

FACT SHEET ON CAMPAIGN ADVERTISING FOR CANDIDATE COMMITTEES

The City's Election Campaign Control Ordinance [ECCO] includes laws regarding campaign advertisements that advocate for or against candidates and ballot measures in City of San Diego elections, including campaign literature, telephone communications, television and radio advertisements, Internet videos, and other mass media communications. This fact sheet is designed to provide a general description of these laws, but should not be considered a substitute for the actual language contained in ECCO.

Introduction

- ❖ This fact sheet is applicable solely to City candidates and their election campaign committees.
 - ✓ It does not apply to general purpose recipient committees, primarily formed recipient committees, or independent expenditure committees. Advertising fact sheets for these types of committees are available on the Commission's website.
- ❖ Except where noted below, campaign advertisements must contain an "Ad paid for by" disclosure regardless of quantity. Even a single campaign flyer must contain a disclosure.
- ❖ Disclosure requirements apply only to campaign communications that are "advertisements," i.e. campaign materials or content designed for public or general dissemination.
 - ✓ The following campaign-related communications are not considered "advertisements": requests for endorsements; internal campaign memos; discussions with campaign consultants; and communications with campaign vendors.

Campaign Literature

- ❖ When a candidate committee disseminates printed campaign advertisements that are designed to be individually distributed (e.g., mass mailings, campaign flyers, door hangers, business cards), the committee must identify itself on the advertisement.
- ❖ Each item of campaign literature, other than mass mailings, must contain the words "Ad paid for by" followed by the name of the committee.
 - ✓ The disclosure must use at least a 10 point font in a color that contrasts with the background.
 - ✓ These requirements apply to campaign literature disseminated by the committee in any quantity (i.e., one or more items).
- ❖ Mass mailings: campaign literature sent through the U.S. Mail requires a disclosure only when more than 200 substantially similar items are disseminated.
 - ✓ Mass mailings must include the words "paid for by" immediately followed by the committee's name, street address, and city on the outside of the mailer, all in a contrasting and legible font at least 6 points in size.
 - ✓ A post office box may be used instead of a street address if the committee's street address is a matter of public record with the Secretary of State (i.e., identified on the committee's Form 410 – Statement of Organization).

- ✓ The mass mailing rules do not apply when the advertisement is an independent expenditure. For example, if a candidate running for City Council uses his or her election committee to send out mailers in support of a ballot measure, these mailers (even in quantities less than 200) are instead subject to the above rules for other forms of campaign literature. Note that independent expenditures that take the form of printed letters may use the words “Paid for by” instead of “Ad paid for by.”
- ❖ The following items are exempt from the “Ad paid for by” disclosure requirement: campaign buttons smaller than 10 inches in diameter; bumper stickers smaller than 60 square inches; small tangible promotional items, such as a pen, pin, or key chain; wearing apparel; skywriting; airplane banners; and communications from an organization, other than a political party, to its members.
- ❖ Committees paying for campaign literature must maintain records that identify the date(s) of dissemination, the number of pieces disseminated, the method of dissemination, and an original sample of each item disseminated.

Campaign Signs

- ❖ When a candidate committee disseminates campaign signs (i.e., printed materials designed for public display rather than distribution to individuals), each sign must contain the words “Ad paid for by” followed by the name of the committee. This requirement applies to small, medium, and large signs in any quantity, including yard signs, banners, posters, and billboards.
- ❖ The disclosure must be in a contrasting color that is at least 5% of the sign height. If a disclosure is spread across multiple lines of text, the height of each line of text in the disclosure must be equal to or greater than 5% of the sign height.
- ❖ Committees paying for campaign signs must maintain records that identify the date(s) the signs were posted, the number of signs posted, where the signs were posted, and an original sample of each sign that was posted. For large signs, where an original sample would be impracticable, the committee need only maintain an advertising proof or comparable image of the item in printed or electronic format.

Telephone Communications

- ❖ When a candidate committee makes 500 or more live or recorded telephone calls that are similar in nature and advocate for the candidate (or against an opponent), each call must identify the committee as follows:
 - ✓ Each call must include the words “paid for by” followed by the name of the committee, except that when the callers are campaign volunteers they may use the words “on behalf of” instead of “paid for by.”
 - ✓ Note that the calls must use the words “authorized by” if a person is making them at the behest of the committee (i.e., when calls are treated as contributions to the committee).
- ❖ The 500 call threshold does not apply when the calls are independent expenditures.
 - ✓ For example, if a candidate running for City Council uses his or her election committee to make calls to support a ballot measure, such calls (even in quantities less than 500) must include a disclosure.
 - ✓ Calls that are independent expenditures must make the disclosure at the beginning or end of the message in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the message. The disclosure must last at least three seconds.

- ❖ The disclosure requirement does not apply to candidates personally engaging in live telephone calls, nor do they apply to routine calls between campaign staffers, calls to vendors, and other calls that do not involve campaign advocacy.
- ❖ The committee must maintain records that identify the date(s) the telephone calls were made, the number of calls made, as well as a transcript of the messages communicated and a copy of any recorded messages.

