powers agency and to any body advisory to it. The purpose is to prevent impairment of investigations, to protect witnesses and informants, and to permit discussion of effective courses of action.[56]

Hospital peer review and trade secrets

Two specific kinds of closed sessions are allowed for district hospitals and municipal hospitals under other provisions of law:[57]

1. A meeting to hear reports of hospital medical audit or quality assurance committees or for related deliberations. However, an applicant or medical staff member whose staff privileges are the direct subject of a hearing may request a public hearing.
2. A meeting to discuss "reports involving trade secrets" — provided no action is taken.



A "trade secret" is defined as information that is not generally known to the public or competitors and that (1) "derives independent economic value, actual or potential" by virtue of its restricted knowledge; (2) is necessary to initiate a new hospital service or program or facility; and (3) would, if prematurely disclosed, create a substantial probability of depriving the hospital of a substantial economic benefit.

The provision prohibits use of closed sessions to discuss transitions in ownership or management, or the district's dissolution.[58]

Other legislative bases for closed session

Since any closed session meeting of a legislative body must be authorized by the Legislature, it is important to review the Brown Act carefully to determine if there is a provision that authorizes a closed session for a particular subject matter. There are some less frequently encountered topics that are authorized to be discussed by a legislative body in closed session under the Brown Act, including a response to a confidential final draft audit report from the Bureau of State Audits,[59] consideration of the purchase or sale of particular pension fund investments by a legislative body of a local agency that invests pension funds,[60] hearing a charge or complaint from a member enrolled in a health plan by a legislative body of a local agency that provides Medi-Cal services,[61] discussions by a county board of supervisors that governs a health plan licensed pursuant to the Knox-Keene Health Care Services Plan Act related to trade secrets or contract negotiations concerning rates of payment,[62] and discussions by an insurance pooling joint powers agency related to a claim filed against, or liability of, the agency or a member of the agency.[63]

PRACTICE TIP: Meetings are either open or closed. There is nothing "in between."[64]

Who may attend closed sessions

Meetings of a legislative body are either fully open or fully closed; there is nothing in between. Therefore, local agency officials and employees must pay particular attention to the authorized attendees for the particular type of closed session. As summarized above, the authorized attendees may differ based on the topic of the closed session. Closed sessions may involve only the members of the legislative body and only agency counsel, management and support staff, and consultants necessary for consideration of the matter that is the subject of closed session, with very limited exceptions for adversaries or witnesses with official roles in particular types of hearings (e.g., personnel disciplinary hearings and license hearings). In any case, individuals who do not have an official or essential role in the closed session subject matters must be excluded from closed sessions.[65]

Q. May the lawyer for someone suing the agency attend a closed session in order to explain to the legislative body why it should accept a settlement offer?

A. *No, attendance in closed sessions is reserved exclusively for the agency's advisors.*

The confidentiality of closed session discussions

The Brown Act explicitly prohibits the unauthorized disclosure of confidential information acquired in a closed session by any person present, and offers various remedies to address breaches of confidentiality.[66] It is incumbent upon all those attending lawful closed sessions to protect the confidentiality of those discussions. One court has held that members of a legislative body cannot be compelled to divulge the content of closed session discussions through the discovery process.[67] Only the legislative body acting as a body may agree to divulge confidential closed session information. With regard to attorney-client privileged communications, the entire body is the holder of the privilege, and only the entire body can decide to waive the privilege.[68]

PRACTICE TIP: There is a strong interest in protecting the confidentiality of proper and lawful closed sessions.

Before adoption of the Brown Act provision specifically prohibiting disclosure of closed session communications, agency attorneys and the Attorney General long opined that officials have a fiduciary duty to protect the confidentiality of closed session discussions. The Attorney General issued an opinion that it is "improper" for officials to disclose information regarding pending litigation that was received during a closed session,[69] though the Attorney General has also concluded that a local agency is preempted from adopting an ordinance criminalizing public disclosure of closed session discussions.[70] In any event, in 2002, the Brown Act was amended to prescribe particular remedies for breaches of confidentiality. These remedies include injunctive relief and, if the breach is a willful disclosure of confidential information, disciplinary action against an employee and referral of a member of the legislative body to the grand jury.[71]

The duty of maintaining confidentiality, of course, must give way to the responsibility to disclose improper matters or discussions that may come up in closed sessions. In recognition of this public policy, under the Brown Act, a local agency may not penalize a disclosure of information learned during a closed session if the disclosure (1) is made in confidence to the district attorney or the grand jury due to a perceived violation of law; (2) is an expression of opinion concerning the propriety or legality of actions taken in closed session, including disclosure of the nature and extent of the illegal action; or (3) is information that is not confidential.[72]

The interplay between these possible sanctions and an official's First Amendment rights is complex and beyond the scope of this guide. Suffice it to say that this is a matter of great sensitivity and controversy.

> **"I want the press to know that I voted in closed session against filing the eminent domain action," said Council Member Chang.**
>
> **"Don't settle too soon," reveals Council Member Watson to the property owner, over coffee. "The city's offer coming your way is not our bottom line."**
>
> *The first comment to the press may be appropriate if it is a part of an action taken by the city council in closed session that must be reported publicly.[73] The second comment to the property owner is not. Disclosure of confidential information acquired in closed session is expressly prohibited and harmful to the agency.*

ENDNOTES

1 Cal. Gov. Code, § 54962.

2 Cal. Const. , Art. 1, § 3.

3 61 Ops.Cal.Atty.Gen. 220 (1978); but see Cal. Gov. Code, § 54957.8 (multijurisdictional law enforcement agencies are authorized to meet in closed session to discuss the case records of ongoing criminal investigations and other related matters).

4 Cal. Gov. Code, § 54957.1.

5 Cal. Gov. Code, § 54954.5.

6 Cal. Gov. Code, § 54954.2.

7 Cal. Gov. Code, § 54954.5.

8 Cal. Gov. Code, §§ 54956.9, 54957.7.

9 Cal. Gov. Code, § 54957.1, subd. (a).

10 Cal. Gov. Code, § 54957.1, subd. (b).

11 Cal. Gov. Code, § 54957.2.

12 *Hamilton v. Town of Los Gatos* (1989) 213 Cal.App.3d 1050; 2 Cal. Code Regs. § 18707.

13 But see *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363 (protection of the attorney-client privilege alone cannot by itself be the reason for a closed session).

14 Cal. Gov. Code, § 54956.9; *Shapiro v. Board of Directors of Center City Development Corp.* (2005) 134 Cal.App.4th 170 (agency must be a party to the litigation).

15 82 Ops.Cal.Atty.Gen. 29 (1999).

16 *Page v. Miracosta Community College District* (2009) 180 Cal.App.4th 471.

17 *"The Brown Act,"* California Attorney General (2003), p. 40.

