



# 2018 CANDIDATE MANUAL

Campaign Finance Information for  
Candidates Participating in  
City of San Diego Elections for  
Council Districts 2, 4, 6, and 8

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## What's New for 2017 and 2018

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The following recent amendments to local campaign finance laws are applicable to the 2018 election cycle:

- **Deposit of Contributions**

Candidate committees are no longer required to obtain donors' occupation and employer information prior to depositing contributions. This information must, however, be obtained within 60 days or before the filing of the applicable campaign statement, whichever comes first.

- **Reporting Contributors**

Candidate committees are no longer required to list the contributors on their campaign statements in alphabetical order.

- **Pre-Election Fundraising**

Pre-election fundraising may now commence on January 1 of the odd-numbered year prior to the election. Candidates seeking office in 2018 may begin soliciting and accepting contributions on January 1, 2017.

- **Reimbursement Prohibition**

Candidate committees are no longer required to accompany their contribution solicitations with a disclosure regarding the prohibition against money laundering. Note that the laws that prohibit money laundering are unchanged.

- **Vendor Debt**

Candidates must now pay their vendors within 180 days of the election (rather than within 180 days of accruing the debt).

- **Campaign Advertisements**

New statewide campaign advertising laws went into effect on January 1, 2018.

July 2018  
update

The City's advertising laws have been updated to be harmonious with the state's new laws in some areas, but are more restrictive in others. Chapter 3 of this manual reflects the rules that now apply to candidate committees disseminating campaign advertisements in City of San Diego elections.

Additional details relating to the new local advertising rules may be found on the Ethics Commission's website, including a Fact Sheet on Campaign Advertising for Candidate Committees and a chart prepared by the Commission comparing the old rules with the new rules.

# Introduction

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This Candidate Manual is designed to help City candidates and their committees understand and comply with the City's campaign laws. It is intended to serve as a supplement to the State of California Fair Political Practices Commission's [FPPC] Campaign Disclosure Manual 2 (for local candidates), which can be obtained at <http://www.fppc.ca.gov/forms/all-fppc-manuals.html>. City candidates and their treasurers are responsible for familiarizing themselves with all of the information in both of these manuals.

This manual is not intended for candidates who plan to raise or spend less than \$2,000. Such candidates are not required to comply with a number of state and local campaign laws. In particular, they do not have to create a campaign committee or file the comprehensive campaign statements that other candidates file. Candidates staying below the \$2,000 threshold should instead refer to the Ethics Commission's [Campaign Manual for Candidates Raising Less than \\$2,000](#), which is available on the Commission's website.

This manual is intended solely for candidates and their election campaign committees in the context of the 2018 primary and general elections. The Ethics Commission has prepared a separate campaign manual designed for primarily formed recipient committees, general purpose recipient committees, and other entities that make independent expenditures in City of San Diego elections. The Commission's 2018 manual for these types of committees is available on the Commission's website.

Also on the Commission's website are a number of fact sheets providing guidance on specific aspects of the City's campaign

laws; a list of the Top 10 rules for City candidates, and Frequently Asked Questions. In addition, in the Advice Letters section of the Commission's website you will find formal letters of advice addressing questions relating to the City's ethics laws, including campaign finance laws.

Many of the state's campaign laws have been incorporated into the City's laws. This means that the City's Ethics Commission can provide you with advice and assistance on the issues addressed in the FPPC Manual. Rather than repeating the information included in the FPPC Manual, however, this manual will address the additional City rules that govern your activities as a City candidate, including the City laws that are more stringent than the state's laws.

This manual is not meant to serve as a substitute for the actual provisions in state law (the Political Reform Act) or City law (the Election Campaign Control Ordinance).

The City Clerk is the filing official for the City of San Diego and is responsible for administering the City's elections. As discussed in greater detail below, questions concerning how to become a City candidate or when to file campaign statements should be directed to the City Clerk as follows:

(619) 533-4025

[www.sandiego.gov/city-clerk](http://www.sandiego.gov/city-clerk)

Other requests for advice and assistance concerning campaign laws should be directed to the Ethics Commission as follows:

(619) 533-3476

[ethicscommission@sandiego.gov](mailto:ethicscommission@sandiego.gov)

Keep in mind that the Ethics Commission can only provide advice to candidates and their committees in advance of any contemplated action. In other words, the Ethics Commission cannot help you after you have violated the City's campaign laws, so please be sure to contact our office before you take the action in question.

Finally, please remember that your decision to run for elective office in the City of San Diego carries with it certain responsibilities. In particular, you are required to abide by state and local laws that regulate the conduct of candidates and their committees, which are explained in detail in the FPPC Manual and the various chapters in this manual. The failure to adhere to these laws could result in a variety of penalties, including but not limited to administrative fines imposed by the Ethics Commission in amounts up to \$5,000 per violation.

# Chapter 1

## Finances / Recordkeeping

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Chapters 1 and 2 in the FPPC Campaign Disclosure Manual include information regarding requirements associated with forming a campaign committee and setting up a campaign bank account. This chapter of the Ethics Commission Candidate Manual is intended to supplement the information in the FPPC Manual. In some instances, however, the information in this manual will supersede the information in the FPPC Manual (these instances are specifically called out).

### Campaign Bank Account

All candidates for elective City office must have one, and only one, campaign checking account per election, and this account must be maintained at a financial institution that has an office or branch in California. (For purposes of the “one account per election” rule, the primary and general elections are considered one election). All contributions must be deposited into this account, and all expenditures must be made from this account. In addition:

- a candidate’s committee has “received” a contribution whenever any representative of the committee (i.e. treasurer or fundraiser) takes possession of the contribution;
- all campaign contributions must be deposited into the committee’s bank account;
- all expenditures must be made from the committee’s bank account;
- if an expenditure is made by check, it must be signed by the candidate, the

committee’s campaign treasurer, or the assistant treasurer;

- refer to the guidelines in the FPPC Manual regarding the use of a credit card to make campaign expenditures.

As explained in the FPPC Manual, a candidate who wishes to use his or her own money for campaign-related purposes (other than the initial filing fee) must deposit that money into the committee’s bank account. This includes both loans and contributions from the candidate.

**EXAMPLE:** Candidate Michelle Crichton needs to purchase office supplies for her campaign committee. She goes to Office Depot and writes a personal check to pay for the supplies, thinking that she’ll reimburse herself from the campaign account at a later date. This is not allowed. If Michelle wants to use her personal funds for office supplies, she must first deposit her personal check into her campaign bank account, and then use campaign funds to purchase the supplies.

Please see Chapter 2 – Contributions for additional information regarding the time periods that candidates may accept contributions and spend personal funds for election-related purposes.

