

SAN DIEGO ETHICS COMMISSION REVIEW OF THE CITY'S  
**Election Campaign Control Ordinance**

**PROPOSED AMENDMENTS**

April 20, 2015

**Chapter 2: Government**  
**Article 7: Elections, Campaign Finance and Lobbying**  
**Division 29: Election Campaign Control Ordinance**

**§27.2903 Definitions**

Unless otherwise defined in this section, or the contrary is stated or clearly appears from the context, the definitions of the Political Reform Act of 1974 (Government Code sections 81000 et seq.) and the definitions contained in the regulations adopted by the Fair Political Practices Commission shall govern the interpretation of this division.

*Agent through Independent expenditure* [No change in text.]

*Independent expenditure committee* means any person who makes *independent expenditures* totaling \$1,000 or more within a single calendar year without also receiving contributions of \$1,000 or more within a single calendar year.

*Mass campaign literature through Measure* [No change in text.]

*Member communication* means a communication directed solely to members, employees, or shareholders, or families of members, employees, or shareholders of an organization, including a communication to members of any political party, for the purpose of supporting or opposing one or more City measures or candidates for elective City office. Member communications do not include communications made by an organization for general public advertising such as broadcasting, billboards, and newspaper advertisements, or for communications to persons who are not members, employees, or shareholders, or families of members, employees, or shareholders of the organization. The meaning of member communication is intended to be consistent with the definitions contained in California Government Code section 85312 and title 2, section 18531.7 of the California Code of Regulations. Any amendments made to these authorities shall be deemed to be an amendment to the language of this definition.

*Payment through Vendor* [No change in text.]

## §27.2924 Surplus Campaign Funds

- (a) Upon the 90th day after leaving any elected office, or ~~at~~ the 90th day following the end of the post-election reporting period following the defeat of a *candidate* for elective office, whichever occurs last, campaign funds under the control of a *candidate* shall be considered surplus campaign funds.
- (b) through (c) [No change to text.]

## §27.2925 Accounting and Recordkeeping

- (a) In addition to any other requirements of this division, every *candidate* or *committee* that accepts *contributions* for a *City election* shall maintain records in accordance with the requirements of title 2, section 18401 of the California Code of Regulations.
- (b) The records required by section 27.2925(a) shall be kept by the *candidate* or *committee treasurer* for a period of four years following the date that the campaign statement to which they relate is filed.
- (c) Every *candidate* or *committee* paying for campaign advertisements supporting or opposing one or more *City candidates* or *City measures* shall maintain records in accordance with the following requirements:
  - (1) for *mass campaign literature* subject to section 27.2970, records that identify the date(s) of dissemination, the number of pieces disseminated, and the method of dissemination, as well as an original sample of each item of *mass campaign literature* disseminated by the committee;
  - (2) for *mass telephone communications* subject to section 27.2971, records that identify the date(s) the telephone calls were made and the number of calls made, as well as a transcript of the messages communicated and a copy of any recorded messages;
  - (3) for billboards and other large forms of advertising subject to section 27.2972, records that identify the location(s) where each advertisement was publicly displayed, the date(s) of display, the dimensions of each advertisement, the content and size of the requisite “paid for by” disclosure, as well as an advertising proof or comparable image of the advertisement in printed or electronic format; and,
  - (4) for mass media advertisements subject to section 27.2974, records that identify the publication or website where the advertisement appeared, the date(s) the advertisements appeared, the content and size of the requisite “paid for by” disclosure, as well as an advertising proof or comparable image of the advertisement in printed or electronic format.

(d) The records required by section 27.2925(c) shall be kept by the *candidate* or *committee* for a period of four years following the date that the campaign statement to which they relate is filed.

~~(e)~~(e) Each *candidate* and *committee* shall deliver, on demand, to any public officer having authority to enforce this division, a written authorization permitting the officer to have access to all records pertaining to the campaign *contribution* checking account.

~~(d)~~(f) Each *candidate* and *committee* shall, on demand, make available to any public officer having authority to enforce this division all records required by this division to be maintained by the *candidate* or *committee*.

