

CHAPTER 43: CAMPAIGN FINANCE REFORM

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§ 12.4301 Name of Chapter.

This Chapter shall be known and cited as the “County of San Bernardino Campaign Finance Reform Ordinance” or the “Campaign Finance Reform Ordinance.”

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4302 Purpose of the Chapter.

The United States Supreme Court has held that the purpose of a campaign reform ordinance must be to reduce corruption or the appearance of corruption in the electoral process, and that corruption in this context means “quid pro quo” corruption, that is, the contribution of money or resources for political favors. This Chapter does this primarily in three ways. First, this Chapter establishes a limit on the amount that individuals and entities may contribute to candidates for elective County office and their controlled committees. Second, this Chapter prohibits the hiding of the identity of contributors through the making of contributions via intermediaries without disclosure. Such contributions are attributed to the real contributor and subject to the contribution limit. Third, this Chapter requires candidates, and persons or entities making independent expenditures (expenditures that are not coordinated with candidates), who raise or expend \$10,000.00 or more, to file campaign statements in an electronic form with the Registrar of Voters, thus making them more accessible to the public. All of these requirements are intended to make it more difficult for candidates and influential individuals and entities to engage in quid pro quo corruption, to make the financing of campaigns for elective County office more transparent, and to make more information, especially financial information, regarding candidates and their supporters available to voters.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4303 Relationship to the Political Reform Act of 1974.

(a) The Political Reform Act, as amended and codified, already establishes certain minimum reporting and other requirements for candidates and certain committees making independent and other expenditures. The Political Reform Act establishes contribution limits for candidates for State office but does not provide for any contribution limits for candidates for local office. The Political Reform Act expressly authorizes local governments to impose additional requirements on candidates for local office as long as the requirements do not prevent any person from complying with the Political Reform Act.

(b) Unless a word or term is specifically defined in this Chapter or the contrary is stated or clearly appears from the context, words and terms shall have the same meaning as when they are used in the Political Reform Act, as amended and codified, and in the related regulations of the Fair Political Practices Commission.

(c) If any provision of this Chapter prevents any candidate or person from complying with the Political Reform Act, such provision is preempted by the Political Reform Act to the extent necessary to bring this Chapter into full compliance therewith.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4304 Definitions.

For the purposes of this Chapter, certain words are defined as follows:

CANDIDATE. Any individual who is a candidate for Supervisor, Sheriff, District Attorney, Auditor-Controller/Treasurer/Tax Collector, Assessor, County Superintendent of Schools, or any other elective County office. Such office would include any elected County offices that have been consolidated or later separated. The provisions of Government Code § 82007 shall also apply to such individual.

COUNTY. The County of San Bernardino.

ELECTION. A primary, general, special, or recall election. Each of these is a separate election for purposes of this Chapter.

ELECTIVE OFFICER. An individual who is a Supervisor, Sheriff, District Attorney, Auditor-Controller/Treasurer/Tax Collector, Assessor, County Superintendent of Schools, or holder of any other elective County office.

ENTITY. Any person, other than an individual.

INDIVIDUAL. A human being.

OFFICEHOLDER. An elective officer.

OFFICEHOLDER ACCOUNT. The bank account established at a financial institution located in the State of California pursuant to Subdivision (a) of § 12.4319 .

OFFICEHOLDER CONTROLLED COMMITTEE. A committee formed pursuant to Subdivision (d) of § 12.4319 .

OFFICEHOLDER FUNDS. Money in the officeholder account.

PERSON. An individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

SPONSORED COMMITTEE. A committee, other than a controlled committee, which has one or more sponsors.

SPONSOR. Any entity that sponsors a committee. A candidate or other individual may not sponsor a committee. An entity sponsors a committee if any of the following applies:

(a) The committee receives 80 percent or more of its contributions from the entity or its members, officers, employees, or shareholders.

(b) The entity collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(c) The entity, alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(d) The entity, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014; Ord. 4350, passed - -2018)

§ 12.4305 Contribution Limit.

(a) *Limit on Contributions to a Candidate or a Candidate's Controlled Committee.* A person may not make to a candidate or the candidate's controlled committee, and a candidate or the candidate's controlled committee may not accept from a person, any contribution totaling more than the per election amount permitted in Government Code § 85301(a), as adjusted by the Fair Political Practices Commission pursuant to California Code of Regulations title 2, section 18544, effective on January 1, 2013, and on January 1 of each odd-numbered year thereafter. Each primary, general, special, and recall election is a separate election for purposes of this Chapter.

