



CAMPAIGNING FOR ELECTIVE OFFICE BEFORE THE ONE-YEAR PRE-ELECTION FUNDRAISING TIME PERIOD

The City's Election Campaign Control Ordinance [ECCO], includes a variety of regulations applicable to City candidates, including a provision that prohibits candidates from soliciting or accepting contributions more than a year before a primary election. This fact sheet is designed to offer general guidance concerning these pre-election regulations to candidates for elective City office as well as to their supporters and prospective campaign staffers. This fact sheet should not be considered a substitute for the actual language contained within San Diego Municipal Code sections 27.2901 through 27.2991.

GENERAL RULES

- ❖ A prospective candidate becomes a "candidate" under ECCO once he or she collects a contribution or spends money to advance an effort to run for a City elective office. This fact sheet, therefore, applies to those who have announced their candidacy as well as to those who have yet to make that announcement. It applies to current City officeholders contemplating another term of office and to members of the general public who are considering whether or not to run for City office.
- ❖ ECCO prohibits candidates from soliciting or accepting any contributions for an election from anyone until one year prior to the date of the applicable primary election. Contributions include monetary donations as well as non-monetary or "in-kind" donations such as printing costs, postage, and equipment.
- ❖ The one-year prohibition also applies to a candidate's own funds. A candidate may not, for example, spend his or her own money on campaign flyers before the one-year pre-election period. The payment for the flyers would be considered a "contribution" to his or her own campaign.
- ❖ Prior to the one-year pre-election period, candidates may not disseminate written materials that announce or advocate their candidacy, list their qualifications for office, or otherwise imply that they are qualified to hold elective office. Payments for such materials, even if made personally by the individual running for office, are considered to be a contribution to that individual.
- ❖ In general, candidates are listing their "qualifications for office" when they state their opinions on governmental issues or reference their substantial service on matters related to governmental issues and/or policies. For example, when candidate John Smith pays to distribute door hangers that say "John Smith has served on the Planning Commission for eight years, and is dedicated to curbing development in the City's beach areas," he is listing his "qualifications for office." He cannot pay to disseminate such messages until the one-year pre-election period begins.
- ❖ Similarly, prior to the one-year pre-election period, a candidate may not spend any money to maintain a website that advocates his or her candidacy, lists his or her qualifications for office, or otherwise implies that he or she is qualified to hold elective office.
- ❖ In addition, a candidate may not ask others or coordinate with others to disseminate campaign materials on his or her behalf prior to the one-year pre-election period. A payment for such materials would be considered an "in-kind" contribution to the candidate.

- ❖ Note that the prohibition includes the solicitation of contributions. In other words, before the one-year pre-election period, candidates may not ask individuals to make a contribution at a later date, or obtain credit card information in order to process a contribution at a later date.
- ❖ Similarly, ECCO prohibits candidates from hiring and receiving services from campaign professionals (e.g., consultant, treasurer) before the one-year period with the understanding that the candidate will pay these professionals for their services after the one-year pre-election period begins.

HOME/OFFICE EVENTS

- ❖ The above prohibitions do not apply to a person hosting a non-fundraising event in their home or office, so long as the total cost of the event is \$500 or less.
- ❖ Under this exception, a prospective candidate could spend up to \$500 to host an event at his or her home to announce a candidacy or discuss campaign matters, even prior to the one-year pre-election period.
- ❖ Friends and neighbors may use their homes or offices for similar purposes. Under these circumstances, the money spent on the event (\$500 or less) would not be considered a “contribution” to the candidate.
- ❖ Keep in mind, however, that no food, beverages, entertainment, or similar goods or services may be donated to the event by anyone other than the occupants of the home or office; such donations would result in the candidate accepting an unlawful “in-kind” contribution.
- ❖ As indicated above, no fundraising may take place at such an event until one year before the primary election.

OTHER ALLOWABLE ACTIVITIES

- ❖ As indicated above, ECCO does not prevent prospective candidates from speaking about their intent to run for office prior to the one-year pre-election period.
- ❖ Because the prohibition applies only to the solicitation and acceptance of contributions (both monetary and in-kind), prospective candidates are free to walk their precincts and speak with the public on any matter, including their candidacy, so long as they do not distribute campaign materials or incur other campaign expenses.
- ❖ The one-year pre-election time limit does not impact the scheduling of fundraising events. It is only the actual act of soliciting contributions (e.g., sending out invitations to a fundraising event) or accepting contributions that is prohibited before the one-year pre-election period begins.

EXPLORATORY ACTIVITIES

- ❖ ECCO also does not prevent prospective candidates from spending money on “exploratory activities” before the one-year pre-election period. Exploratory activities are designed to help an individual decide whether or not to run for office, and are generally limited to conducting polls and surveys that:
 - ✓ determine the issues that are important to voters;
 - ✓ determine the degree of name recognition an individual may have; or
 - ✓ determine the percentages of voters who might vote for a particular individual.

- ❖ Exploratory polls and surveys must be carefully worded prior to the one-year pre-election period to avoid all forms of advocacy. Language in such polls or surveys that mentions a prospective candidate's qualification for City elective office, or identifies people who are supporting or endorsing the prospective candidate, would not be permitted under ECCO.
- ❖ Exploratory expenses become reportable as in-kind contributions once an individual decides to run for office. Note that a purely exploratory expense that becomes an in-kind contribution prior to the one-year pre-election period (because the individual has decided to run for office) does not violate the prohibition against accepting contributions prior to the pre-election period.

CANDIDATE INTENTION STATEMENT

- ❖ The pre-election fundraising prohibition does not prevent candidates from filing a Form 501 Candidate Intention Statement prior to the one-year pre-election time period.
- ❖ The filing of a Form 501 does, however, establish that the candidate has decided to run for office and would prevent the candidate from claiming that subsequent activities were of an "exploratory" nature.

For additional information, please contact the Ethics Commission at (619) 533-3476.

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