

## FACT SHEET ON CAMPAIGN ADVERTISEMENTS FOR GENERAL PURPOSE RECIPIENT COMMITTEES AND INDEPENDENT EXPENDITURE 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 calls, 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

- ❖ The rules set forth in this fact sheet are largely derived from state law. Note that the City of San Diego does not enforce certain state-mandated requirements (e.g., disclosures on emails, text messages, unpaid social media posts; statements regarding independent expenditures not being authorized by candidates; the identification of \$50,000+ donors); see the final section of this fact sheet for additional information regarding these disclosures.
- ❖ This fact sheet applies solely to general purpose recipient committees (other than political party committees) and independent expenditure committees.
  - ✓ It applies to general purpose recipient committees that are controlled by candidates for the purpose of supporting or opposing ballot measures, but does not apply to committees established by candidates to seek elective office. It does not apply to primarily formed recipient committees [PFRCs].
  - ✓ Advertising fact sheets for candidates seeking office and PFRCs are available on the Commission's website.
- ❖ Campaign advertisements must contain an "Ad paid for by" disclosure regardless of quantity. Even a single campaign flyer or sign 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 committee pays for printed campaign advertisements that are designed to be individually distributed (e.g., campaign mailers, flyers, door hangers, business cards), the committee must identify itself on the advertisement.
- ❖ Each item of campaign literature must contain the words "Ad paid for by" followed by the name of the committee.
  - ✓ The disclosure must use an Arial equivalent font at least 10 points in size in a color that contrasts with the background.

- ✓ All parts of the disclosure must be centered horizontally within a printed or drawn box with a solid white background at the bottom of the item, set apart from other printed matter.
- ✓ The disclosure need not be underlined unless the committee is disclosing one or more \$50,000 donors pursuant to state law (see end of fact sheet).
- ✓ These requirements apply to campaign advertisements disseminated by the committee in any quantity (i.e., one or more items).
- ✓ Note that an advertisement that takes the form of a printed letter 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 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.
- ❖ Each sign must contain the words “Ad paid for by” followed by the name of the committee.
  - ✓ The disclosure must use a contrasting non-condensed Arial equivalent font 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.
  - ✓ The disclosure must be contained within a printed or drawn box with a solid white background at the bottom of the sign, set apart from other printed matter.
- ❖ 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 committee makes live or recorded telephone calls (in any quantity), each call must identify the committee’s name.
  - ✓ Each call must include 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 call in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the message, and must last at least three seconds.

- ❖ The disclosure requirement does not apply to routine calls between campaign staffers, calls to vendors, and similar calls that do not include a campaign message.
- ❖ 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 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 use a contrasting Arial equivalent font with a height that is at least 4% of the height of the video.
  - ✓ All parts of the disclosure must be centered horizontally against a solid black background taking up at least the bottom quarter of the video, or bottom third if the committee is disclosing one or more \$50,000 donors pursuant to state law.
  - ✓ The disclosure need not be underlined unless the committee is disclosing one or more \$50,000 donors pursuant to state law.
  - ✓ The disclosure must be made at the beginning or end of the broadcast and must appear for at least 5 seconds for a broadcast of 30 seconds or less, or at least 10 seconds for a broadcast longer than 30 seconds. If the broadcast is less than 5 seconds, the disclosure must be displayed for the length of the broadcast.
- ❖ 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 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 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 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 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 use a contrasting Arial equivalent font with a height that is at least 4% of the height of the video.
  - ✓ All parts of the disclosure must be centered horizontally against a solid black background taking up at least the bottom quarter of the video, or bottom third if the committee is disclosing one or more \$50,000 donors pursuant to state law.

- ✓ The disclosure need not be underlined unless the committee is disclosing one or more \$50,000 donors pursuant to state law.
- ✓ If the video is 30 seconds or less, the disclosure must be made at the beginning or end of the video. 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 5 seconds for a video of 30 seconds or less, or at least 10 seconds for a video longer than 30 seconds. If the video is less than 5 seconds, the disclosure must be displayed for the length of the video.
- ❖ 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 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.” If the committee is not required to disclose one or more \$50,000 donors pursuant to state law, its “disclosure name” is the committee’s full name. (If \$50,000 donors are disclosable, refer to the state’s educational materials discussed in the final section of this fact sheet for applicable naming rules.)
  - ✓ If the advertisement is intended to support or oppose a City candidate, 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 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 at the beginning or end of the advertisement, and be in the same pitch and tone as the rest of the advertisement.
  - ✓ 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 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 and Arial equivalent font at least 10 points in size, contained within a printed or drawn box with a solid white background at the bottom of the advertisement, set apart from other printed matter.
- ❖ 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**

- ❖ The California Government Code contains additional disclosure requirements that are not part of ECCO, including:
  - ✓ Advertisements supporting or opposing a candidate that are paid for by independent expenditures require a statement that the advertisement was not authorized by a candidate or a committee controlled by a candidate.
  - ✓ Disclosures are required on email communications, text messages, committee websites, and social media posts (note that ECCO does require disclosures for “sponsored,” “promoted,” or similarly paid posts).
  - ✓ General purpose recipient committees must identify the names of their top three donors of \$50,000 or more on their advertisements (note that the existence of such donors will require some portions of the “Ad paid for by” disclosure to be underlined).

- ✓ Contact the Fair Political Practices Commission [FPPC] at 866-275-3772 for assistance with these additional rules. You may also wish to review the educational materials on its website: <http://www.fppc.ca.gov/learn/campaign-rules/campaign-advertising-requirements-restrictions.html>.
- ❖ 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 parties may make contributions to City candidates.
- ❖ 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., billboards, 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](mailto:ethicscommission@sandiego.gov).

Rev. 1/2/20