(b) *Post-Election Fundraising Restrictions.* A contribution for an election may be accepted by a candidate after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election, and the contribution does not otherwise exceed the applicable contribution limit for that election. Notwithstanding any other provision of County Code § 12.4305, if a candidate or the candidate's controlled committee had net debts resulting from an election held prior to January 1, 2013,

contributions to that candidate or committee for that election are not subject to the limits of Subdivision 12.4305(a).

(c) *Contributions Received for Primary and General Elections.* A candidate may raise contributions for a general election prior to the primary election, and for a special general election prior to a special primary election, for the same elective office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate is elected to office in a primary election or special primary election and will not appear on the ballot in the ensuing general election or special general election, is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Government Code § 85201, candidates may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

(d) *Separate Controlled Committee for Each Campaign Account.* A candidate who is required to file a statement of organization for a controlled committee pursuant to Government Code § 84101 shall establish a separate controlled committee and campaign bank account for each specific term of elective office identified in statements filed by the candidate pursuant to Government Code § 85200. A controlled committee and campaign bank account established for a specific term of elective office may not be redesignated as a controlled committee and campaign account for a future election, even if the future election is for the same elective office.

(e) *Return of Contribution in Excess of Limits.*

(1) Contributions which either in the aggregate or on their face exceed the contribution limits of § 12.4305(a) shall be deemed not to have been accepted within the meaning of that provision, if returned pursuant to § 12.4305(e).

(2) A monetary contribution shall be returned prior to deposit or negotiation, within 14 days of receipt.

(3) A non-monetary contribution shall be returned by returning to the contributor, within the deadline specified in Subdivision (2), any of the following: the non-monetary contribution; its monetary equivalent; the monetary amount by which the value of the non-monetary contribution exceeds the contribution limits of § 12.4305(a).

(4) Subdivision (e) shall not be construed to authorize the making or solicitation of any contribution in excess of the contribution limits of § 12.4305(a).

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4306 Contribution Through Intermediary and Disclosure.

With respect to contributions earmarked for a candidate or contributions made to a candidate through a person acting on behalf of another or acting as the intermediary or agent of another, the contributors, intermediaries, agents, committees, and recipients of such contributions shall comply with all disclosure, reporting, and other requirements of Government Code §§ 84302 and 85704.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014; Am. Ord. 4336, passed - -2017)

§ 12.4307 Aggregation of Contributions.

(a) For purposes of the contribution limit and reporting requirements of this Chapter, the contributions from certain combinations of individuals and entities must be added together to determine the total amount that will be treated as made by, and received from, a single contributor. Such aggregated amount shall not exceed the contribution limit established under § 12.4305.

(b) *Contributions of an Entity Treated as Contributions of an Individual.*

(1) The contributions of an entity whose contributions are directed and controlled by an individual shall also be treated as the contributions of the individual.

(2) The contributions of an entity whose contributions are directed and controlled by two or more individuals shall also be treated as the contributions, on a pro rata basis, of the individuals.

(3) The contributions of an entity that is majority-owned by an individual shall also be treated as the contributions of the individual, unless the entity acts independently in its decision to make the contributions.

(c) *Contributions of an Entity Treated as Contributions of Another Entity.*

(1) The contributions of an entity whose contributions are directed and controlled by an individual shall also be treated as the contributions of any other entity whose contributions are directed and controlled by the

same individual.

(2) The contributions of an entity whose contributions are directed and controlled by a majority of persons shall also be treated as the contributions of all other entities whose contributions are directed and controlled by the same majority of persons.

(3) The contributions of an entity that is majority-owned by a person shall also be treated as the contributions of all other entities majority owned by the same person, unless the entity acts independently in its decision to make the contributions.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4308 Reasonable Diligence and Disclosure of Aggregated Contributions.

(a) Candidates, their controlled committees and treasurers, and any person must exercise reasonable diligence to determine whether a particular contribution must be aggregated with another contribution by operation of any provision of this Chapter or law.

(b) Any person who makes a contribution that is subject to aggregation by operation of any provision of this Chapter or law shall, at the time of making the contribution, disclose in writing to the candidate or the candidate's controlled committee the existence of all other contributions that must be aggregated with such contribution. This requirement does not relieve the candidate and the candidate's controlled committee and treasurer of the obligations under § 12.4308(a) or law.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4309 Candidate's Own Contributions; Family Contributions.