### Recordkeeping

Candidates and their committees are required to maintain records associated with all contributions received and all expenditures made by their committees for a period of four years. In particular, candidates must maintain the following records:

- for contributions made via check, credit card, or electronic payment, copies of the written instrument, credit card receipt, and/or transaction records, as well as deposit slips;
- for cash contributions, a notation that cash was received, and a legible photocopy of the bank deposit slip showing that the cash contribution was deposited into the campaign contribution checking account;
- if a contribution is of something other than money, a description of what was contributed, a reasonable good faith estimate of the monetary value of the contribution, and the basis for the estimate;
- for each check drawn on the campaign checking account, the canceled check and the bank statement showing the payment.
- for every expenditure, records reflecting the date and amount of the expenditure, the name and address of the payee, and a description of the goods or services provided, as well as all source documentation such as invoices and receipts.
- for expenditures of \$100 or more made for gifts, meals, or travel, sufficient documentation to identify on a campaign statement the relevant dates, recipients, destinations, as well as the applicable political, legislative, or governmental purpose of the expenditure.

Candidates and their campaign committee representatives must produce copies of records associated with campaign contributions and expenditures to the Ethics Commission upon request. In addition, candidates should not assume that their records will be maintained by their banks. If

a bank is unable to produce relevant records related to a candidate's account (e.g., the bank merged with another bank) the candidate will be held responsible for complying with recordkeeping laws. In other words, the failure to produce records requested by the Commission could result in a fine.

### **Contributor Information**

City candidates must obtain all of the following information for each contribution:

- ✓ the contributor's full name;
- ✓ the contributor's street address (business addresses are allowed, but post office boxes and personal mailboxes are not acceptable); and
- ✓ the contributor's occupation and employer (if the contributor has given you a total of \$100 or more). If a contributor is self-employed, candidates must obtain the name of the business.

This requirement applies to all contributions, whether they are made via cash, check, debit card, or credit card.

All of the above information must be disclosed on the committee's next campaign statement. The committee must return the contribution to the donor if it has not obtained all of the information by the earlier of:

1. the 60th calendar day following committee's receipt of the contribution; or,
2. the filing of the campaign statement (Form 460 or 497) covering the reporting period in which the contribution was received.



*NOTE: If the contribution is not returned to the donor within the applicable timeframe, the amount of the contribution must be paid from campaign funds and delivered to the City Clerk. Contact the Ethics Commission for additional assistance.*

As indicated above, a personal mailbox (mail delivery receptacle rented from a business) is not an acceptable “street address” for a contributor. When determining whether a contributor’s address is a personal mailbox, consider whether the address provided includes:

- ✓ the term “PMB” or “UMB”;
- ✓ a number not identified as an apartment or suite number; or,
- ✓ a suite number followed by another number.

Committees should contact the contributor if there is any reason to believe that the address provided belongs to a personal mailbox. Any address that does not identify the specific location where the contributor resides or works is not legally sufficient.

Committees must exercise due diligence when reporting each contributor’s occupation and employer. Do not identify a contributor as unemployed or retired unless this designation is based on current and reliable data. If a contributor is actually unemployed or retired, enter “None” in the employer field, not “N/A.”

The Ethics Commission strongly encourages candidates to obtain contributor information directly from the contributor in order to avoid obtaining inaccurate information. If you choose to obtain the required information from other sources (e.g., the host of a fundraiser or a campaign statement filed by another committee), you do so at your own risk. The failure to accurately disclose contributor information could result in an Ethics Commission fine.

## **Audits**

The San Diego Municipal Code authorizes the Ethics Commission to audit candidate committees. Candidate committees will be randomly selected for audit following each election cycle as follows:

- ✓ 75% of committees that raise or spend more than \$100,000 will be audited;
- ✓ 50% of committees that raise or spend between \$10,000 and \$99,999 will be audited.

Committees that raise or spend less than \$10,000 will not be placed in the pool for the random drawing.

In addition to the random audit drawing, the Ethics Commission may exercise its discretion to conduct an audit of a campaign committee in connection with a pending investigation.

## **Treasurer Duties**

Please refer to the information in the FPPC Manual regarding the rules associated with campaign treasurers. In addition to the rules outlined in the FPPC Manual, it is important to note that the City’s campaign laws require that all expenditures from the campaign bank account be made by check signed by the candidate, the campaign treasurer, or the designated agent of the campaign treasurer.

*NOTE: Campaign treasurers (including volunteers) may be held personally responsible for violations of the City’s campaign laws. It is very important, therefore, that campaign treasurers understand and abide by all state and local campaign laws. No person should agree to act as a campaign treasurer “in name only,” particularly without understanding their responsibilities and liabilities.*

## **Candidate Duties**

Please refer to the information in the FPPC Manual regarding a candidate's duties and responsibilities. Note that candidates are personally responsible for all the committee's activities and all the actions of the committee's representatives.

Candidates should carefully review the campaign statements before they sign them under penalty of perjury. The Ethics Commission holds candidates responsible for the accuracy and completeness of information disclosed to the public on campaign statements.

*NOTE: Candidates who plan to raise \$10,000 or more are strongly encouraged to hire a professional campaign treasurer. Refer to the California Political Treasurers Association website for assistance: <http://www.californiapoliticaltreasurers.org>. Note that professional treasurers located outside San Diego may be available to work for local candidates.*

## **Additional Considerations**

The City Clerk is the filing official for the City of San Diego, and is responsible for administering the City's elections. Accordingly, please refer to the City Clerk's Candidate Information Manual for additional information regarding the candidacy requirements in the City of San Diego and the steps to take to become a City candidate.

It is important to remember that you cannot accept any campaign contributions or make any campaign expenditures until you have filed a Candidate Intention Statement and established a campaign bank account. If you receive \$2,000 or more, you must also create a campaign committee by filing a Form 410 within ten days. These rules also apply to a candidate's personal funds. In

other words, you may not spend your own money to advance your candidacy without filing the required forms and establishing a campaign bank account (all personal funds, other than the initial filing fee, must be deposited in the campaign bank account).

It is also important to remember that the City of San Diego's campaign laws restrict the time periods during which you may solicit and/or accept contributions. Please refer to Chapter 2 for additional information.

After you have become a candidate and established a campaign committee, you will need to file periodic campaign statements to disclose your campaign contributions and expenditures. Please see Chapters 4, 5, and 6 for additional information on how to complete these disclosure forms.

All candidates must file a Statement of Economic Interests. This is a form used for the disclosure of information regarding a candidate's personal financial interests such as investments in companies, investments in real estate, sources of income, loans, and gifts. If you have questions about the type of information you must disclose as a City candidate, please contact the Ethics Commission for assistance.

## Chapter 2 Contributions

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Chapter 3 in the FPPC Campaign Disclosure Manual includes information regarding the solicitation and acceptance of campaign contributions. This chapter of the Ethics Commission Candidate Manual is intended to supplement that information. In some instances, however, the information in this manual will supersede the information in the FPPC Manual (these instances are specifically called out).

For a summary of the local and state laws that apply to the acceptance of contributions by City candidates, please see the Ethics Commission's "Fact Sheet on Soliciting and Accepting Contributions." This fact sheet is posted on the Ethics Commission's website.

### Contribution Limits

Candidates for Council District office may accept contributions up to \$550 per contributor per election. For example, a contributor to a candidate running for office in Council District 2 may give that candidate no more than \$550 for the primary election and no more than \$550 for the general election.