18 Cal. Gov. Code, § 54956.9, subd. (g).

19 See e.g., Avco Community Developers, Inc. v. South Coast Regional Com. (1976) 17 Cal.3d 785; Trancas Property Owners Assn. v. City of Malibu (2006) 138 Cal.App.4th 172.

20 *Trancas Property Owners Assn. v. City of Malibu* (2006) 138 Cal.App.4th 172.

21 Cal. Gov. Code, § 54956.9, subd. (e).

22 Fowler v. City of Lafayette (2020) 46 Cal.App.5th 360.

23 Cal. Gov. Code, § 54957.1.

24 Cal. Gov. Code, § 54956.8.

25 *Shapiro v. San Diego City Council* (2002) 96 Cal.App.4th 904. See also 93 Ops.Cal.Atty.Gen. 51 (2010) (redevelopment agency may not convene a closed session to discuss rehabilitation loan for a property already subleased to a loan recipient, even if the loan incorporates some of the sublease terms and includes an operating covenant governing the property); 94 Ops.Cal.Atty.Gen. 82 (2011) (real estate closed session may address form, manner, and timing of consideration and other items that cannot be disclosed without revealing price and terms).

26 73 Ops.Cal.Atty.Gen. 1 (1990).

27 Cal. Gov. Code, §§ 54956.8, 54954.5, subd. (b).

28 Cal. Gov. Code, § 54957.1, subd. (a)(1).

29 Cal. Gov. Code, § 54957, subd. (b).

30 63 Ops.Cal.Atty.Gen. 153 (1980); but see *Duvall v. Board of Trustees* (2000) 93 Cal.App.4th 902 (board may discuss personnel evaluation criteria, process and other preliminary matters in closed session but only if related to the evaluation of a particular employee).

31 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165; 85 Ops.Cal.Atty.Gen. 77 (2002).

32 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165; 80 Ops.Cal.Atty.Gen. 308 (1997). Interviews of candidates to fill a vacant staff position conducted by a temporary committee appointed by the governing body may be done in closed session.

33 Cal. Gov. Code, § 54957, subd. (b)(3).

34 88 Ops.Cal.Atty.Gen. 16 (2005).

35 *Morrison v. Housing Authority of the City of Los Angeles* (2003) 107 Cal.App.4th 860.

36 Cal. Gov. Code, § 54957, subd. (b); but see *Bollinger v. San Diego Civil Service Commission* (1999) 71 Cal.App.4th 568 (notice not required for closed session deliberations regarding complaints or charges when there was a public evidentiary hearing prior to closed session).

37 78 Ops.Cal.Atty.Gen. 218 (1995); *Bell v. Vista Unified School District* (2000) 82 Cal.App.4th 672; *Furtado v. Sierra Community College* (1998) 68 Cal.App.4th 876; *Fischer v. Los Angeles Unified School District* (1999) 70 Cal.App.4th 87.

38 *Moreno v. City of King* (2005) 127 Cal.App.4th 17.

39 Cal. Gov. Code, § 54957.

40 *Gillespie v. San Francisco Public Library Commission* (1998) 67 Cal.App.4th 1165.

41 Cal. Gov. Code, § 54957.1, subd. (a)(5).

42 Cal. Gov. Code, § 54957.6.

43 Cal. Gov. Code, § 54957.6, subd. (b); see also 98 Ops.Cal.Atty.Gen. 41 (2015) (a project labor agreement between a community college district and workers hired by contractors or subcontractors is not a proper subject of closed session for labor negotiations because the workers are not "employees" of the district).

44 Cal. Gov. Code, § 54957.6; 51 Ops.Cal.Atty.Gen. 201 (1968).

45 Cal. Gov. Code, § 54957.1, subd. (a)(6).

46 Cal. Gov. Code, § 3549.1.

47 Cal. Gov. Code, § 3540.

48 Cal. Gov. Code, § 3547.

49 Cal. Edu. Code, § 48918; but see *Rim of the World Unified School District v. Superior Court* (2003) 104 Cal.App.4th 1393 (Section 48918 preempted by the Federal Family Educational Right and Privacy Act in regard to expulsion proceedings).

50 Cal. Edu. Code, § 72122.

51 Cal. Edu. Code, § 60617.

52 Cal. Gov. Code, § 54956.96.

53 Cal. Gov. Code, § 54956.7.

54 Cal. Gov. Code, § 54957.

55 *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (2005) 134 Cal. App.4th 354.

56 Cal. Gov. Code, § 54957.8.

57 Cal. Gov. Code, § 54962.

58 Cal. Health and Saf. Code, § 32106.

59 Cal. Gov. Code, § 54956.75.

60 Cal. Gov. Code, § 54956.81.

61 Cal. Gov. Code, § 54956.86.

62 Cal. Gov. Code, § 54956.87.

63 Cal. Gov. Code, § 54956.95.

64 Ops.Cal.Atty.Gen. 34 (1965)

65 82 Ops.Cal.Atty.Gen. 29 (1999); 2022 WL 1814322, 105 Ops. Cal.Atty.Gen. 89 (2022).

66 Cal. Gov. Code, § 54963.

67 *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 327. See also Cal. Gov. Code, § 54963.

68 *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363.

69 80 Ops.Cal.Atty.Gen. 231 (1997).

70 76 Ops.Cal.Atty.Gen. 289 (1993).

71 Cal. Gov. Code, § 54963.

72 Cal. Gov. Code, § 54963.

73 Cal. Gov. Code, § 54957.1.



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Chapter 6

REMEDIES



A violation of the Brown Act can lead to invalidation of the agency's action, payment of a challenger's attorney fees, public embarrassment, and even criminal prosecution. As explained below, a legislative body often has an opportunity to correct a violation prior to the filing of a lawsuit. Compliance ultimately results from regular training and a good measure of self-regulation on the part of public officials. This chapter discusses the remedies available to the public when that self-regulation is ineffective.

Invalidation of action taken

Any interested person, including the district attorney, may seek to invalidate certain actions of a legislative body on the grounds that they violate the Brown Act.[1] The following actions cannot be invalidated:

- Those taken in substantial compliance with the law. No Brown Act violation is found when the given notice substantially complies with the Brown Act, even when the notice erroneously cites the wrong Brown Act section but adequately advises the public that the legislative body will meet with legal counsel to discuss potential litigation in closed session.[2]
- Those involving the sale or issuance of notes, bonds, or other indebtedness, or any related contracts or agreements.[3]
- Those creating a contractual obligation, including a contract awarded by competitive bid for other than compensation for professional services, upon which a party has in good faith relied to its detriment.[4]
- Those connected with the collection of any tax.[5]
- Those in which the complaining party had actual notice at least 72 hours prior to the regular meeting or 24 hours prior to the special meeting, as the case may be, at which the action is taken.[6]