(a) *Contribution of Candidate's Own Funds.* The provisions of § 12.4305 do not apply to a candidate's contributions of his or her personal funds or community property to his or her campaign.

(b) *Contribution of Spouses or Domestic Partners.* For purposes of this Chapter, a single contribution made by both spouses or by both registered domestic partners shall not be aggregated but shall be divided equally between both spouses or between both domestic partners.

(c) *Contribution of Minor.* A contribution made by a child less than 18 years of age is presumed to be a contribution from the parent or guardian of the child. For contribution tracking purposes, if the parents or guardians of the child are married or have joint legal custody of child, the contribution shall be divided equally between them. If one parent or guardian has primary or sole legal custody of the child, then the contribution shall be attributed to that parent or guardian. The committee or candidate accepting a contribution from a child under the age of 18 shall obtain the information concerning parental or guardian attribution.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4310 Intra-Candidate Transfer of Funds.

(a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for County office of the same candidate. Contributions transferred shall be attributed to specific contributors using a "last in, first out" or "first in, first out" accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor may not exceed the limits set forth in § 12.4305.

(b) Notwithstanding § 12.4310(a), a candidate for County office may carry over contributions raised in connection with one election to County office to pay campaign expenditures incurred in connection with a subsequent election for the same County office.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4311 Electronic Filing of Campaign Statements.

(a) *Electronic Filing of Statements.* Any candidate and the candidate's controlled committee that raises or spends at least \$10,000.00, or any other person, entity, or committee that raises or spends at least \$10,000.00, in any election in support of or opposition to a candidate, shall file all campaign statements in a format that is approved by the Registrar of Voters for electronic filing.

(b) *Placement of Statements on County's Website.* The Registrar of Voters shall cause to be placed on the County's web site a copy of each campaign statement required by Subdivision (a) within one working day of the statement being filed with the Registrar of Voters.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4312 Non-Application to Other Elections and Recall Elections.

(a) *Non-County Election.* In the event a candidate also runs for election for a State, Federal, city, special

district, or other non-County office, the provisions of this Chapter do not apply to the candidate's campaign for such other office nor to any committee established solely for the purpose of running for such other office.

(b) *Recall Election.* The contribution limit of this Chapter shall not apply to recall elections but all other provisions of this Chapter shall apply to recall elections.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4313 Maintenance and Access to Records.

(a) *Maintenance of Records.* Candidates and their controlled committees shall maintain, for the period of time required in Government Code § 84104, such detailed accounts, records, bills, receipts, and other documentation necessary to prepare campaign statements and to comply with the provisions of this Chapter.

(b) *Disclosure of Records.* Candidates and their controlled committees shall deliver to the Registrar of Voters and any public entity or official having authority to implement or enforce this Chapter, upon demand, the documentation and information described in Subdivision (a) and any other information and documentation sufficient to allow the determination of whether any provision of this Chapter has been violated.

(c) *Authorization to Access Records.* Candidates and their controlled committees shall deliver to the Registrar of Voters and any public entity or official having authority to implement or enforce this Chapter, upon demand, a written authorization permitting such entity or official to have access to all documentation and information pertaining to the campaign contribution checking account.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4314 Violations and Enforcement—Criminal.

(a) Any person who knowingly or willfully violates any provision of this Chapter, who purposely causes any other person to violate any provision of this Chapter, or who aids and abets any other person in the violation of any provision of this Chapter, is guilty of a misdemeanor.

(b) In addition to any other penalties provided by this Chapter or the County Code or law, a fine of up to the three times the amount the person failed to report properly or unlawfully contributed, expended, gave, or received, or \$10,000.00, whichever is greater, may be imposed upon conviction for each violation.

(c) A plea of nolo contendere shall be deemed a conviction for purposes of this Section.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4315 Violations and Enforcement—Civil.

(a) Any person who violates any provision of this Chapter, who purposely causes any other person to violate any provision of this Chapter, or who aids and abets any other person in the violation of any provision of this Chapter, shall be subject to, in addition to any other penalties provided by this Chapter or the County Code or law, a civil penalty of up to three times the amount the person failed to report properly or unlawfully contributed, expended, gave, or received, or \$1,000.00, whichever is greater. Civil remedies also include injunctive or other equitable or declaratory relief.

(b) If two or more persons are responsible for any violation of any provision of this Chapter, then they shall be jointly and severally liable.