*NOTE: Although candidates and their committees are permitted to accept contributions for the general election before the primary election, these contributions must be segregated and may not be used to pay expenses associated with the primary election.*

*NOTE: If a candidate does not proceed to the general election, the candidate must return all general election contributions to contributors on a pro rata basis (less any administrative and/or fundraising costs).*

The City's contribution limits do not apply to a candidate's personal funds. In other words, a candidate may contribute unlimited funds to his/her committee. Note that these personal funds must belong to the candidate in his/her individual capacity. In other words, a candidate may not receive unlimited funds from a spouse or relative.

**EXAMPLE:** Candidate Maeve Millay is running for office in District 2. She may contribute unlimited sums of her own money to her campaign. Her spouse, parents, children, in-laws, etc., however, are subject to the contribution limits and each may contribute no more than \$550 to support Millay in the June 2018 primary election.

### Contributions from Organizations

Except as stated below, candidates for elective City office may only accept contributions from individuals. They may not accept contributions from any type of organization (e.g. corporation, company, partnership, joint venture, firm, association, proprietorship, committee, etc.). There are three exceptions to this rule; City candidates may also accept contributions from:

- sole proprietorships, which are treated as contributions from the individual operating the sole proprietorship, up to the applicable limit (\$550 for Council District Offices);
- political parties, subject to the applicable contribution limit (\$10,700 for Council District Offices, and,
- a contributor's personal or family trust, up to the applicable limit (\$550 for Council District Offices), aggregated

with any other contribution from the contributor.

With regard to contributions from sole proprietorships, note that committees must exercise due diligence before depositing a business check to ensure that it is drawn off of an account belonging to a sole proprietorship and not to some other type of business entity. A contribution from any other type of business is considered an unlawful contribution.

*NOTE: The above information supersedes the information in the FPPC Manual, which states that contributions from businesses and similar entities are permitted but must be aggregated with contributions from the individuals who own or control the entities.*

For more information regarding personal or family trusts, please see the Ethics Commission's "Fact Sheet on Contributions from Personal and Family Trust Accounts."

It is important to remember that the City's ban on contributions from businesses and organizations also prohibits employers from reimbursing their employees for making contributions to City candidates. This is a form of money laundering, and can lead to the imposition of a substantial fine.

### **True Source of Contribution**

As discussed earlier, only individuals (and political parties) may make contributions in City candidate elections, and only up to the applicable limit. Candidates should be alert to actions (both intentional and unintentional) that violate these rules.

Candidates must exercise due diligence when accepting checks and credit card contributions to ensure that the individual identified as the contributor on a campaign statement is the true source of the contribution. This is of particular importance when circumstances suggest that someone

else's funds might be involved. For example, a contribution made with a check or credit card bearing the name of a business should not be deposited unless the committee has facts showing that the business is a sole proprietorship belonging to the individual contributor.

Candidates should obtain both the name of the "cardholder" and the name of the "contributor" from vendors processing their credit card transactions, and should compare these names before transferring the funds to the committee bank account. This will ensure that the "contributor" is the true source of the funds, and enable the committee to determine whether the contributor is an individual or an organization.

*NOTE: In some instances, a person may act as an intermediary for the true source of the contribution. In such circumstances, the names of both the actual contributor and the intermediary must be reported to the candidate for inclusion on a campaign statement.*

Ultimately, the candidate's committee should investigate any unusual, suspicious, or irregular contributions in order to maintain compliance with contribution limits and to ensure that the appropriate individual is identified as the contributor on the campaign statement.

### **Contributions for the Primary and General Elections**

Candidates may collect contributions for the general election before the primary election. In other words, candidates may accept contributions for both the primary and general elections before the candidate knows if he or she will be a candidate in the general election. The following rules apply to the acceptance of these contributions:

- contributions accepted for the general election may not be used to pay for expenditures associated with the primary election; in other words, you must keep track of the funds accepted for the general election and be sure they are segregated in the campaign bank account and not spent on primary election expenses;
- candidates for City Council offices may accept contributions of more than \$550 provided that the candidate allocates the contribution between two elections; for example, a candidate for Council District 6 may accept a check in the amount of \$1,100 provided that the candidate allocates \$550 for the primary election and \$550 for the general election, and codes the contributions “P” for primary and “G” for general on the campaign statement (see Chapter 6 for additional information regarding the disclosure of campaign contributions);
- it is not necessary to obtain written evidence of the contributor’s intent or permission from the contributor before allocating a contribution to either the primary or the general election (or both); in other words, you do not have to get a note from the contributor indicating that a contribution should be allocated to a particular election, or divided between the primary and general elections;
- if a contributor does indicate that a contribution check is intended specifically for one election, you must designate the contribution for that election; in other words, you may not override the express intention of the contributor; and
- any candidate who will not be in the general election must refund the contributions collected for the general election to their contributors; in other

words, if you are not a candidate in the general election, you may not keep the contributions you collected for the general election or spend them on debts incurred in connection with the primary election.

### Loan Limits

Loans from anyone other than the candidate or a commercial lending institution are considered contributions, and are subject to the contribution limits and source prohibitions discussed above. This means that candidates may not accept unlimited loans from their spouses, family members, or friends.

Although candidates may contribute unlimited funds to their committees, they may only loan their committees \$100,000 at any one time. In other words, if a candidate has outstanding personal loans to his committee of \$80,000, he may loan the committee only an additional \$20,000. If a committee with \$100,000 in loans uses campaign funds to repay the candidate some or all of the loan, then the candidate may make additional loans, up to the \$100,000 limit.

**EXAMPLE:** Delores Abernathy is a City candidate who made a series of loans to her committee until she had \$100,000 in outstanding loans. After organizing several fundraisers, her committee brings in a significant amount of contributions and uses those funds to repay \$25,000 of the loan. Because Candidate Abernathy’s outstanding loan balance is \$75,000, she may loan her committee an additional \$25,000.

Note that the \$100,000 limit on loans from a candidate includes loans and lines of credit from a bank or similar financial institution. It does not, however, apply to debt incurred through the use of a credit card. Please refer to the FPPC Manual for the rules

concerning the use of credit cards for campaign expenses.

### **Non-Monetary Contributions**

Non-monetary contributions include the following:

- goods or services donated to the campaign by others (other than volunteer personal services – see FPPC Manual);
- forgiveness or reductions in debts;
- equipment or supplies donated by the candidate (note that a candidate may not purchase supplies and then donate them to the campaign – instead, all personal funds must first be deposited into the campaign committee’s bank account); and
- payments made by others on behalf of or in consultation with the campaign.

Although donation of property to a campaign is considered a non-monetary contribution, the incidental use of personal property or equipment is not considered a non-monetary contribution. In other words, if a candidate sends an e-mail related to her campaign from her personal computer, she does not have to determine the pro-rata cost of the computer and/or the e-mail services and report it as a non-monetary contribution.

On the other hand, if a candidate’s personal computer is being used primarily for campaign-related activities, then the fair-market value of the computer should be reported as a non-monetary contribution (note that the candidate may also loan the computer to her campaign by making a non-monetary contribution equal to the fair-market value of leasing the computer).

*NOTE: Non-monetary contributions from individuals other than the candidate are subject to the City’s \$550 contribution limit, and the ban on contributions from organizations.*

### **Anonymous Contributions**

Candidates for elective City office may not accept more than \$200 in anonymous contributions per election (not per contributor).