Before filing a court action seeking invalidation, a person who believes that a violation has occurred must send a written "cure or correct" demand to the legislative body. This demand must clearly describe the challenged action and the nature of the claimed violation. This demand must be sent within 90 days of the alleged violation, or within 30 days if the action was taken in open session but in violation of Section 54954.2, which requires (subject to specific exceptions) that a legislative body may act only on items posted on the agenda.[7] The legislative body then has up to 30 days to cure and correct its action.[8] The purpose of this requirement is to offer the body an opportunity to consider whether a violation has occurred and, if so, consider correcting the action to avoid the costs of litigation. If the legislative body does not act, any lawsuit must be filed within the next 15 days.[9]

Although just about anyone has standing to bring an action for invalidation,[10] the challenger must show prejudice as a result of the alleged violation.[11] An action to invalidate fails to state a cause of action against the agency if the body deliberated but did not take an action.[12]

Declaratory relief to determine whether past action violated the act

Any interested person, including the district attorney, may file a civil action to determine whether a past action of a legislative body constitutes a violation of the Brown Act and is subject to a mandamus, injunction, or declaratory relief action.[13] Before filing an action, the interested person must, within nine months of the alleged violation of the Brown Act, submit a "cease and desist" letter to the legislative body clearly describing the past action and the nature of the alleged violation.[14] The legislative body has 30 days after receipt of the letter to provide an unconditional commitment to cease and desist from the past action.[15] If the body fails to take any action within the 30-day period or takes an action other than an unconditional commitment, the interested person has 60 days to file an action.[16]

The legislative body's unconditional commitment must be approved at a regular or special meeting as a separate item of business and not on the consent calendar.[17] The unconditional commitment must be substantially in the form set forth in the Brown Act.[18] No legal action may thereafter be commenced regarding the past action.[19] However, an action of the legislative body in violation of its unconditional commitment constitutes an independent violation of the Brown Act, and a legal action consequently may be commenced without following the procedural requirements for challenging past actions.[20]

The legislative body may rescind its prior unconditional commitment by a majority vote of its membership at a regular meeting as a separate item of business not on the consent calendar. At least 30 days written notice of the intended rescission must be given to each person to whom the unconditional commitment was made and to the district attorney. Upon rescission, any interested person may commence a legal action regarding the past actions without following the procedural requirements for challenging past actions.[21]

PRACTICE TIP: A lawsuit to invalidate must be preceded by a demand to cure and correct the challenged action in order to give the legislative body an opportunity to consider its options. The Brown Act does not specify how to cure or correct a violation; the best method is to rescind the action being complained of and start over, or reaffirm the action if the local agency relied on the action and rescinding the action would prejudice the local agency.

Civil action to prevent future violations

The district attorney or any interested person can file a civil action asking the court to do the following:

- Stop or prevent violations or threatened violations of the Brown Act by members of the legislative body.
- Determine the applicability of the Brown Act to actions or threatened future action of the legislative body.
- Determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid under state or federal law.
- Compel the legislative body to audio-record its closed sessions.[22]

It is not necessary for a challenger to prove a past pattern or practice of violations by the local agency in order to obtain injunctive relief. A court may presume when issuing an injunction that a single violation will continue in the future when the public agency refuses to admit to the alleged violation or to renounce or curtail the practice.[23] A court may not compel elected officials to disclose their recollections of what transpired in a closed session.[24]

Upon finding a violation of the Brown Act pertaining to closed sessions, a court may compel the legislative body to audio record its future closed sessions.[25] In a subsequent lawsuit to enforce the Brown Act alleging a violation occurring in closed session, a court may upon motion of the plaintiff review the audio recording if it finds there is good cause to think the Brown Act has been violated and make public a certified transcript of the relevant portion of the closed session recording.[26]

Costs and attorney's fees

A plaintiff who successfully invalidates an action taken in violation of the Brown Act or who successfully enforces one of the Brown Act's civil remedies may seek court costs and reasonable attorney's fees. Courts have held that attorney's fees must be awarded to a successful plaintiff unless special circumstances exist that would make a fee award against the public agency unjust.[27] When evaluating how to respond to assertions that the Brown Act has been violated, elected officials and their lawyers should assume that attorney's fees will be awarded against the agency if a violation of the Brown Act is proven.

An attorney's fee award may only be directed against the local agency and not the individual members of the legislative body. If the local agency prevails, it may be awarded court costs and attorney's fees if the court finds the lawsuit was clearly frivolous and lacking in merit.[28]

Misdemeanor penalties

A violation of the Brown Act is a misdemeanor if (1) a member of the legislative body attends a meeting where action is taken in violation of the Brown Act, and (2) the member intends to deprive the public of information that the member knows or has reason to know the public is entitled to.[29]

PRACTICE TIP: Attorney's fees will likely be awarded if a violation of the Brown Act is proven.

"Action taken" is not only an actual vote but also a collective decision, commitment, or promise by a majority of the legislative body to make a positive or negative decision.[30] If the meeting involves mere deliberation without the taking of action, there can be no misdemeanor penalty.

A violation occurs for a tentative as well as final decision.[31] In fact, criminal liability is triggered by a member's participation in a meeting in violation of the Brown Act — not whether that member has voted with the majority or minority, or has voted at all.

As with other misdemeanors, the filing of a complaint is up to the district attorney. Although criminal prosecutions of the Brown Act are uncommon, district attorneys in some counties aggressively monitor public agencies' adherence to the requirements of the law.

Some attorneys and district attorneys take the position that a Brown Act violation may be pursued criminally under Government Code section 1222.[32] There is no case law to support this view. If anything, the existence of an express criminal remedy within the Brown Act would suggest otherwise.[33]

Voluntary resolution

Successful enforcement actions for violations of the Brown Act can be costly to local agencies. The district attorney or even the grand jury occasionally becomes involved. Publicity surrounding alleged violations of the Brown Act can result in a loss of confidence by constituents in the legislative body and its members. It is in the agency's interest to consider re-noticing and rehearing, rather than litigating, an item of significant public interest, particularly when there is any doubt about whether the open meeting requirements were satisfied.

Overall, agencies that regularly train their officials and pay close attention to the requirements of the Brown Act will have little reason to worry about enforcement.



Photo credit: Courtesy of the City of West Hollywood. Photo by Jon Viscott.

ENDNOTES

1 Cal. Gov. Code, § 54960.1. Invalidation is limited to actions that violate the following sections of the Brown Act: section 54953 (the basic open meeting provision), sections 54954.2 and 54954.5 (notice and agenda requirements for regular meetings and closed sessions), 54954.6 (tax hearings), 54956 (special meetings), and 54596.5 (emergency situations). Violations of sections not listed above cannot give rise to invalidation actions, but they are subject to the other remedies listed in section 54960.1.

2 *Castaic Lake Water Agency v. Newhall County Water District* (2015) 238 Cal.App.4th 1196, 1198.