### **§27.2945 Notification Regarding Reimbursement Prohibition**

(a) It is unlawful for any *candidate* or *controlled committee* to solicit *contributions* for a *City candidate election* from potential contributors by distributing printed materials or using an Internet web site unless such materials or site contain at least one instance of the following statement in a prominent place printed in typeface that is easily legible, contrasts with the background, and is not smaller than the typeface used in a majority of the text in the materials or on the site: ~~“It is unlawful for any type of business entity to reimburse an individual for a contribution made by that individual to a City candidate.”~~ “It is unlawful to reimburse an individual’s contribution to a City candidate unless the reimbursement is made by another individual and the names of both individuals are provided to the candidate.”

(b) Upon the discovery by the *candidate* or *controlled committee* that a violation of subsection (a) has occurred, such violation may be remedied by the *candidate* or *controlled committee* submitting written notice reciting the statement required by subsection (a) to all individuals who were sent the materials constituting the violation and to all individuals who made a *contribution* through the web site during the period of violation, and thereafter reporting in writing the nature of the violation and remedial action to the *Enforcement Authority*, provided that the remedial action takes place before the date of the *election* for which the solicitation was made, and no later than fourteen calendar days after the discovery of the violation.

### **§27.2952 Contributions from Sole Proprietorships**

(a) Notwithstanding the provisions of sections 27.2950 and 27.2951,

(1) a *contribution* drawn from a checking account or credit card account held by an individual doing business as a sole proprietorship is considered a *contribution* from that individual for purposes of ~~sections 27.2934 and~~ section 27.2935, and may lawfully be received by a *candidate* for *elective City office*; and,

- (2) a non-monetary contribution in the form of goods or services donated by an individual doing business as a sole proprietorship is considered a contribution from that individual for purposes of section 27.2935, and may lawfully be received by a candidate for elective City office.
- (b) Any *candidate* disclosing on a campaign statement the source of a *contribution* received pursuant to subsection (a) shall identify the full name of the individual contributor notwithstanding the name of the sole proprietorship on the face of ~~the~~ a check or on ~~the~~ a credit card account.
- (c) The provisions of this section apply solely to entities recognized as sole proprietorships under federal tax laws, and do not apply to a *contribution* drawn from a checking account or credit card account held by a corporation, partnership, limited liability company, or any other type of business entity, or to a non-monetary contribution made by such entities.

### §27.2971 Telephone Communications

- (a) It is unlawful for any *candidate* or *committee* to engage or hire others to engage in *mass telephone communications* unless the communications include a statement that the communications are “paid for by,” “authorized by,” or are otherwise being made “on behalf of” immediately followed by the name of each *candidate* or *committee* that is paying for any of the resources used for the communications or that is otherwise authorizing the communication. For purposes of this subsection, “resources” include the purchase of a contact list, the development of a script, overhead expenses, and telephone charges. The type of disclosure required by this section shall be determined as follows:
- (1) A call is “paid for by” a *candidate* or *committee* when the *candidate* or *committee* pays directly for the call or pays another *person* to make the call on its behalf.
- (2) A call is “authorized by” a *candidate* or *committee* if a *person* pays for the call at the behest of the *candidate* or *committee* and that *payment* is a *contribution* to the *candidate* or *committee*.
- (3) Notwithstanding subsections (a)(1) and (a)(2), a call is made “on behalf of” a *candidate* or *committee* when it is made by a volunteer at the direction of the *candidate* or *committee*.
- (b) The statement required pursuant to subsection (a) shall be clearly audible and at the same general volume as the rest of the telephone message.
- (c) If the telephone communication is a recording, the statement required pursuant to subsection (a) shall be played at the same speed as the rest of the message.

- (d) If the telephone communication is paid for by a *controlled committee*, the name of the *candidate* controlling the *committee* shall be included in addition to the information required by subsection (a).
- (e) Any *candidate* or *committee* paying for a live or recorded telephone communication subject to this section shall maintain ~~for four years a transcript of the message being communicated, a copy of any recorded messages, and a record of the number of calls for each message~~ records relating to such communications in accordance with section 27.2925(c).
- (f) The disclosure requirements set forth in this section shall not apply to a *candidate* personally engaging in a live telephone communication or to a *member communication* by an organization that is not a political party.