*NOTE: this information supersedes the information in the FPPC Manual, which states that anonymous contributions of \$99 or less (per contributor) are permitted.*

### **Exceptions**

There are many exceptions to the definition of “contribution.” In other words, there are different types of activities that are not considered contributions to your campaign, and are therefore not subject to the City’s rules concerning contribution limits and the ban on contributions from organizations. Please refer to Appendix 1 in the FPPC Campaign Disclosure Manual for Additional Information.

One of the exceptions to the definition of “contribution” is a campaign fundraiser hosted by the occupants of a home or office if the costs incurred by the occupants do not exceed \$500. In other words, someone may host a fundraiser on your behalf in his or her home or office, and if \$500 or less is spent on food, drinks, decorations, etc., the expenditures made by the host will not be considered a contribution to your campaign.

For more information regarding the \$500 fundraiser provision, please see the Ethics Commission’s “Fact Sheet on Home or Office Fundraisers for City Candidates” for more information. This fact sheet is posted on the Ethics Commission’s website.

### Pre-Election Fundraising Time Period

The City of San Diego's campaign laws including limitations on the time periods during which candidates may solicit and/or accept contributions.

Candidates may not solicit or accept contributions until January 1 of the odd-numbered year prior to the primary election. In other words, for the 2018 election cycle, the fundraising period began on January 1, 2017. As discussed above, candidates may accept contributions for the general election before the primary election. Therefore, candidates participating in the June 5, 2018, primary election may, as of January 1, 2017, solicit and accept contributions for both the June 2018 primary and the November 2018 general elections.

There are no time limits with regard to a candidate's use of his or her personal funds. A candidate may, therefore, deposit personal funds into his or her campaign checking account and use those funds for campaign expenses prior to the pre-election fundraising period.

### Post-Election Fundraising Time Period

Candidates may only solicit contributions for 180 days after their withdrawal, defeat, or election to office. The 180-day period begins on the date of the election. In other words, candidates must complete their fundraising by the following dates, as applicable:

- Candidates on the June 2018 primary election ballot who do not receive enough votes to be on the November 2018 general election ballot: December 2, 2018
- Candidates on the November 2018 general election ballot: May 5, 2019
- Candidates who withdraw from an election: 180 days from the applicable election.

Post-election contributions may be accepted only if a candidate has outstanding election-related debts.

**EXAMPLE:** After running for office, Bernard Lowe's committee has debts totaling \$2,500, and a \$1,000 cash balance. He may raise an additional \$1,500 to retire this debt.

A candidate may also raise funds post-election to pay:

- necessary administrative costs related to winding down the campaign, including office space rental, staff salaries, and office supplies;
- fundraising costs related to debt retirement; and,
- legal fees arising from a ballot recounts or similar election contests.

Note, however, that new debts voluntarily created by a candidate after the election, such as throwing a victory party or sending out mailers thanking voters, do not provide opportunities for the candidate to collect additional funds after the date of the election.

As indicated above, candidates may collect contributions after the election only during the 180-day post-election period. After that 180-day period, candidates must deposit personal funds into their campaign checking account to pay outstanding debts and ongoing administrative expenses.

**NOTE:** *If a candidate has an outstanding personal loan to his or her committee at the end of the 180-day post-election fundraising time period, the loan must be forgiven or converted to a contribution.*

Candidates who have leftover funds from the primary election may "carryover" these funds and spend them on the general election. Note that this carryover provision applies only to funds leftover from a prior

election. It does not permit candidates to use leftover funds from a general election to pay expenses associated with the primary election, nor does it permit candidates to carryover funds to run for a different elective office (although such funds may be transferred to a committee for a different elective office, pursuant to applicable transfer guidelines).

#### **Additional Restrictions and Prohibitions**

- As mentioned previously, contributors may not be reimbursed for their contributions by other individuals unless the contributor discloses to the candidate committee that he or she is acting as an “intermediary” for another contributor (keep in mind that the true source of funds must be an individual). Any undisclosed reimbursement of a contribution is “campaign money laundering” and is strictly prohibited.
- Candidates may accept contributions by credit card, but may not open a second bank account to accept these contributions. When a candidate uses a vendor to process credit card contributions, the contributions are deemed to be received by the candidate when they are received by the vendor. There is no requirement to report these credit card vendors as “intermediaries” on campaign statements.
- Bank fees associated with credit card transactions are reported as expenditures, and not subtracted from the contribution amounts.
- Any payment for goods or services made at the request or suggestion of the candidate or his/her representatives, or in consultation or coordination with the candidate or his/her representatives, is considered a contribution to the candidate subject to the limits and source prohibitions discussed above.

**EXAMPLE:** Hector Escaton is a candidate for City Council. While speaking with the director of a local community group about his candidacy, he mentions that his committee doesn't have enough funds to pay for a campaign mailer. The director suggests that the community group pay for the postage to help defray the costs of the mailer. Hector tells the director not to pay for the postage. He explains that such a payment would constitute a nonmonetary contribution to his campaign and would violate local campaign laws because contributions from organizations to City candidates

- The forgiveness of a debt, or any reduction in the amount of a debt, is considered a contribution, subject to the City's contribution limits and the ban on contributions from organizations. This rule does not apply in situations involving a documented good faith dispute with a vendor.
- Candidate committees may not pay for property or equipment already leased by the candidate, his/her immediate family, the treasurer, or any other person with authority to approve campaign expenditures.

#### **Returning Contributions**

As discussed above, there are a variety of limits, restrictions, and prohibitions on contributions made to City candidates. From time to time, a candidate's committee may inadvertently accept an improper contribution. The guidelines for handling the return of these improper contributions are as follows:

- If a candidate discovers that the committee has accepted an improper contribution, the committee may not



deposit it. Instead, the committee should void the check, destroy it, or return it to the contributor. In this scenario, there is no need to disclose the contribution on the committee's campaign disclosure reports.

- If the candidate's committee deposits an improper contribution and discovers the mistake within 10 calendar days of deposit or before the filing deadline for the relevant reporting period (whichever comes first), then the committee may return the contribution to the contributor. In this scenario, the committee would report the receipt of the contribution (on Schedule A) and the return of the contribution (on Schedule E).
- The above rules do not apply when a candidate has received a "laundered" contribution. Such contributions may not be returned to the contributor, but must instead be turned over to the City Clerk, payable to the City Treasurer.
- Improper contributions resulting from mistaken identity (variations in spelling of contributor's name) may be returned to the contributor before the filing deadline. The acceptance and return of the contributions would be reported on Schedules A and E.
- If the candidate does not discover the committee's mistake within 10 calendar days or by the filing deadline, the committee must submit a payment to the City Clerk in an amount equal to the improper contribution (along with a copy of the contribution check, information regarding the contributor, and a summary of the facts regarding the violation).

## Chapter 3

# Campaign Advertisements

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Chapters 6 and 7 in the FPPC Campaign Disclosure Manual include information regarding communications with voters. In particular, this section of the FPPC Manual explains the difference between communications that are considered a contribution to a candidate, an independent expenditure, or some other type of reportable payment. It also addresses certain types of communications that are not considered contributions or reportable campaign activities.