3 Cal. Gov. Code, § 54960.1(d)(2).

4 Cal. Gov. Code, § 54960.1(d)(3).

5 Cal. Gov. Code, § 54960.1(d)(4).

6 Cal. Gov. Code, § 54960.1(d)(5).

7 Cal. Gov. Code, § 54960.1, subds. (b), (c)(1).

8 Cal. Gov. Code, § 54960.1, subd. (c)(2).

9 Cal. Gov. Code, § 54960.1, subd. (c)(4).

10 *McKee v. Orange Unified School District* (2003) 110 Cal.App.4th 1310, 1318-1319.

11 *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 556, 561.

12 *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1116-17, 1118.

13 Cal. Gov. Code, § 54960.2, subd. (a); Senate Bill No. 1003, Section 4 (2011-2012 Session).

14 Cal. Gov. Code, § 54960.2, subds. (a)(1), (2).

15 The legislative body may provide an unconditional commitment after the 30-day period. If the commitment is made after the 30-day period, however, the plaintiff is entitled to attorneys' fees and costs. Cal. Gov. Code, § 54960.2, subd. (b).

16 Cal. Gov. Code, § 54960.2, subd. (a)(4).

17 Cal. Gov. Code, § 54960.2, subd. (c)(2).

18 Cal. Gov. Code, § 54960.2, subd. (c)(1).

19 Cal. Gov. Code, § 54960.2, subd. (c)(3).

20 Cal. Gov. Code, § 54960.2, subd. (d).

21 Cal. Gov. Code, § 54960.2, subd. (e).

22 Cal. Gov. Code, § 54960, subd. (a).

23 *California Alliance for Utility Safety and Education (CAUSE) v. City of San Diego* (1997) 56 Cal.App.4th 1024; *Common Cause v. Stirling* (1983) 147 Cal.App.3d 518, 524; *Accord Shapiro v. San Diego City Council* (2002) 96 Cal.App.4th 904, 916 and fn.6.

24 *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 334-36.

25 Cal. Gov. Code, § 54960, subd. (b).

26 Cal. Gov. Code, § 54960, subd. (c).

27 *Los Angeles Times Communications, LLC v. Los Angeles County Board of Supervisors* (2003) 112 Cal. App.4th 1313, 1327-29 and cases cited therein.

28 Cal. Gov. Code, § 54960.5.

29 Cal. Gov. Code, § 54959. A misdemeanor is punishable by a fine of up to $1,000 or up to six months in county jail, or both (California Penal Code section 19). Employees of the agency who participate in violations of the Brown Act cannot be punished criminally under section 54959. However, at least one district attorney instituted criminal action against employees based on the theory that they criminally conspired with the members of the legislative body to commit a crime under section 54949.

30 Cal. Gov. Code, § 54952.6.

31 61 Ops.Cal.Atty.Gen. 283 (1978).

32 California Government Code section 1222 provides that "[e]very wilful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision is made for the punishment of such delinquency, is punishable as a misdemeanor."

33 The principle of statutory construction known as *expressio unius est exclusio alterius* supports the view that section 54959 is the exclusive basis for criminal liability under the Brown Act.

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APPENDIX M

Registrar of Voter's 2018 Election Security Playbook

2018 ELECTION SECURITY PLAYBOOK

ORANGE COUNTY, CA ELECTIONS



Your vote. Our responsibility.
ocvote.com

ORANGE COUNTY REGISTRAR OF VOTERS

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Executive Summary

A paradigm shift occurred in election security in 2016 when widely reported attempts were made to disrupt elections in the United States. In addition, there has been a great deal of attention on issues related to ballot integrity, voter registration systems, and ensuring the eligibility of voters.

As a result, Orange County has been aggressively pursuing security measures to protect the integrity of our elections. We believe a proactive “ring of security” is critical to safeguard the millions of ballots that are cast in Orange County during each election cycle.

The purpose of this physical and cybersecurity election playbook is to provide a guide to anticipate, mitigate and respond to physical and cybersecurity threats. As threats continue to increase and evolve, having a playbook is one of many pieces that will help to improve our security profile. Although threats are constantly changing, and incidents are unique, this playbook provides a guide and a set of best practices to be better prepared for threats and incidents. This playbook also provides a set of standards to reference as we continue to improve our current systems and implement new ones.

We have implemented physical and cybersecurity controls as outlined throughout this playbook, while incorporating extensive physical and cybersecurity training for our employees. There are also classified security measures in place to ensure that these mitigation efforts are not compromised.

Our office has already implemented many of the items addressed in this playbook, including the following:

- Physical security surveys were executed.
- Physical security improvements were put into action.
- Partnerships were established with federal agencies, local agencies, and information sharing centers.
- Administrative, technical and physical controls have been enhanced.
- An internal playbook and Incident Response Plan has been developed.

- Plans are in place to conduct risk limiting ballot-polling audits based on a random sample of ballots.
- Proactive list maintenance above and beyond statutory requirements continues.

Orange County will continue to focus our resources on the protection of our election systems, ballot integrity and overall election security. We remain diligent and proud of our involvement at the forefront of election security planning.



Neal Kelley
Registrar of Voters
Orange County, CA

Neal Kelley is an appointee of the U.S. Department of Homeland Security, Election Infrastructure, Government Coordinating Council (GCC) and serves as a member of the U.S. Election Assistance Commission (EAC) Board of Advisors and Voting Systems Standards Board and is a member of the National Academies of Sciences, Engineering, and Medicine's Committee on the Future of Voting.

Introduction

The Orange County Registrar of Voters (OCROV) is responsible for the management of elections for its over 1.5 million registered voters; in fact, there are more registered voters in Orange County than in 21 individual states. The OCROV security systems and controls are in place to enable secure, yet efficient execution of this mission. This public physical and cybersecurity plan was developed to ensure that the information provided by our systems and information remains confidential, available, and accurate. The OCROV is dedicated to protecting the integrity and authenticity of our data as well as the integrity of all votes cast.

The cybersecurity playbook provides clear, actionable tasks using tactical approaches to counter the growing number of cyber as well as physical threats. It is important that we take a strong, proactive approach to our security campaign efforts. This approach is a combination of strategies, best practices, along with cybersecurity policies and procedures to reduce our risks and to minimize and prevent threats.

The importance of a cybersecurity playbook is illustrated by the following quote from the Harvard Kennedy School:

> "The consequences of a cyber breach can be substantial and devastating. For the foreseeable future, cyber threats will remain a real part of our Election process. As democracy's front line, we must recognize the risk of an attack, develop a strategy to reduce that risk as much as possible, and implement response strategies for that moment when the worst happens. While no campaign can achieve perfect security, taking a few simple steps can make it much harder for malicious actors to do harm. Ironically, the most sophisticated state actors often choose the least sophisticated methods of attack, preying on people and organizations who neglect basic security protocols. That is our primary reason for creating this Cybersecurity Campaign Playbook.[1]"

1 Harvard Kennedy School (2017) Defending Digital Democracy / Version 1.3: Retrieved from https://www.belfercenter.org/sites/default/files/files/publication/Playbook%201.3.pdf

Elections as Critical Infrastructure

On January 6, 2017, the Secretary of the Department of Homeland Security (DHS), Jeh Johnson, designated the Election Infrastructure in the United States as a subsector of the existing Government Facilities Critical Infrastructure sector. This designation by DHS means that the Election Infrastructure has become a priority for cybersecurity assistance and protections that DHS provides to a range of private and public-sector entities. Election Infrastructure has been defined as storage facilities, polling places and centralized vote tabulation locations used to support the election process. It is also defined as information and communications technology to include voter registration databases, voting machines, and other systems to manage the election process and to report and display results on behalf of state and local governments. Critical Infrastructure is a major concern for cybersecurity threats and vulnerabilities.