Television Advertisements

- ❖ When a candidate committee pays to produce and broadcast a campaign advertisement on television, the advertisement must contain the words “Ad paid for by” followed by the name of the committee.
 - ✓ The disclosure must last at least 4 seconds and should use a legible font that contrasts with the background. The font must have a height at least 4% of the height of the video.
- ❖ Different rules apply when the television advertisement is an independent expenditure, such as an advertisement supporting a ballot measure. In such cases, the following rules apply:
 - ✓ The advertisement must contain an “Ad paid for by” disclosure in a font of sufficient size to be readily legible to an average viewer, and must be in a contrasting color.
 - ✓ The disclosure must be made at the beginning or end of the advertisement and last at least 4 seconds. If the broadcast is less than 4 seconds, the disclosure must be displayed for the length of the broadcast.
 - ✓ The disclosure must also be spoken during the broadcast if the written disclosure appears for less than 5 seconds on an advertisement lasting 30 seconds or less, or for less than 10 seconds on an advertisement longer than 30 seconds.
- ❖ Committees paying for television advertisements must maintain records that identify the media outlet broadcasting the advertisement, the date(s) the advertisement was broadcast, the content and size of the “Ad paid for by” disclosure, as well as a copy of the advertisement.

Radio Advertisements

- ❖ When a candidate committee broadcasts a campaign advertisement on the radio, the advertisement must contain the words “Ad paid for by” followed by the name of the committee.
 - ✓ The disclosure must be made at the beginning or end of the broadcast, and be in the same pitch and tone as the rest of the broadcast.
- ❖ If the radio advertisement is an independent expenditure, such as an advertisement supporting a ballot measure, the disclosure must last at least three seconds.
- ❖ Committees paying for radio advertisements must maintain records that identify the media outlet broadcasting the advertisement, the date(s) the advertisement was broadcast, the content of the “Ad paid for by” disclosure, as well as a copy of the advertisement.

Campaign Videos on the Internet

- ❖ When a candidate committee pays to produce and disseminate a campaign video on the Internet, the video must contain the words “Ad paid for by” followed by the name of the committee.
 - ✓ The disclosure must be in a font of sufficient size to be readily legible to an average viewer, and must be in a contrasting color.

- ✓ The disclosure must be made at the beginning or end of the advertisement, except that if the video is longer than 30 seconds, the disclosure must be made at the beginning of the video.
- ✓ The disclosure must last at least 4 seconds, except that if the video is less than 4 seconds, the disclosure must be displayed for the length of the video.
- ✓ The disclosure must also be spoken during the video if the written disclosure appears for less than 5 seconds on an advertisement lasting 30 seconds or less, or for less than 10 seconds on an advertisement longer than 30 seconds.
- ❖ Committees paying for video advertisements must maintain records that identify the website displaying the advertisement, the date(s) the advertisement appeared, the content and size of the “Ad paid for by” disclosure, as well as a copy of the advertisement.

Text/Graphic Advertisements on the Internet

- ❖ When a candidate committee pays for Internet campaign advertising that uses text, images, or graphics (still or animated), such as a banner ad on the Union Tribune website or a Facebook ad, the advertisement must directly or indirectly provide the public with information identifying the committee. The method for doing so depends on whether the website allows the advertisement to link to an Internet website containing the identifying information.
- ❖ If such links are allowed, the committee should follow the rules set forth below in *Part A: Linkable Ads*; if not, it should instead follow the rules in *Part B: Non-Linkable Ads*.
- ❖ Committees paying for Internet advertisements must maintain records that identify the website where the advertisement appeared, the date(s) the advertisement appeared, the content and size of the “Ad paid for by” disclosure, as well as an advertising proof or comparable image of the advertisement in printed or electronic format.

Part A: Linkable Ads

- ❖ When an advertisement can be linked to an Internet website, the link must include the words “Who funded this ad?” or “Paid for by” or “Ad paid for by” displayed as text, an icon, a button, or a tab for the duration of the advertisement. These words must be in a contrasting color and use a font size that is easily readable by the average viewer.
 - ✓ These words are not required if, in an 8-point font, they would take up more than one-third of the advertisement. In this case, the ad itself must still link to a website disclosure.
 - ✓ These words are also not required if the ad appears on a social media site and clicking the ad will direct persons to the necessary disclosures (in at least a 10-point font) on a cover or header photo on the committee’s profile, landing page, or similar location. If these disclosures cannot easily be seen on a smart phone, the cover or header photo must instead link to an Internet website containing the disclosure.
- ❖ The Internet website used for the required disclosures must prominently display the words “Ad paid for by” followed by the name of the committee in an easily legible, contrasting font at least 8 points in size. This disclosure must appear at the top or bottom of every publicly accessible page of the site. The website disclosure must remain online and available to the public until at least 30 days after the date of the applicable election.

Part B. Non-Linkable Ads

- ❖ The following rules apply to online platforms that do not allow campaign advertisements to link to another site containing disclosure information. See Part A above for websites that allow such links.