The information in this section of the Ethics Commission Candidate Manual is intended to supplement the information in the FPPC Manual. With respect to disclosures that must appear on campaign advertisements, however, the City of San Diego's campaign laws require additional disclosures on different types of communications, as discussed in greater detail below. In other words, with respect to disclosures and/or identifications that must appear on campaign literature and advertisements, the information in this manual supersedes the information in the FPPC Manual.

*NOTE: the Ethics Commission does not regulate the truth or accuracy of the content of mass campaign literature. It has no control over the dissemination of false or misleading information.*

### **Campaign Mailers**

When a candidate disseminates campaign mailers (i.e., written materials sent through the U.S. Mail) in quantities of 200 or more, the mailer must include a "Paid for by" disclosure. This disclosure must be in a contrasting and legible font that is 6 points in size or larger.

A post office box may be used in lieu of a street address so long as the committee's street address is stated on the committee's Form 410.

### **Other Campaign Literature**

Candidate-controlled committees must follow different disclosure rules when distributing written campaign materials such as flyers, door hangers, and walk pieces, that are not sent through the U.S. Mail. Each item must include the words "Paid for by" followed by the committee's name in a contrasting font at least 10 points in size. This disclosure must be made regardless of the number of items disseminated.

### **Campaign Signs**

When a candidate committee disseminates campaign signs (i.e., printed materials designed more for public display than for individual distribution), each sign must contain the words "Paid for by" followed by the name of the committee. This requirement applies to small, medium, and large signs, including billboards, yard signs, and posters, regardless of quantity.

The disclosure must be in a contrasting font that is at least 5% of the sign height. Accordingly, if the 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 height of the sign.

### **Telephone Communications**

Candidate committees must include a disclosure statement when making 500 or more similar campaign-related telephone calls that support the candidate and/or oppose the candidate's opponent.

The disclosure must state that the communication is "paid for by," "on behalf of,"

or “authorized by,” immediately followed by the name of the committee.

The type of disclosure depends on how the calls are being made, and whether the callers are volunteers or paid employees.

When the candidate’s committee pays its staff to make calls, or pays another person or entity to make calls, the individuals making the calls must state that the calls are “paid for by” the candidate or committee.

EXAMPLE: The Committee to Elect Elsie Hughes for City Council 2018 pays its staff to make 1,000 calls to encourage voters to support Hughes. The callers will state at some point during each call that the call is being “paid for by the Committee to Elect Elsie Hughes for City Council 2018.”

When **volunteers** are making telephone calls for the candidate, the persons making the calls may instead state that the calls are being made “on behalf of” the candidate or committee.

EXAMPLE: Ted Flood for City Council 2018 purchases a contact list of registered voters and recruits volunteers to call the names on the list to encourage them to vote for Flood. The callers will state at some point during the call that they are calling “on behalf of Ted Flood for Council 2018.”

*NOTE: Although state law exempts volunteers from telephone disclosure requirements, local laws are more restrictive. In San Diego, disclosures must be made when volunteers make calls using resources paid for by the campaign.*

If another person spends money to make calls at the behest of the candidate (i.e., is making a nonmonetary contribution to the candidate), the individuals making those calls must state that the calls are “authorized by” the candidate or committee.

EXAMPLE: Katrine wants to support Robert Ford who is running for City Council. Robert gives Katrine a list of registered voters to call for campaign contributions. (Katrine spends \$500 on the effort, and Robert’s committee will report that amount as an in-kind contribution from Katrine.) The individuals paid by Katrine will state at some point during their calls that the calls were “authorized by the Committee to Elect Robert Ford for Council 2018.”

The disclosure requirement is triggered as soon as the committee makes arrangements for calls of a similar nature that will take it to or past the 500-call threshold for the election. Once the committee knows that it will reach that threshold, it must begin making the disclosure; it may not wait until the 500th call.

Additional rules associated with this disclosure are as follows:

- A candidate personally making calls does not have to make the “on behalf of” disclosure.
- For purposes of reaching the 500-call threshold, the calls must be similar in nature. A committee that makes 300 calls on one topic and 400 calls on a different topic has not reached the 500-call threshold.

## **Newspaper and Magazine Advertisements**

Candidates and their committees must include a “Paid for by” disclosure in any advertisement purchased in a newspaper, periodical, or magazine of general circulation. The disclosure must be in the form of “Paid for by” followed by the name of the committee, and must be in a typeface that is easily legible, contrasts with the background, and is no less than 10 points in size.

EXAMPLE: The committee Theresa Cullen for Council District 8 in 2018 purchases ad space in the Union-Tribune newspaper. The advertisement must include the words “Paid for by Theresa Cullen for Council District 8 in 2018.”

## **Internet Text/Graphic Advertisements**

Candidate committees must include a disclosure statement when advertising on Internet websites. This requirement does not apply to the committee’s own website, but instead to websites that sell advertising space.

The advertisement must include the words “Who funded this ad?” configured as a hypertext link that sends persons to a website that prominently displays the words “Paid for by” followed by the name of the committee in an easily legible, contrasting color at least 8 points in size. The website disclosure must remain online and available to the public until at least 30 days after the date of the election.

Note that the advertisement does not need to contain “Who funded this ad?” language if:

- it is too small to include the language (the advertisement must still contain the hypertext link), or
- it appears on a social media site (e.g., Facebook) where clicking on the ad directs persons to the committee’s profile/landing page, which contains all

required disclosures in at least an 8 point font.

## **Internet Audio-Only Advertisements**

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 “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, and must last at least 3 seconds.

## **Internet Video Advertisements**

When a candidate pays for a video advertisement that is posted on the Internet (e.g., posted on YouTube), the advertisement must include the words “Paid for by” followed by the committee’s name.

The disclosure must be in a contrasting color and large enough that it is readily legible to an average viewer. The disclosure must be made at the beginning or end of the video and last at least 4 seconds.

The disclosure must also be spoken during the video if the written disclosure appears for less than 5 seconds on a video lasting less than 60 seconds, or for less than 10 seconds on a video of 60 seconds or more.

EXAMPLE: A candidate’s 30 second video ad on YouTube includes a “Paid for by” disclosure that runs for 5 seconds. The written disclosure appears long enough that a spoken disclosure is not required.

## **Television Advertisements**

When a candidate pays for a television advertisement, the advertisement must include the words “Paid for by” followed by the committee’s name. The disclosure must use a font with a size at least 4% of the

height of the screen, and must last for at least 4 seconds.

### **Radio Advertisements**

When a candidate committee broadcasts a campaign advertisement on the radio, the advertisement must contain the words “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.

### **Email Communications**

The Ethics Commission does not regulate “paid for by” disclosures on e-mail communications; state law, however, does require such disclosures when sent in quantities of 200 or more. Contact the FPPC or see Government Code section 84305 for details.

### **Ballot Measure Advertisements**

If a candidate’s election committee spends money on advertising to support or oppose a ballot measure, different disclosure rules will likely apply. Contact the Ethics Commission for assistance.