Core Information Security Principles

The OCROV has adopted guiding principles that describe our security objectives, which we refer to as our core information security principles. The core information security principles are an integral part of our information security architecture. The principles are the basis for many of our efforts outlined throughout this document. Our office uses a principle referred to as CIA, which is defined as[2]:

> Confidentiality – Confidentiality refers to protecting sensitive information, such as Personally Identifiable Information (PII). Any two of the following data points together – a name with address, Social Security number, driver's license, etc. – are considered PII and must be protected as data assets. The principle of "least privilege" is the idea that only authorized individuals or systems should have access to information on a need-to-know basis. This principle is intended to prevent unauthorized disclosure of voter information, PII or other sensitive voter data.
>
> Integrity – Integrity refers to the prevention of unauthorized or improper modification of systems and information. Integrity includes the principle that information should be protected from intentional, unauthorized, or accidental changes. Controls are put in place to ensure that information is only modified

2 Tipton, Harold F. Official (ISC)2 guide to the CISSP CBK. Boca Raton, FL: CRC Press, 2010. Print.

through accepted practices. This is to ensure that data has not been altered.

Availability – Availability refers to the idea of minimizing downtime. We have controls in place to ensure that our data is highly available, redundant and replicated securely offsite. In case of a disaster, it is important to have plans in place to ensure business continuity while minimizing downtime and impact to voters, which is critical. Future planning will continue to include designing and building everything with redundancy in mind. In addition, disaster recovery policies are in place to overcome disasters such as power failures, fires, and other unplanned disasters. Secure back up of data is also important to make sure access to our data is not disrupted in the event of a disaster.

Top Threats and Vulnerabilities

In order to properly develop a security plan, the potential threats and exploits must first be identified. In the following section, we give examples of potentials and threats that we have identified.

The National Institute of Standards and Technology (NIST), in Special Publication SP 800-30 defines[3] threats as "the potential for a particular threat-source to successfully exercise a particular vulnerability."

NIST Special Publication 800-30 Rev. A defines vulnerability as "a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised accidentally, triggered or intentionally exploited and result in a security breach."

Threat of Foreign States

Foreign States are a significant threat because they have access to resources and technologies that make their cyberweapons more dangerous and difficult to defend against. A large amount of cyber threat intelligence data focuses on preventing a breach or a leak from happening; however, even with companies and governments spending more on network defense, breaches from Foreign States are still occurring. A proper defense strategy must be proactive and engaged. We need to combine technology and techniques to combat Foreign States that try to intervene in our elections and

3 NIST Special Publication 800-30 Revision 1 Retrieved from nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-30r1.pdf

disrupt our democracy. We must take strong actions to prevent interference including misinformation, phishing expeditions, and any other forms of meddling, mischief, and disruptions from Foreign States. Throughout this cybersecurity playbook, the threat from Foreign States is incorporated into the planning process.

Examples of Threats

We have identified examples of potential threats and exploits specific to elections, and later in this report, we will describe some mitigation strategies. Listed below are examples of identified threats:

- Computer virus
- Malware
- Breach of confidential information
- Denial of access
- Bomb threats and physical threats
- Phishing attack
- Hacking
- Social engineering
- Tampering of voting equipment
- Power outage
- Disgruntled poll worker or employee
- Fake information, including from social media
- Physical access to voting machines
- Lost access to voter database
- Voter registration tampering
- Vendor related threats

- Supply chain threats

Potential Impacts to an Election

The above threats must be addressed, because they can potentially impact an election by causing failures to meet election deadlines, causing failures to process results on-time, and causing overall failures of the voting system.

Preventative Measures and Mitigations

In order to address the threats and vulnerabilities listed above, our office implements preventative measures through security mitigations and controls.

Security Mitigations and Controls

Categorizations of Security Controls

Security requires a comprehensive strategy, consisting of multiple facets. Security mitigations can be classified by the types of controls necessary for a secure organization. The types of controls are[4]:

Administrative controls - Administrative controls are procedures implemented to define the roles, responsibilities, policies, and administrative functions needed to manage the environment. The employee hiring and separation procedures listed below are examples of the administrative controls we have in place.

Technical controls – Technical controls are electronic hardware and software solutions implemented to control access to information and information networks. The intrusion detection systems listed below are examples of the technical controls we have in place.

Physical controls - Physical controls protect the organization's people and physical environment, such as locks, fire management, gates and guards. The security cameras and badge access controls listed below are examples of the physical controls we have in place.

In our process of identifying preventative measures and mitigations for our systems, we

4 Tipton, Harold F. Official (ISC)2 guide to the CISSP CBK. Boca Raton, FL: CRC Press, 2010. Print.

attempt to address each of these categories of controls. This helps to ensure we are approaching physical and cybersecurity from a comprehensive perspective.

Examples of Specific Security Controls

Listed below are examples of specific security controls in place, which include examples of administrative, technical and physical controls.

Voting System

- "Air gap" mitigation – An "air gap" refers to the idea that the voting system is not connected to any other network at any other time, including local networks and the internet. Our office uses an "air gap" with our voting system, which is one of the most effective ways of mitigating security risks.

- Ballot creation security – The ballot creation team is located in a room with limited security access, multi-factor badge access, surveillance systems, and no network connections. The printed ballot contains a tint and watermark.

- Chain of custody – Strict chain of custody controls are in place for ballots and voting components.

- Ballot printing - Ballot printing is conducted in-house, mitigating the risk of relying on a vendor for ballot production.

Network Security

- Security Information and Event Management (SIEM) system – SIEM includes intrusion detection, vulnerability assessment, asset discovery and inventory, behavioral monitoring, and log management.

- Physical Security – Strict badge access control and alarm monitoring are important components of our physical security.

- Firewalls – Firewalls are used to protect our networks.

- Intrusion Detection/Prevention Systems – Intrusion detection and prevention systems help to detect attempts of unauthorized access.

- User login security controls – Requiring password complexity, and using least privileged access are important user security controls.

- Critical and security updates, and patch management – Applying security patches is a basic security measure.
- Legacy workstations – Minimizing the use of outdated Operating Systems and software, as well as replacing legacy systems.
- User account management – Immediately disabling unused accounts is a standard security practice.
- Center for Internet Security (CIS) benchmarks – We review their recommendations and utilize them when possible to harden our systems.
- Enforce strong passphrase policy – We enforce password complexity for user accounts.