(c) The civil prosecutor is primarily responsible for enforcement of the civil penalties and remedies of this Chapter. The civil prosecutor shall be the Fair Political Practices Commission.

(d) Any person residing within the jurisdiction of the election may bring a civil action under this Section. Before filing such action, such person must first file with the civil prosecutor a written request for the civil prosecutor to commence the action, subject to procedures that comport with the procedures set forth in Government Code § 91007.

(e) No civil action may be filed with regard to a person for any violation of this Chapter after an administrative order pursuant to § 12.4316 has been issued against such person for the same violation.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4316 Violations and Enforcement—Administrative.

(a) Any person who, pursuant to an appropriate administrative action, is determined to have violated any provision of this Chapter, purposely caused any other person to violate any provision of this Chapter, or aided and abetted any other person in the violation of any provision of this Chapter, shall be subject to an administrative order requiring that the person to do all or any of the following:

- (1) Cease and desist violation of this Chapter;
- (2) File any reports, statements, or other documents or information required by this Chapter;

(3) Pay a monetary penalty of up to \$5,000.00 per violation;

(b) If two or more persons are responsible for any violation of any provision of this Chapter, then they shall be jointly and severally liable.

(c) No administrative action brought alleging a violation of any provision of this Chapter shall be commenced more than five years after the date on which the violation occurred.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4317 Construction.

This Chapter shall be liberally construed to accomplish its purposes.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4318 Effective Date.

The Campaign Finance Reform Ordinance shall be effective on January 1, 2013. The Campaign Finance Reform Ordinance shall apply only to contributions made to, or received by, a candidate on or after January 1, 2013. No contribution made to, or received by, a candidate prior to January 1, 2013, shall be considered whatsoever for purposes of the contribution limit, the aggregation of contributions provision, or any other requirement of the Campaign Finance Reform Ordinance.

(Ord. 4184, passed - -2012; Am. Ord. 4226, passed - -2014)

§ 12.4319 Officeholder Accounts.

(a) Notwithstanding Subdivision (b) of § 12.4305, an officeholder may accept contributions after the date of the election for the purpose of paying expenses associated with holding the office provided that the contributions are not expended for any contribution to any state or local committee. Contributions received pursuant to this Subdivision shall be deposited into a bank account established solely for the purposes specified in this section.

(b) *Officeholder Account Contribution Limits.*

(1) No person shall make, and no officeholder shall receive from a person, a contribution pursuant to this subdivision totaling more than the amount set forth in Government Code § 85316(b)(1)(A), as adjusted by the Fair Political Practices Commission pursuant to Government Code § 85316(b)(4), per calendar year.

(2) No officeholder shall receive contributions pursuant to Paragraph (1) that, in the aggregate, total more than the amount set forth in Government Code § 85316(b)(2)(A), as adjusted by the Fair Political Practices Commission pursuant to Government Code § 85316(b)(4), per calendar year.

(3) Any contribution received pursuant to this Section shall be deemed to be a contribution to that candidate for election to any County office that he or she may seek during the term of office to which he or she is currently elected, including, but not limited to, reelection to the office he or she currently holds, and shall be subject to any applicable contribution limit provided in this Chapter.

(c) If an officeholder account is established pursuant to this Section, the officeholder shall maintain officeholder funds in a single bank account separate from any other bank account held by the officeholder.

(d) *Establishing the Officeholder Controlled Committee, Reporting, and Recordkeeping.*

(1) *Formation.* The officeholder shall establish a controlled committee by filing a statement of organization pursuant to Government Code § 84101 if the officeholder receives \$2,000 or more in officeholder contributions in a calendar year. An officeholder account and an officeholder controlled committee may only be established after the officeholder closes his or her campaign account and any campaign committee.

(2) *Committee Name.* The controlled committee name shall include the officeholder's last name, the office held, the year the officeholder was elected to the current term of office, and the words "Officeholder Account." The statement of organization shall include the name, account number, and address of the financial institution where the committee established the officeholder account.

(3) *Filing Requirements.* The controlled committee shall file campaign statements and reports at the same times and in the same places as it otherwise would be required to do for any other controlled committee formed by the officeholder for election to County office.

(4) *Required Recordkeeping and Audits.* The officeholder and treasurer shall be subject to recordkeeping requirements under § 12.4313. The officeholder account and officeholder controlled committee shall be subject to audits under the regulations promulgated pursuant to Government Code § 90001(i)(1), § 12.4313, and the terms of any written agreement between the County and the Fair Political Practices Commission.

