

FACT SHEET ON MASS CAMPAIGN LITERATURE

NOTE: The State of California has adopted many new and significantly different campaign advertising laws, effective January 1, 2018. The City of San Diego is in the process of updating its advertising laws to correspond with the new state laws. In the meantime, please keep in mind that campaign committees will be expected to follow state law instead of local law whenever the state law is more restrictive. For information regarding the state's new advertising laws, please refer to the California Fair Political Practices Commission's website: <http://www.fppc.ca.gov/learn/campaign-rules/campaign-advertising-requirements-restrictions.html>

The City's Election Campaign Control Ordinance contains laws regarding printed campaign advertisements used to support or oppose City candidates and ballot measures. This fact sheet is designed to help candidates and committees gain a better understanding of the applicable laws, but should not be considered a substitute for the actual language contained in San Diego Municipal Code section 27.2970.

- ❖ Mass Campaign Literature means more than 200 substantially similar pieces of campaign literature that are distributed by a candidate or committee within a single calendar month.
- ❖ Mass Campaign Literature includes items that may be distributed through the mail, by campaign workers, or by any other means.
 - ✓ **Mass Campaign Literature includes** mailers, flyers, pamphlets, door hangers, walking cards, posters, yard signs, business cards, campaign buttons 10 inches in diameter or larger, and bumper stickers 60 square inches or larger.
 - ✓ **Mass Campaign Literature does not include** pens, pencils, or other similarly small promotional items on which a "paid for by" disclosure cannot legibly be printed; wearing apparel; skywriting; or member communications other than a communication from a political party to its members. It also does not include a candidate's or committee's web site, e-mail messages¹, or any other Internet-based communication.²
- ❖ Each item of Mass Campaign Literature must include the words "paid for by" immediately followed by the name, street address, and city of the committee paying for the literature.
- ❖ A committee distributing mass campaign literature must disclose itself using the same name that appears on the Form 410 (Statement of Organization) that it filed with the Secretary of State. It may not use an informal, abbreviated, or past version of its name.

¹ Note that state's mass mailing rules apply to e-mails. See FPPC Regulation 18435(e).

² Although a paid advertisement on a website is not considered a form of "mass campaign literature," even when the advertisement supports or opposes a City candidate or ballot measure, ECCO still requires the advertisement to include a "paid for by" disclosure. See the Ethics Commission's Fact Sheet on Campaign Advertising for more information.

- ❖ The “paid for by” disclosure must be in a typeface that is easily legible and contrasts with the background. For most forms of campaign literature distributed by a candidate or a candidate’s election committee, the disclosure must use a typeface at least 12 points in size; other committees must make the disclosure using at least a 14 point bold sans serif typeface. For yard signs, the disclosure must use a typeface that has a height no less than 5% of the height of the yard sign.
- ❖ Before disseminating mass campaign literature, the candidate or committee should carefully review the literature to ensure that the disclosure fully complies with the letter and spirit of the law such that a reasonable person can easily determine who paid for the item. Any candidate or committee that conceals or obscures the identity of the entity paying for mass campaign literature by omitting required information, inserting extraneous information, or engaging in any other action that prevents a full, accurate, and clear disclosure risks being the subject of an Ethics Commission enforcement action.
- ❖ A post office box may be used instead of a street address if the committee’s street address is a matter of public record with the Secretary of State (i.e., identified on the committee’s Form 410 – Statement of Organization).
- ❖ A committee making independent expenditures may not distribute Mass Campaign Literature at the behest of, or in coordination with, a candidate or candidate-controlled committee. (Doing so would make the expenditure an unlawful in-kind contribution instead of an independent expenditure; organizations may not make contributions to support or oppose candidates.)
- ❖ When campaign materials are sent through the U.S. Postal Service (i.e., a “mass mailing”), the outside of the mailer must contain the words “paid for by” followed by the committee’s name and address. This disclosure must be in at least a 12 point typeface (if a candidate committee) or at least a 14 point bold sans serif typeface (if another type of committee).
 - ✓ If more than one committee is paying for a mass mailing, only the committee paying the largest portion of the advertising costs must be identified in the “paid for by” disclosure on the outside of the mailer.
 - ✓ If two or more committees are paying equally for the mailer, then at least one of the committees must be identified in the “paid for by” disclosure on the outside of the mailer, and all of the committees must be identified in a separate “paid for by” disclosure inside the mailer.
- ❖ Mass mailers consisting of multiple parts may be subject to additional disclosures if sent by a ballot measure committee or by a committee making independent expenditures supporting or opposing a candidate or ballot measure. Each communication that would require a disclosure if distributed separately, and that is included in a package of materials, must contain the required disclosure.
- ❖ State law imposes some additional disclosure requirements that are not part of local law. When a mass mailing is an independent expenditure, state law requires the disclosure to appear on the mailing in a box that has a contrasting color and specific line width. State law also requires independent expenditure advertisements supporting or opposing a candidate to include a statement that it was not authorized by a candidate or a committee controlled by a candidate. (See Cal. Gov’t Code sections 84506.5 and 84506.5.) Contact the FPPC for guidance regarding these rules.

- ❖ If two committees make independent expenditures to produce a single form of Mass Campaign Literature, then information for each committee must be included in the “paid for by” disclosure. (Please see the Ethics Commission’s Fact Sheet on Campaign Advertising for additional information regarding two committees coordinating independent expenditures.). For mass mailings, the “sender” (see definition in bullet above) must be identified on the outside of the mailer, and the names and addresses of all committees sharing in the cost must be shown in another location of the mailer as part of a separate “paid for by” disclosure.
- ❖ Committees paying for Mass 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. These records 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 Mass Campaign Literature.
- ❖ The Ethics Commission does not regulate the truth or accuracy of content of Mass Campaign Literature (i.e., it has no control over the publishing of false or misleading information).

For additional information, please contact the Ethics Commission at (619) 533-3476 or ethicscommission@sandiego.gov.

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