### **Maintaining Advertising Records**

In addition to the records discussed in Chapter 1, candidates must maintain records associated with their campaign advertisements in accordance with the following requirements:

- *Mailers, Flyers, Door Hangers, Walk Pieces, etc.:* records that identify the dates of dissemination; the number of pieces disseminated; the method of dissemination; and an original sample of each item disseminated.
- *Billboards, Yard Signs, and other Campaign Signs:* records that identify the locations where the signs were publicly posted; the dates they were posted; the number that were posted; and an advertising proof or comparable image of the advertisement.
- *Telephone Communications:* records that identify the dates the calls were made; the number of calls made; a transcript of the messages communicated; and a copy of any recorded messages.
- *Television and Radio Ads, Internet Ads, Magazine Ads, and Newspaper Ads:* records identifying the applicable media outlet, website, or publication; the dates the advertisement appeared; the content and size of the “paid for by” disclosure; and an advertising proof or comparable image copy of the advertisement.

Candidates must maintain these records for four years following the date that the campaign statement to which they relate is filed.

## Chapter 4

### When and Where to File Reports

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Chapters 8, 9, and 10 in the FPPC Campaign Disclosure Manual explain when and where candidates must file campaign statements. In particular, this section of the FPPC manual addresses the filing of semi-annual and pre-election statements.

The City Clerk is the filing official for the City of San Diego. Accordingly, please refer to the City Clerk's Candidate Information Manual for additional information regarding the filing of campaign statements.

Except for the Form 410, the City requires that candidates who have received \$10,000 or more in contributions file all of their campaign statements electronically. A candidate who has not reached the \$10,000 threshold may file electronically on a voluntary basis. Statements that are filed electronically do not need to also be filed in paper format with the City Clerk.

Candidates must their original Form 410 Statement of Organization with the Secretary of State, and a copy of the form with the City Clerk, either electronically (if their campaign software supports this form) or in paper format.

#### **3rd Pre-Election Filings**

In the City of San Diego, all candidate committees are required to file three pre-election statements instead of the two that are mandated by state law. The first two pre-election statements are subject to the traditional reporting periods and filing deadlines. On the other hand, the 3rd pre-election statement must be filed by the Friday before the election. It has a closing date of the Wednesday before the election and will cover contributions received through that day.

The first two pre-election statements are filed using a Form 460. The 3rd pre-election statement is filed using a Form 497, and requires only that the candidate identify previously unreported contributors of \$100 or more. Although the Form 497 was designed for other purposes (24-hour reporting of \$1,000+ contributions), this form is also being used for 3rd pre-election reports, which require only the identification of the contributor's name, address, occupation/employer, and the date and amount of the contribution.

Note that filing a pre-election report on a Form 497 does not eliminate the need to file separate Forms 497 within 24 hours of receiving \$1,000+ contributions during the 90 days leading up to the election. Once a contribution is disclosed on a 24-hour report, it does not have to be re-disclosed on the Form 497 pre-election report required by the City. (Note that \$1,000+ contributions required to be disclosed within 24 hours on a Form 497 must be re-reported on the candidate's next Form 460 under state law.)

As indicated above, candidates subject to electronic filing requirements must submit all of their pre-election statements using the City Clerk's electronic filing system. All other candidates may choose to file them in paper format or electronically; if filed in paper format, the Form 497 pre-election report must be delivered in person on the Friday before the election or sent through a shipping service with guaranteed delivery by the Monday before the election.

## Filing Deadlines

For the June 5, 2018, primary election and the November 6, 2018, general election, the most relevant filing deadlines (and applicable reporting periods) are set forth below.

The candidate's campaign activities in 2017 are reported on semi-annual campaign statements, as follows:

### 1st semi-annual period (Form 460)

reporting period: 1/1/17 – 6/30/17  
filing deadline: 7/31/17

### 2nd semi-annual period (Form 460)

reporting period: 7/1/17 – 12/31/17  
filing deadline: 1/31/18

In 2018, candidates participating in the primary election must file three pre-election reports before the primary election, and a semi-annual report after the election, as follows:

### 1st pre-election period (Form 460)

reporting period: 1/1/18 – 4/21/18  
filing deadline: 4/26/18

### 2nd pre-election period (Form 460)

reporting period: 4/22/18 – 5/19/18  
filing deadline: 5/24/18

### 3rd pre-election period (Form 497)

reporting period: 5/20/18 – 5/30/18  
filing deadline: 6/1/18

### 1st semi-annual period (Form 460)

reporting period: 5/20/18 – 6/30/18  
filing deadline: 7/31/18

In 2018, candidates participating in the general election must also file three pre-election reports before the general election, and a semi-annual report after the election, as follows:

### 1st pre-election period (Form 460)

reporting period: 7/1/18 – 9/22/18  
filing deadline: 9/27/18

### 2nd pre-election period (Form 460)

reporting period: 9/23/18 – 10/20/18  
filing deadline: 10/25/18

### 3rd pre-election period (Form 497)

reporting period: 10/21/18 – 10/31/18  
filing deadline: 11/2/18

### 2nd semi-annual period (Form 460)

reporting period: 10/21/18 – 12/31/18  
filing deadline: 1/31/19

During the ninety days prior to the election, candidates must also file contribution reports on a Form 497 within 24 hours of receiving contributions of \$1,000 or more.

After the election, regardless of winning or losing, the candidate must continue filing semi-annual campaign statements until the committee has been terminated. Contact the City Clerk's Office for additional information regarding filing deadlines.

# Chapter 5

## Committee Report – Form 460

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Chapter 8 in the FPPC Campaign Disclosure Manual includes information regarding the completion of the Form 460 campaign statement. The information in this section of the Ethics Commission Candidate Manual is intended to supplement the information in the FPPC Manual. In other words, the information in this section will address the additional disclosure requirements in the City's campaign laws.

Candidate-controlled committees must file a Form 460 at specified times to report the contributions coming into the committee, the payments made by the committee, and other financial information relating to the committee.

### Cover Page and Summary Page

City campaign laws do not require any additional disclosures on these pages.

### Schedule A – Monetary Contributions

In addition to the requirements outlined in the FPPC Manual, City of San Diego candidates must:

- code contributions “P” for the primary election or “G” for the general election.
- disclose the cumulative amount of contributions received from the contributor for each election in the “per election to date” column.

In addition, as discussed in greater detail above in Chapter 1, City candidates must have obtained all contributor information (name; street address; and if \$100 or more, the occupation, and employer) in time to include it on Schedule A.

It is important to remember that the City's campaign laws also include a variety of

restrictions on the types of contributions that may be accepted, and the time periods during which they may be solicited or accepted. Please refer to Chapter 2 for additional information.

### Schedule B – Loans

City campaign laws do not require any additional disclosures on Schedule B. Keep in mind, however, that City law limits loans from candidates to their committees to no more than \$100,000 at any one time. See Chapter 2 for additional information.

### Schedule C – Nonmonetary Contributions

City campaign laws do not require any additional disclosures on Schedule C. Note, however, that the City's contribution limits apply to both monetary and nonmonetary contributions.