(e) *Prohibitions.*

(1) Officeholder funds may not be contributed or transferred to another state or local committee, including any other controlled committee of the officeholder, except as permitted in Subdivisions (h) (2) and (h)(3).

(2) Officeholders may not use officeholder funds to pay “campaign expenses” as defined in California Code of Regulations, title 2, § 18525(a).

(3) The officeholder may not transfer or contribute funds from any other committee he or she controls to the officeholder account, except as permitted in Subdivision (h)(2) and (h)(3).

(f) *Contributions to the Officeholder Account.*

(1) *Required Notices.* In addition to the requirements of California Code of Regulations, title 2, § 18523.1, a written solicitation for contributions to the officeholder account shall include the following: “For purposes of the County of San Bernardino Campaign Finance Reform Ordinance’s contribution limits, a contribution to an officeholder account is also considered to be a contribution to all campaign committees for future elective County office the officeholder seeks during his or her current term of office.”

(2) In addition to the requirements of Subparagraph (1) above, an officeholder who files a statement of intention to be a candidate for any elective County office during the officeholder’s term of office shall provide notice of this filing to every person that has made a contribution to his or her officeholder account. The notice shall contain the language in Subparagraph (1) and be transmitted or mailed within ten days of filing the statement of intention to be a candidate.

(3) *Cumulation.* A contribution to the officeholder account shall also be deemed a contribution to the officeholder’s controlled committee for election to elective County office for the purposes of § 12.4319(b)(3) only under all of the following circumstances:

(A) The contributor makes the contribution between the day the election was held for the term of office for which the officeholder account was established and the end of that term of office;

(B) The officeholder maintains the controlled committee, established for a future term of elective County office, at any time during the period covered in Subparagraph (A).

(4) *Cumulation and Primary and General Elections.* A person’s contributions to the officeholder account, when combined with contributions from the same person for a primary and general election to the elective County office, may not exceed the contribution limits applicable to the primary and general election.

(5) *Multiple Officeholder Accounts.* When an officeholder maintains more than one officeholder account in the same calendar year, he or she may not receive the following contributions to any of those accounts during that calendar year:

(A) Contributions from a single contributor that, when cumulated for all the accounts, exceed the maximum amount the contributor could give to the officeholder account having the highest per person contribution limit under Subdivision (b)(1).

(B) Contributions from all contributors that, when cumulated for all the accounts, exceed the maximum amount in total contributions the officeholder could receive in the officeholder account having the highest aggregate contribution limit under Subdivision (b)(2).

(g) *Contributions Over the Limits.*

(1) An officeholder shall return to the contributor the portion of any contribution to his or her officeholder account that exceeds the limits of § 12.4305 or § 12.4319 (either alone or after cumulation) by the earlier of 14 days of receipt or 14 days of the date the officeholder files a statement of intention to be a candidate for elective County office pursuant to Government Code § 85200.

(2) A contributor to the officeholder account does not violate the contribution limits applying to the officeholder’s election to a future elective County office as otherwise provided under Subdivision (b)(3) if, when he or she makes the contribution, the officeholder has not filed a statement of organization to establish a controlled committee for election to a future elective County office.

(h) *Terminating Officeholder Accounts and Committees.*

(1) The officeholder may not accept contributions after the officeholder’s term of office ends or the date he or she leaves that office, whichever is earlier.

(2) The officeholder may redesignate the officeholder account as an officeholder controlled committee for a future term of the same office for purposes of paying expenses associated with holding the office by amending the statement of organization for the committee to reflect the redesignation for the future term of office prior to the date the officer’s term of office ends.

(3) An officeholder may redesignate officeholder funds in the redesignated officeholder account as officeholder funds for the new term of office, subject to the limitations in Subdivision (f)(5).

(4) Once the officeholder's term of office ends or he or she leaves that office, whichever is earlier, the officeholder may only use his or her officeholder funds for the following purposes:

(A) Paying outstanding officeholder expenses.

(B) Repaying contributions to contributors to the officeholder account.

(C) Making a donation to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, if no substantial part of the proceeds will have a material financial effect on the officeholder, a member of his or her immediate family, or his or her committee treasurer.

(D) Paying for professional services reasonably required by the officeholder controlled committee to assist in the performance of its administrative functions.

(E) The officeholder shall terminate the officeholder controlled committee within 90 days of the date the officer's term of office ends or he or she leaves that office, whichever is earlier.

(Ord. 4350, passed - -2018)