- ❖ An “online platform” is a publicly accessible Internet website, web application, or digital application, including a social network, ad network, or search engine, that sells advertisements directly to advertisers.
- ❖ If an online platform does not allow a committee’s advertisements to link directly to the committee’s profile or landing page or to an external Internet website containing the required disclosures, the committee must provide disclosure information to the platform, which will display it next to the advertisement.
- ❖ When purchasing campaign advertisements from an online platform, the committee must supply the platform with the following information:
 - ✓ It must provide the platform with its full committee name and identification number.
 - ✓ It must notify the platform that it is disseminating a campaign advertisement as defined in California Government Code section 84501.
 - ✓ It must provide the platform with its “disclosure name,” i.e., the committee’s full name.
 - ✓ If the advertisement is intended to support the candidate (or oppose his or her opponent), the committee must provide the platform with the candidate’s name and office sought, including the fact that it is a City of San Diego office.
 - ✓ If the advertisement is intended to support or oppose a City ballot measure, the committee must provide the platform with the official letter of the measure (if it has been assigned) and the fact that it is a City of San Diego measure.
- ❖ Online platforms provided with the above information are required to post a disclosure next to where the platform labels the advertisement as an “advertisement,” “sponsored,” or “promoted.” The disclosure must be in one of the following formats:
 - ✓ the words “Ad Paid for by” or “Paid for by” followed by the committee’s full “disclosure name”;
 - ✓ the words “Ad Paid for by” or “Paid for by” followed by at least the first 100 characters of the committee’s “disclosure name,” and then followed by “...” formatted as a hypertext link; or,
 - ✓ the words “Who funded this ad?” or “Paid for by” or “Ad Paid for by” displayed as text, an icon, a button, or a tab, and formatted as a link.
 - ✓ For the latter two options, the link must be made to either:
 - the committee’s profile/landing page containing disclosure information in the cover or header photo, as discussed in the section above;
 - an “About” page conspicuously displaying the full “disclosure name”; or,
 - an external Internet website containing the disclosure information discussed in Part A, above.
- ❖ Such online platforms must also include a “View Ads” button or hypertext link on the committee’s profile page, landing page, or similar page that directs the viewer to a page displaying all of the committee’s campaign advertisements, as well as data regarding each advertisement’s cost, first and last display dates, and views generated, for the last four years.

Audio-Only Advertisements on the Internet

- ❖ When a candidate committee pays for an audio-only campaign advertisement disseminated through the Internet (e.g., Spotify ads), the advertisement must contain the words “ad paid for by” followed by the name of the committee.
 - ✓ The disclosure must be made at the beginning or end of the broadcast, and be in the same pitch and tone as the rest of the broadcast.
 - ✓ The disclosure must last at least three seconds.
- ❖ Committees paying for audio-only Internet advertisements must maintain records that identify the website or media outlet broadcasting the advertisement, the date(s) the advertisement was broadcast, the content of the “ad paid for by” disclosure, as well as a copy of the advertisement.

Newspapers, Periodicals, and Magazines

- ❖ When a candidate committee pays for an advertisement that appears in a newspaper, periodical, or magazine, the advertisement must contain the words “Ad paid for by” followed by the committee’s name.
 - ✓ The disclosure must be in a contrasting color at least 10 points in size.
- ❖ State law also requires campaign advertisements printed in a newspaper to contain the words “Paid Political Advertisement.” See California Elections Code section 20008 for details.
- ❖ Committees paying for these advertisements must maintain records that identify the publication where the advertisement appeared, the date(s) the advertisement appeared, the content and size of the “Ad paid for by” disclosure, as well as an advertising proof or comparable image of the advertisement in printed or electronic format.

Additional Rules and Prohibitions

- ❖ Local laws do not incorporate the state’s advertising rules that regulate disclosures on email communications, text messages, committee websites, and social media posts (except when an online site requires payment, such as for “sponsored” or “promoted” posts). Contact the Fair Political Practices Commission at 866-275-3772 for assistance with these types of communications.
- ❖ Pursuant to California Elections Code section 18304, campaign committees may not use the City seal on a campaign advertisement for purposes of falsely suggesting that any or all of the advertisement is an official City communication.
- ❖ When a person or entity pays for campaign advertising at the behest of, or in coordination with, a candidate, that payment is an “in-kind contribution” to the candidate. Only individuals and political party committees may make contributions to City candidates.
 - ✓ Even if an individual (a non-committee) pays for all costs of an advertisement being coordinated with a candidate’s committee, the candidate’s committee must still be identified in an “Ad paid for by” disclosure on the advertisement.
- ❖ A committee may have “Ad paid for by” disclosure obligations even if technology makes the costs of disseminating an advertisement negligible.
- ❖ Campaign-related communications from an organization to its members may be coordinated with a City candidate. Communications that reach an audience beyond an organization’s members (e.g., a billboard, yard signs, door hangers left at every house), however, may not be coordinated

with a City candidate (unless the organization is a political party, in which case the communication is considered an “in-kind contribution” to the candidate).

- ❖ Records relating to campaign advertisements must be kept by the committee for a period of four years following the filing of the campaign statement that reflects the payment made for the advertisement.
- ❖ For additional information, please contact the Ethics Commission at (619) 533-3476 or ethicscommission@sandiego.gov.

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