Website Security

- Encrypted web communication – The website is viewed over a secure connection. Forms submitted by users are encrypted using SHA-xxx Cryptographic Hash Algorithm and utilizes SSL Web Security Certificates (Cryptographic Hash Management Latest Security Certificates).
- SQL injection – Web applications are periodically checked for SQL injection vulnerabilities.

Training and Personnel

- Employee hiring and separation procedures – Background checks are performed on new employees, and all are required to receive security training. Separated employees' accounts are promptly disabled, and badges are deactivated.
- Phishing campaign simulation – Phishing campaign with OCROV staff are periodically simulated in order to test the efficacy of our training.
- Cybersecurity training program – All employees must complete a professionally created cybersecurity training program. Supplemental training is also provided, and security updates are routinely given in staff meetings.
- Physical security accountability – Personnel are held accountable for enforcing physical security practices.

Administrative

- Business continuity plan – A business continuity plan is updated periodically.
- Policies and procedures – Policies and procedures are developed with cybersecurity in mind.
- Incident response plan – An incident response plan is developed in the event of a cybersecurity incident.
- RFP security review – When requesting bids or proposals from vendors, we are including strict security requirements from the vendors.

Physical

- Physical security improvements – Since 2016 (and through 2018) we have made numerous improvements as a result of recommendations from independent assessments.
- Enhanced physical security around election cycles – Security is provided by the Orange County Sheriff's Department on and around the election.
- Surveillance systems – Physical security is enforced with security cameras and other monitoring devices throughout our facilities.

Collaboration

- Collaboration at the federal level – We have developed a direct relationship with DHS, FBI, and the Election Assistance Commission (EAC).
- Collaboration at the local level – We have developed a relationship with our Orange County's Chief Information Security office, and the Orange County Intelligence Assessment Center (OCIAC).
- Increased collaboration around election cycles – Before and after the election, we enhance our security awareness and communication, including regular meetings with the County's security office, DHS, and the FBI.
- Cyber resilience self-assessment criteria report – We will be performing the cyber resilience self-assessment as provided by DHS.

User Level Security

- Improved malware detection - We are currently using endpoint protection that is pattern and behavior based.
- Email encryption - We currently have the ability to send encrypted emails when necessary.
- Email spam\virus filter - Systems are in place that prevent potentially malicious emails from being sent to the users.
- Email links - All links received by users in emails are checked for safety before a user can open the link.
- Data loss prevention - The County is in the process of enabling data loss prevention, which helps to prevent users from sending sensitive information that should not be sent.

Mobile

- Mobile encryption – Any mobile devices and laptops that contain sensitive data will be encrypted before deploying them outside the office.
- Mobile Device Management (MDM) – Mobile devices used, including electronic poll books, will have the ability to be managed remotely, including the ability to remotely wipe the data.

Public Information

- Comprehensive election information – We will continue to provide accurate information to voters through multiple channels, which can be used to counteract false information.

Overall Security

- Third party security audit – We are using a third party to conduct a cybersecurity audit, which can help to discover additional vulnerabilities.

Voting System Security Controls

The voting system currently used in Orange County is a Direct Record Electronic (DRE) voting system, with a Voter Verifiable Paper Audit Trail (VVPAT). In order for a voter to access a ballot at a polling place, a four-digit random access code is used for activation. The electronic voting booth and poll worker control system possess

only minimal functionality as compared to a fully operational personal computer, thus minimizing the risk of unauthorized system access and code modification. Furthermore, the voting system is a standalone system without connectivity to any external network or the internet, which makes unauthorized access from a network virtually impossible. Additional technical controls are in place and required in order for the voting system to be certified for use in the State of California.

Information Integrity and Accuracy

Important administrative controls are the extensive logic and accuracy audits that are conducted before the election to make sure the voting system is properly recording the cast vote records. After the election, random audits are performed manually to ensure the paper record matches the final tally. Paper audit trails allow us to compare totals and check the results against the votes verified by the voters.

Risk Limiting Audits

California does not currently require Risk Limiting Audits (RLA). However, as a component of our security plan for 2018, we will be conducting pilot RLAs to ensure that the integrity of the votes cast are true and correct. Computerized systems may produce incorrect results due to programming errors or deliberate subversion. Even hand counts may be erroneous. RLA audits systematically check the election outcomes reported by vote-counting systems.

Specifically, a risk limiting audit checks some voted ballots or voter-verifiable records in search of strong evidence that the reported election outcome was correct – if it was. Specifically, if the reported outcome (usually the set of winner(s)) is incorrect, then a risk-limiting audit has a large, pre-specified minimum chance of leading to a full hand count that reveals the correct outcome. A risk-limiting audit can stop as soon as it finds strong evidence that the reported outcome was correct. (Closer elections generally entail checking more ballots.)[5]

In addition to the required 1% manual tally (which is a hand-count of 1% of all ballots cast), in 2018 our office will be conducting RLAs in the form of ballot-polling audits based on a random sample of ballots. This will be reviewed by academics from Princeton University, Tufts University and the Massachusetts Institute of Technology (MIT).

5 California Risk Limiting Audits Working Group, Version 1.1, October 2012

Voter List Maintenance

Maintaining an accurate voter list is an important part of the cybersecurity playbook because it prevents widespread voter fraud, and ensures access for eligible Orange County voters. Our office has made a concerted effort in previous years to improve the accuracy of the voter database, but we also our continually looking for additional methods to improve our process of maintaining the voter list.

In 2018, we will be conducting the following list maintenance activities:

- Alternate Residency Confirmation – We send a postcard to all voters who have had no voting or registration activity for four years. If these voters do not respond, they remain in an inactive status, which means they do not receive any election materials in the mail.

- National Change of Address – We use change of address data provided by the Post Office (USPS) to update addresses of registered voters. This also helps us to identify and contact voters who may have moved out of Orange County, or the State.

- Third Party Data Provider – This is an activity that is not required by law, but we will conduct as an additional process to update our voter registration list. We utilize a credit reporting agency to find updated address information for voters who have not provided updated information through all other methods.

- DMV Address Change – We continually process change of address data provided by the Department of Motor Vehicles (DMV).

- National Deceased Voter Data – This is another activity that is not required by law, but we will conduct as an additional process to determine deceased voters. In addition to the deceased voter data provided by the State and the County, we use a service which matches voter information to national deceased records. This provides an additional step to locate voters who have deceased records throughout the entire country.

- First Time Federal Voters – Our office is updating its process to validate first time federal voters. This will improve efforts to ensure voters have provided proof of residence in Orange County.

- Statewide Voter Database – The Statewide Voter Database became the official

system of record for voter registrations in California in 2016. Orange County has taken a proactive role in utilizing this new system to improve the identification of voters that move within the State. As an example, we helped to implement a statewide policy that makes registration dates consistent, in an effort to better determine the most current registrations of the voters.