**EXAMPLE:** A friend of a Council candidate running in the June 2018 primary election donates a used laser printer to the candidate. Because the printer has a fair market value of \$200, the candidate may not accept a monetary contribution in excess of \$350 from his friend for the primary election.

It is also important to remember that the City's ban on contributions from organizations applies to nonmonetary contributions. In other words, a business may not give your campaign anything of value (including discounted services), or make payments to campaign vendors on your behalf.

### Schedule D – Summary of Expenditures Supporting/Opposing Other Candidates, Measures, and Committees

City campaign laws do not require any additional disclosures on Schedule D. Keep



in mind, however, that candidate committees may not make contributions supporting other City candidates, because City law prohibits contributions from organizations (which include campaign committees) to City candidates. City laws do not, however, prevent candidate committees from making contributions to ballot measure committees or to candidates in other jurisdictions.

#### **Schedule E – Payments Made**

City campaign laws do not require any additional disclosures on Schedule E.

#### **Schedule F – Accrued Expenses (Unpaid Bills)**

City campaign laws do not require any additional disclosures on Schedule F. It is important to remember, however, that City law requires candidates to pay all campaign vendors within 180 days of the election.

*NOTE: If a candidate is unable to raise enough funds to pay his/her campaign vendors within 180 days, the candidate must deposit sufficient personal funds into the committee to pay the vendors in full.*

If a campaign debt is not paid within the 180-day period, a separate violation of the City's campaign laws occurs each and every day the debt remains unpaid. Remember that any reduction negotiated with a vendor after services are provided is a non-monetary contribution subject to the City's contribution limits and the ban on contributions from organizations.

#### **Schedule G – Payments Made by an Agent or Independent Contractor**

City campaign laws do not require any additional disclosures on Schedule G.

#### **Schedule H – Loans Made to Others**

City campaign laws do not require any additional disclosures on Schedule H. Note, however, that City law prohibits City candidate committees from making loans to other City candidate committees (because loans from anyone other than a candidate or a commercial lending institution are considered contributions and contributions from organizations – including committees – are prohibited).

City law does not restrict the ability of City candidate committees to make loans to City ballot measure committees, or to candidate committees in other jurisdictions.

#### **Schedule I – Miscellaneous Increases to Cash**

City campaign laws do not require any additional disclosures on Schedule I.

## Chapter 6 Additional Reports

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Chapter 10 in the FPPC Campaign Disclosure Manual addresses different types of campaign reports that are required if your committee makes certain types of contributions or expenditures. In general, these other types of campaign reports are required when a candidate committee makes large contributions to another committee, or makes independent expenditures to support a ballot measure.

The City Clerk is the filing official for the City of San Diego. Accordingly, please refer to the City Clerk's Candidate Information Manual or contact the City Clerk's Office directly for additional information regarding the filing of campaign statements.

Chapter 10 in the FPPC Manual addresses the filing of 24-hour Contribution Reports (Form 497). These reports must be filed when you or your committee receive contributions totaling \$1,000 or more during the 90 days before an election. For Council district elections, it includes contributions from individuals that are apportioned between the primary and general election in a manner that does not result in a violation of the City's contribution limits.

For the 2018 primary election, the 90 day period begins on March 7, 2018. For the 2018 general election, the 90 day period begins on August 8, 2018.

The City's laws prohibit City candidate committees from making contributions to other City candidate committees, although contributions to City ballot measure committees are allowed. If your committee makes contributions totaling \$1,000 or more to a ballot measure committee within the 90 days prior to an election, your committee will be required to file a Form 497. As explained in Chapter 5, the Form 497 is also used for the third pre-election report.

# Chapter 7

## After the Election

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Chapter 11 in the FPPC Campaign Disclosure Manual includes information regarding the filing of campaign statements by successful and defeated candidates, and the state rules regarding termination of a campaign committee. The information in this section of the Ethics Commission Candidate Manual is intended to supplement the information in the FPPC Manual. In some instances, however, the information in this manual will supersede the information in the FPPC Manual (these instances are specifically called out).

For a summary of the local and state laws that become relevant after the election, please see the Ethics Commission's Fact Sheet entitled "Post-Election Guidelines for Candidates."

The City Clerk is the filing official for the City of San Diego. Accordingly, please refer to the City Clerk's Candidate Information Manual, or contact the City Clerk's Office for information concerning the filing of post-election campaign statements and/or the filing of forms to terminate a committee.

It is important to remember that City candidates continue to have filing responsibilities after an election. In other words, even when candidates lose an election, they must continue to file campaign disclosure statements until they terminate their committees.

*NOTE: The failure to file campaign disclosure statements after an election may result in fines imposed by both the City Clerk and the Ethics Commission.*

### Outstanding Debts

The City's campaign laws require all candidates to pay their debts within 180 of the election. If a City candidate is unable to raise any additional contributions to pay his or her committee's debts within the 180-day period, the candidate must deposit sufficient personal funds into the committee to pay all campaign vendors in full.

*NOTE: The City's vendor debt laws are more stringent than the state's laws, which permit candidates to terminate their committees with outstanding debts.*

In addition, as discussed above in Chapter 2, the City's campaign laws permit candidates to accept contributions for only 180 days after the election. Therefore, if a candidate has an outstanding personal loan with his or her committee at the end of the 180-day post-election fundraising time period, the loan must be converted to a contribution.

Candidates may only accept contributions after an election if they have outstanding debts (including loans) from that election. In other words, if a candidate has a zero balance or leftover funds (after paying off all vendors and loans) at the end of the primary election, he or she may not continue to accept contributions for that election.

### Leftover Funds and Equipment

Leftover campaign funds can be used in different ways, depending upon whether the candidate wins or loses the election. If a candidate is successful, the leftover funds may be maintained in the candidate committee bank account and used for officeholder purposes during the official's

term in office. At the end of the term, any leftover funds will become “surplus.”

If a candidate is defeated, any leftover funds will become “surplus” 90 days after the end of the post-election reporting period. For the June 2018 primary election, all leftover funds for defeated candidates will become “surplus” on September 28, 2018. For the November 2018 general election, all leftover funds for defeated candidates who participated in that election will become “surplus” on March 31, 2019.

When campaign funds are transformed from leftover funds into “surplus” funds, they become subject to stringent state and local laws. In particular, surplus funds may not be used for a future election. Refer to Chapter 9 for additional information regarding the restrictions governing the use of surplus funds.

It is important to remember that leftover equipment and supplies belong to the committee, not the candidate or the campaign staff. These leftover assets must be sold at fair market value, and the proceeds must be treated the same way as leftover funds. In other words, if your campaign committee has purchased a computer, you may not take personal possession of the computer following the election unless you pay your committee the fair market value of the used computer. This payment must take place before the equipment becomes “surplus,” and must be deposited into the campaign bank account.

As discussed in greater detail in Chapter 9, leftover equipment and supplies may be donated to charities pursuant to the surplus funds rules.

### **Closing the Committee**

As discussed above, the City Clerk is the filing official for the City of San Diego. Accordingly, please refer to the City Clerk’s

Candidate Information Manual or contact the Office of the City Clerk (619-533-4025) for information concerning the forms that must be filed in order to close your campaign committee.

