



CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Silver, Commissioners Brandt, Ortiz, Wilson, and Zettel
From: Dave Bainbridge, General Counsel
Subject: **Gov't Agency Campaign Activity Rules – Education and Outreach**
Date: November 10, 2025

Purpose

Commissioner Ortiz requested the Commission discuss potential education and outreach opportunities for government agency officials, specifically agency attorneys, regarding laws requiring disclosure of campaign expenditures by government agencies and the prohibition on campaign mass mailings by agencies. This memo provides background on the Commission's role in enforcing these laws and a summary of the Commission's advice, education, and outreach efforts on this topic.

Background

Government agencies that make contributions or independent expenditures supporting or opposing ballot measures or candidates are subject to campaign advertisement disclosure and reporting requirements same as other entities under the Political Reform Act ("Act")¹. Further, the Act prohibits government agencies from sending advertisements in the form of mass mailings.

While the Act has generally applicable definitions of "contribution" and "independent expenditure," the Commission has adopted Regulation 18420.1, which specifically defines when a payment by a government agency constitutes either a contribution or an independent expenditure. Similarly, Section 89002 and Regulation 18901.1 define when a communication constitutes a prohibited mass mailing by a government agency.

Since 2015, the Commission has prioritized prosecuting government agencies that send prohibited mass mailings at public expense and/or fail to disclose campaign activity. In that time, the Commission has approved approximately 30 settlements involving such violations by government agencies. Additionally, it has issued approximately 10 warning letters and 30 advisory letters.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Of particular note, in 2017, the Enforcement Division initiated an investigation of the County of Los Angeles for its communications, including television and radio advertisements, related to a countywide sales tax measure placed on the ballot in Los Angeles County in March of 2017 by the Board of Supervisors. Ultimately, that case resulted in the County of Los Angeles paying a fine of \$1.35 million in 2020. As a result of that investigation, the California State Association of Counties (CSAC) filed a lawsuit in Los Angeles Superior Court challenging the Commission's authority to regulate government agencies participating in campaign activity. The court ultimately ruled in the Commission's favor, finding it had statutory authority to adopt regulations in this area and that the Commission's regulations were enforceable.

Prior to 2015, the Commission for many years largely chose not to bring Enforcement cases against government agencies who failed to report campaign activity. A search of Commission records found that prior to 2015, the only significant prosecution involving a government agency failing to report campaign activity was a case against the County of Sacramento for a ballot measure it supported, where the Commission approved a settlement in 1996.²

The Act is not the only law governing the use of public funds for campaign activity. Multiple statutes outside of the Act prohibit government agencies from spending public funds on campaign-related communications. However, the Commission does not have the authority to enforce those laws and they are generally not enforced by state and local prosecutors even though they have the legal authority to do so.³ This lack of enforcement has spurred the Commission's commitment in recent years to prosecute those cases that did involve violations of the Act, as well as pursue enhanced legal authority to enforce laws prohibiting the use of public funds for campaign activity through legislative amendments. The Commission's efforts to expand its authority in this area through legislation have not been successful.

Advice, Education and Outreach

Along with enhanced enforcement of the laws concerning campaigning by government agencies, the Commission in recent years has enhanced its advice, education and outreach efforts in this area. The Commission's website has pages with extensive information about [government agency campaign advertisement reporting obligations](#), as well as the [prohibition on mass mailers at public expense](#). These pages summarize the law, provide FAQs, and include links to related advice letters and Enforcement case resolutions. These advice letters and Enforcement case resolutions provide actual scenarios where Commission staff have applied the law to specific facts to determine if an agency's communications constituted campaign activity that was prohibited or required disclosure under the Act. The intent in collecting these materials and making them available in one place on the website is to provide those attempting to interpret and comply with the law with concrete examples of what agency communications are and are not campaign activity. Additionally, at the direction of the Commission, Enforcement settlements appearing on the Commission agenda for approval now include a copy of any written agency

² See [In the Matter of County of Sacramento](#), 93/345 (Stipulated Decision approved July 1996)

³ See Government Code sections 8314 and 54964 and Penal Code section 424.

advertisement or mailer resulting in a violation, which provides an example of a communication the Commission deems campaign material.

In addition to the materials on the website, Commission staff have provided trainings and presentations to groups representing local government officials about campaign advertisement disclosure and reporting requirements. Staff has agreed to participate in another training on this subject hosted by the Institute for Local Government (ILG) this fall.

Additional Outreach

Since the Commission dedicated itself to pursuing these types of cases, I have observed that the awareness of the law and the enforcement thereof has increased significantly, particularly as a result of the County of Los Angeles and CSAC cases discussed above, as well as the Norton Advice Letter (A-21-120) to the City of Riverside that considered various possible communications and whether each communication would qualify as campaign material. (See attached.)

Membership organizations such as the League of California Cities, CSAC, and ILG have made efforts in recent years to educate their members about the law, given the Commission's focus on enforcing it. As previously mentioned, the Legal Division has provided training, advice, and educational materials on this topic in the past upon request. The Legal Division could proactively contact these organizations, specifically their respective city attorneys and county counsels, and offer to provide training in this area. Also, since many agencies are represented by contract counsel, staff can contact private law firms with significant municipal law practices to make them aware of available resources and offer training to them.