Early Voting Center Security

Securing access at remote early voting centers is critical. We ensure that Request for Proposals (RFPs) include stringent security requirements of the proposed system, as well as the vendor themselves. From a technical perspective, we include a multi-layered approach to ensure the data remains encrypted and secured at all times. We will be utilizing devices that have Federal Information Processing Standard (FIPS) certified components and data will remain encrypted from point-to-point at all times.

Physical security is also consideration when choosing a location to host early voting. Only facilities that provide adequate physical security are chosen to be early voting sites.

Electronic Poll Book Security

Electronic poll books used in early voting centers must have a high level of security applied. Listed below are examples of our security requirements for electronic poll books:

- Must be certified by the Secretary of State's office.
- Must have encrypted communication between all devices.
- Must use SSL encryption when appropriate.
- The database and other data must be encrypted at all times.
- Must be able to continue to operate in the event of loss of a connection.
- All devices must be shut down and physically secured when not in use.
- Devices will not store personal identifiable information.

Mobile Device Management

Mobile device management allows total control of securing and enforcing policies to tablets, smartphones, and other devices. Mobile device management allows us to

remotely wipe a device, use password enforcement, enable application whitelisting or blacklisting, use data encryption enforcement, control application distribution and software updates, and more.

Chain of Custody Procedure

Chain of custody procedures are used by the OCROV as an administrative control as part of its overall strategy to secure our voting system. The chain of custody procedures include the following:

- Voting booth controllers are secured within a locked caged area, under video surveillance until they are deployed for the election.
- A minimum of two people are present when the voting booth controllers are returned on Election Night.
- Chain of custody documents are used for an additional layer of auditing.
- Voting booth controllers are placed in a numerically sealed transportation box.
- Memory cards are numerically sealed in the voting booth controller.
- All voting equipment is tracked when deployed and returned to the OCROV.
- Election personnel sign chain of custody documents for voting equipment at distribution locations.
- Election personnel and polling place workers are required to check the security seals periodically and report any broken seals or suspicious activity to the OCROV.
- An OCROV driver is accompanied by a Deputy with the Orange County Sheriff's Department that returns voting booth controllers to the OCROV.
- An OCROV representative signs for equipment upon its return.
- Voting equipment is inventoried and placed in a secured, video monitored location.
- Voted memory cards are tallied in a room that allows for open observation.

Partnerships and Information Intelligence Sharing

Information sharing is critical in taking a proactive security approach and is an important part of our preventative measures and mitigations. Tactics, Techniques and Procedures (TTP) is an approach that is used within a cyber threat intelligence solution. TTPs can help with predictive or emergent risk, such as sharing of a zero-day exploit on the Dark Web. A zero-day attack is an attack vector that takes advantage of a security weakness before the vulnerability becomes generally known. There is no time or opportunity for detection because the attacker exploits the vulnerability before the threat is known. TTP is an effective method in helping to prevent zero-day attacks. The TTP method can help identify possible targets, provide threat analysis data, and help with mitigation process. This data or research is provided to us by multi-state sharing cybersecurity threat analysis partners. This section focuses on some of the ways our office employs the approach of intelligence sharing as one of the mitigation strategies of our security plan.

Partnership With Orange County Agencies

The OCROV has been proactive in communicating with the County security team, and they have expressed a commitment to assist the OCROV when needed.

Orange County's Chief Information Security Officer (CISO) and a cybersecurity joint task force meet monthly to review and discuss security topics that focus on information security countywide. We are working to update and refresh policies, standards, and guidelines, which are key components of an effective information security plan. To address the CIA principles of the technology, the County security team routinely conducts a series of assessments and penetration tests on County network infrastructure, systems, and data. The County security team has also expressed a commitment to establishing an in-depth defense methodology for its infrastructure, systems, and data.

Partner with Regional and Local Law Enforcement

We interface on a regular basis with regional (California Secretary of State, Criminal Investigations) and local (Orange County District Attorney's Office) law enforcement. We routinely, when appropriate, continue to refer cases to these agencies for investigations.

In addition to these resources, our office interfaces directly with OCIAC to obtain additional threat information, and to have OCIAC help recover from an incident, if necessary.

Partnership With Federal Agencies

At the Federal level, election systems are designated as critical infrastructure by the Department of Homeland Security (DHS). This designation ensures election systems receive top priority cybersecurity assistance from DHS. Additionally, our office is in direct communication with the FBI, DHS, and EAC. As an example, the Department of Homeland Security National Cybersecurity and Communications Integration Center provides OCROV weekly cyber hygiene assessment reports. This report is intended to provide our office information regarding our office's internet accessible networks and hosts. This report includes vulnerability scan results, new vulnerabilities detected and mitigated vulnerabilities on internet facing hosts. These federal partnerships also help with the defense of risks presented by Foreign States.

Collaborative Intrusion Detection and Prevention System

The Multi-State Information Sharing and Analysis Center (MS-ISAC) provides a security network monitoring service, which includes a near real-time automated system that identifies and alerts on traditional and advanced threats on a network, facilitating the rapid identification of threats and attacks.

Partners of the OCROV Ring of Election Security

Cybersecurity Training & Awareness Program

The OCROV has adopted the County policy of a mandated IT security and awareness training program, which is required to be completed by all employees on an annual basis. This provides employees with basic knowledge and tools that are instrumental in helping the County as a whole to combat cyber threats, including threats that have a social engineering component. The topics covered under the training program include:

- Ransomware
- Password Guidelines
- Safe Election Security and Protection Against Nation State Intrusions
- Social Engineering
- Phishing
- Physical Security
- Privacy
- Mobile Device Usage
- Malware
- Social media

Human Firewall

In any organization, cybersecurity is everyone's responsibility. Human error or targeted spear phishing has consistently been the root cause of publicized cyber attacks, and it is up to the OCROV leadership teams to weave security awareness into the culture of the organization. The term "Human Firewall" means employees, through education and cybersecurity training, are trained to detect, recognize, and report threats. The "Human Firewall" is the human shield of defense against possible social engineering attacks. Our approach is structured to change human behavior by thoroughly training our employees, including volunteer poll workers, to be cautious, and to be trained to recognize and report cybersecurity incidents. The decisions humans make are just as important as the software they use; therefore, the best approach consists of a clear employee cybersecurity program that includes awareness and focuses on continuous

training and education. Additionally, this cybersecurity training and awareness program needs to be more than just a routine requirement; instead, the concepts should be reinforced in order to change employee behavior. For example, email continues to be a significant vector of choice for malware; therefore, it is important that our employees are trained annually, in addition to being reminded in monthly meetings, to be mindful of the many forms of phishing attacks that come through professional and personal emails. Other aspects of the "Human Firewall" include background checks and setting standards for following good security protocols.