### **Audit and Litigation Expenses**

The committee may use leftover campaign funds (including “surplus funds”) to pay fees and costs associated with responding to an audit or defending the candidate in a civil, criminal, or administrative proceeding related to the election or the performance of governmental duties. Note, however, that the campaign committee may not accept new contributions to pay for these costs beyond the 180-day post-election fundraising period (see Chapter 2 for more details), except as described in the following paragraph.

Candidates may also collect contributions for audit and litigation costs by opening a separate committee designated solely for such purposes. City laws permit candidates and officeholders to establish a “professional expense committee” to raise money (legal defense funds) to defray fees and costs associated with an audit or enforcement action. Contributors may donate up to \$550 per proceeding per calendar year, and are not subject to the 180-day post-election fundraising period. Such funds are held in a committee and bank account that are separate and distinct from the candidate’s campaign committee and campaign bank account.

For additional information regarding establishing a committee for this purpose, please refer to the Ethics Commission’s “Fact Sheet on Professional Expense Committees.” This fact sheet is posted on the Ethics Commission’s website.

# Chapter 8

## Restrictions

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Chapter 5 in the FPPC Campaign Disclosure Manual includes information regarding additional restrictions that are not addressed in other chapters. Such restrictions concern the laundering of campaign funds, the making of cash contributions, the permissible uses of campaign funds, and the spending of surplus funds.

The information in this section of the Ethics Commission Candidate Manual is intended to supplement the information in the FPPC Manual. In other words, the information in this section will address the additional restrictions contained in the City's campaign laws.

### **Restrictions on Contributions**

In addition to the restrictions explained in the FPPC Manual, the City's campaign laws include a variety of restrictions concerning the solicitation and acceptance of campaign contributions. These restrictions are addressed in detail above in Chapter 2.

### **Restrictions on Soliciting Contributions from City Employees**

The City's campaign laws prohibit City candidates from soliciting contributions from City employees.

The term "City employees" includes all paid City officers and employees, as well as the paid officers and employees of the City's agencies (Civic San Diego, San Diego Housing Commission, and San Diego Convention Center Corporation).

There is an exception for some solicitations that are made to a large segment of the public, such as situations in which a campaign committee purchases a mailing list that incidentally includes one or more

City employees. For this exception to apply, you must have no reason to believe that a City employee is receiving the solicitation. Thus, if you are creating the list of recipients, you may not add someone to the list who you know is a City employee, regardless of the size of your recipient list.

For lists that you purchase, you should exercise reasonable due diligence to filter out the names of all City employees. In other words, you should review the recipient list to remove the names of individuals you know to be City employees. If it is an e-mail solicitation, you should also comb the list of e-mail addresses to remove those that end with a domain name associated with the City of San Diego or any of its agencies: sandiego.gov, civicsd.com, sdhc.org, and visitsandiego.com.

*NOTE: This prohibition does not prevent City employees from making contributions to City candidates. The prohibition only restricts candidates and their representatives from asking City employees for contributions. Also note that the prohibition applies to monetary and non-monetary campaign contributions, but not to other forms of support like volunteer service or agreeing to post a yard sign.*

**EXAMPLE:** Candidate James Delos used to work in the City's Water Department. He runs into a group of former colleagues having lunch at a restaurant. One of them asks James what they can do to support his campaign. James remembers that he can't ask these City employees for campaign contributions. Instead, he asks if they would be interested in putting signs in their yards and volunteering their time at his campaign headquarters.

### **Payments to Spouse**

Candidates are prohibited from using their campaign funds to pay their spouses or domestic partners for any type of service. Spouses and domestic partners may spend unlimited amounts of time assisting the campaign, but may not be paid for doing so.

### **Use of City Resources**

The City's Ethics Ordinance also prohibits City Officials (including elected officials) from using City facilities, equipment, supplies, or resources for campaign-related purposes. In other words, an elected official who is running for re-election may not use any City resources for campaign-related purposes.

Social media accounts maintained by City staff or linked directly from an official City website may not include campaign-related material, including campaign-related material posted by other users. In other words, City Officials must routinely monitor any social media accounts that utilize City staff time or are directly linked to from a City website in order to promptly remove campaign-related messages, photographs, etc., posted by others.

City Officials may re-designate their social media accounts, changing the focus from City business to campaign advocacy. As

long as the account (in whole or in part) is used for campaign-related purposes, however, no City resources may be used to maintain the account, and any links to the account from a City website must be removed. (City Officials need not take any action with regard to links to the account that appeared in prior City newsletters and press releases.)

Notwithstanding the above, City Officials may include a link to their campaign websites within the contact information for the account holder on social media accounts, even if City resources are used to maintain and/or link to these accounts. They may also establish separate social media accounts for campaign purposes, and link to these accounts in the contact information included on social media accounts used for City business. These second-tier links are analogous to using a minimal amount of City staff time to provide campaign contact information to people who call or e-mail their City offices about a campaign-related matter. Note that this allowance for second-tier links would not permit a City Official to use City resources to disseminate a message via Facebook or Twitter that encourages others to access a link to campaign materials.

### **Use of Campaign Funds**

Please refer to Chapter 9 in the FPPC Manual for information regarding the permissible uses of campaign funds.

### **Surplus Funds**

If a candidate loses an election, all leftover campaign funds will be considered "surplus" at the end of the post-election reporting period following the election.

EXAMPLE: Candidate Charlotte Hale comes in third in the June 2018 primary election. She has several hundred dollars in campaign funds remaining after paying off all her campaign debts. Those leftover funds will become surplus 90 days after the end of the reporting period (September 28, 2018). Unless she uses her leftover funds prior to September 28, she will be able to dispose of them only by following surplus funds rules.

If a candidate wins the election, all leftover campaign funds will be considered “surplus” 90 days after he or she leaves office (i.e. after the elected official’s term expires). During the interim period, the candidate may use leftover funds for officeholder expenses. Such expenses must be reasonably related to a political, legislative, or governmental purpose. In addition, if the expense confers a substantial personal benefit on the candidate, a member of their household, or an individual authorized to approve campaign expenditures, then the expenditure must be directly related to a political, legislative, or governmental purpose.

EXAMPLE: Candidate Felix Lutz is elected to office in 2018. While in office, Felix pushes for the creation of a new City park in his district. He decides to use some of his leftover funds to pay for flyers announcing the ribbon-cutting ceremony for the new park. Because these funds are not yet surplus, and because the payment is reasonably related to a governmental purpose, the funds may lawfully be spent on the flyers.

When leftover funds become “surplus,” they become subject to very stringent restrictions. They may be used only for the following purposes:

- to pay outstanding campaign debts (note that vendor debts must be paid within 180 days of the election);
- to repay contributions;
- to make a donation to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization (note that such donations cannot have a financial benefit on the candidate, any member of his or her immediate family, or his or her campaign treasurer);
- to make a contribution to a political party (as long as the funds are not used to support or oppose candidates for elective City office);
- to make a contribution to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure; and,
- to pay for professional services including legal fees.

Surplus funds may not be transferred or carried-over to another committee.

For additional information concerning the use of “surplus” funds, please refer to Chapter 9 in the FPPC Manual.