Security isn't just a technology issue; it's a personnel issue. Errant clicks, user error, and social engineering attacks such as phishing are some of the biggest threats. Educating and empowering our users to make safer choices is vital to creating a more sustainable and successful long-term defense.

Application of the NIST Cybersecurity Framework

The NIST Cybersecurity Framework is a widely adopted framework that provides an additional perspective to our approach to cybersecurity and was created by the public and private sectors working collaboratively. This framework is composed of the following five major functions:

1. IDENTIFY assets you need to protect.
2. PROTECT assets and limit the impact.
3. DETECT security problems.
4. RESPOND to an incident or be ready to respond with a plan.
5. RECOVER from an incident.

Identify

Our agency, with guidance from Orange County Information Technology (OCIT) enterprise security, has developed the skills to manage the cybersecurity risk to systems, assets, data, and capabilities. This covers areas such as risk assessment, asset management, and governance.

Protect

We have developed and implemented the appropriate safeguards to ensure delivery of services. These security mitigations and controls are outlined throughout this document.

Detect

We have implemented the appropriate systems to identify the occurrence of a cybersecurity event as soon as possible. The security mitigations and controls include items outlined in this document such as intrusion detection systems, and collaboration with other agencies are a part of this strategy.

Respond

OCROV, along with a cybersecurity joint task force, has developed a cybersecurity incident response plan. The plan addresses the appropriate actions in the event of a cybersecurity event. These actions include response planning, communications, analysis, mitigation, and future improvements learned from the incident. This plan is an internal secure document not designed for public distribution.

Recover

We have developed appropriate activities to restore any capabilities or services that are impaired due to a cybersecurity event or physical intrusion. A business continuity plan is also a component of this aspect of the framework. The focus is also to maintain resilience for the network and protect it from further attacks.

Defense in Depth

Defense in depth is an information assurance concept in which multiple layers of security controls or defenses are placed throughout network infrastructure to detect anomalies and unusual network traffic. Preparing for a breach is very important. Multiple layers of network security minimize gaps in protection. Examples of currently used protections at the OCROV are a robust firewall, intrusion prevention, and antivirus protection.

Countermeasures that are used to help defend the network are:

- Identify, minimize and secure all network connections.
- Harden systems by disabling unnecessary services, ports, and protocols.
- Enable available security features of systems used.
- Implement robust configuration management practices.
- Continually monitor and assess the security of the systems, networks, and interconnections.

- Building a “Human Firewall” by providing cybersecurity training, providing awareness and holding individuals accountable.
- Configure our firewall and other security settings to be more restrictive.

These countermeasures are items we will be continually reviewed in order to effectively protect systems and networks from cyber-based attacks. Although defense in depth measures do not (and cannot) protect all vulnerabilities and weaknesses in an environment, they are part of the larger, overall strategy.

Incident Response Plan

Cyber Incident Management in Orange County utilizes a lifecycle approach. The Cyber Incident Management Lifecycle is composed of serial phases: preparation, identification, containment, eradication, recovery, and follow-up. It is also composed of ongoing parallel activities: analysis, communication, and documentation. This lifecycle is derived from many standardized cyber incident response processes such as those published by NIST, as well as other authorities.

The following are descriptions of those actions that comprise OCROV’s Cyber Incident Management Lifecycle:

- Preparation - Maintaining and improving cyber incident response capabilities.
- Identification - Confirming, categorizing, scoping, and prioritizing suspected cyber incidents.
- Containment - Minimizing loss, theft of information, or service disruption.
- Eradication - Eliminating the threat.
- Recovery - Restoring computing services quickly and securely.
- Follow-Up - Assessing response to better handle future incidents through utilization of reports, “lessons learned” and after-action activities, in addition to mitigation of exploited weaknesses to prevent similar incidents from occurring in the future.

The following are elements present throughout the Cyber Incident Management Lifecycle:

- Communication - Notifying appropriate internal and external parties and maintaining situational awareness.
- Analysis - Examining available data to support decision-making throughout the Cyber Incident Management Lifecycle.
- Documentation - Recording and time-stamping all evidence discovered, information, and actions taken from Identification through follow-up.

Direct contacts and methods of escalation are imperative to be defined as we prepare for any given election. In the event of an actual attack or incident, we ensure this information and the cybersecurity incident response plan are accessible. It is critical as we prepare and increase our cybersecurity presence, that all involved parties remain in frequent communication, coordination, and are well acquainted with our cybersecurity playbook plans.

Threat Intelligence Services

Threat Intelligence helps organizations understand the risks of the most common and severe external threats. Earlier in this report, we have described how we use partnerships and collaboration to help prevent and mitigate cybersecurity threats. We also utilize those partnerships to respond to incidents.

As an example, we have established a partnership with OCIAC. Not only do they help to identify threats before they occur, they also provide support to respond to an incident, and share the intelligence with other potentially affected entities.

Data Backup and Recovery

An important component of an incident response plan is to have a robust recovery plan, including the ability to restore and recover data after a major disaster. We monitor our backups closely, and we follow best practices in backing up and performing test restores of data. By simply following best practices, our backup and recovery strategy can be an effective defense against encryption and extortion attacks such as ransomware or other data loss.

Rehearsing Responses to Incidents

We will be periodically rehearing our responses to physical and cybersecurity incidents. This will help employees understand their responsibilities, as well as to refine the response plan based on findings from the rehearsals.

Crew Resource Management

Crew Resource Management (CRM) is a training program which encompasses a wide range of knowledge, skills, and attitudes including communications, situational awareness, problem-solving, decision making, and teamwork; together with each of the sub-disciplines that each of these areas entail. CRM training is conducted at the OCROV, and its concepts are reinforced by the Registrar of Voters. CRM empowers employees to respond, make decisions, and communicate effectively during an incident.

Current and Future State

Controls in Place

Our office has implemented physical and cybersecurity controls as outlined throughout this playbook. We have also established partnerships with federal and local agencies to assist with our efforts and to share information. We have incorporated extensive physical and cybersecurity training for our employees. We have also developed an incident response plan in order to be prepared to respond to an incident. There are additional security measures in place that are not shared with the public to ensure that these additional mitigation efforts are not compromised.

Plans for 2018

2018 is an election year, which means we will be required to execute on many of the planning efforts described in this playbook. Many of the controls that have been put in place will be acted upon as we approach the election. Additionally, we will utilize the partnerships we have established by increasing our frequency of communication and establishing checkpoints to evaluate our readiness before the elections.

Future Plans

Threats are constantly evolving, vulnerabilities are continually being discovered, and new systems are periodically implemented; therefore, the playbook must be used as a foundation and guide for the future. As we implement new systems and processes,

we must review this guide to ensure that we are continuing to adhere to our core information security principles, and applying security controls from all facets including technical, administrative and physical perspectives. As we will be updating our voting system in the near future, we will apply this playbook through the entire process beginning with procurement, continuing through implementation, and applying through future elections.



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