

ADVERTISEMENT DISCLAIMERS

This chapter describes the disclaimers required on mailings and other advertisements made by ballot measure committees. A disclaimer is the portion of a political message that identifies the committee that paid for and authorized the communication.

The basic disclaimer for most communications is “paid for by [committee name].” The disclaimer ensures that the committee paying for the ad is identified. The Act does not regulate the truth or accuracy of political communications given that the First Amendment provides broad protection for political speech.

A. Top Three Contributors of \$50,000 or More

“Top contributors” means the persons from whom the committee paying for an advertisement has received its three highest cumulative contributions of fifty thousand dollars (\$50,000) or more. If two or more contributors of identical amounts qualify as top contributors, the most recent contributor of that amount must be listed as the top contributor.

When a committee primarily formed to support or oppose a state ballot measure contributes funds to another committee primarily formed to support or oppose the same state ballot measure and the funds used for the contribution were earmarked to support or oppose that measure, the committee receiving the earmarked contribution shall disclose the contributor who earmarked their funds as the top contributor if the definition of top contributor is met. If the committee receiving the earmarked contribution contributes any portion of the contribution to another committee primarily formed to support or oppose the specifically identified state ballot measure, that committee must disclose the true source of the contribution to the new committee receiving the earmarked funds. The new committee must disclose the contributor on the new committee’s advertisements if the definition of top contributor is met.

See Chapter 1 for information about other identifying information that must be included in a ballot measure committee’s name.

Quick Tip

Advertisement disclaimers are required even during the ballot qualification period.

Quick Tip

A primarily formed ballot measure committee that has accepted a \$50,000 contribution from a donor may not avoid disclosing the donor as a top \$50,000 contributor by returning \$1,000 of the contribution.

Ex 7.1 – A ballot measure committee has received 15 contributions of \$50,000 or more. The committee will buy 30 second ads on local television stations. The television ads must identify the committee name as it appears on its most recent Form 410 and the names of the top three contributors who donated \$50,000 or more.

Ex 7.2 – An elected officeholder made a \$10,000 contribution to a ballot measure committee that is not controlled by the officeholder. Must the officeholder’s name be identified in the committee’s advertisements?

No. The officeholder’s name would be required in advertisements if the officeholder was a top three donor of \$50,000 or more.

Ex 7.3 – A non-controlled ballot measure committee’s four highest contributors are a corporation (\$150,000), an individual (\$100,000), a state officeholder using personal funds (\$85,000) and the same state officeholder’s controlled committee (\$50,000).

The contributions from the state officeholder’s personal funds and controlled committee funds are cumulated, for a total of \$135,000. Therefore, the ranking of the contributors are (1) the corporation, (2) the officeholder, and (3) the individual.

Disclaimer Examples

The disclaimer must include, unless otherwise noted: “Paid for by [committee’s name] and “Committee major funding from [names of top three donors of \$50,000 or more]” in descending order.

“Paid for by Citizens in Support of Measure B, sponsored by the Taxpayers Alliance, Committee major funding from Pacific Productions and XYZ Partnership”

“Paid for by Californians for Education Issues PAC, Committee major funding from Student Political Action Committee, ZZZ Trade Association and Teachers United Organization”

“Paid for by Voters in Support of Measure A” *(no sponsors or \$50,000 donors)*

B. Summary of Advertisement Disclaimers for Ballot Measure Committees

The disclaimers that a ballot measure committee must put on its ads are summarized in the following chart and discussed below.

Communication	Disclaimer and Manner of Display
<p>Print ads designed to be individually distributed including mailings, door hangers, flyers, faxes, posters, newspaper and magazine ads, and oversized campaign buttons and bumper stickers (buttons 10 inches in diameter or larger and stickers 60 square inches or larger)</p>	<ul style="list-style-type: none"> • “Paid for by [committee’s name]” (on file with Form 410 or 461) • “Committee major funding from [names of top three donors of \$50,000 or more]” each listed on a separate horizontal line, centered horizontally, in descending order, beginning with the largest contributor and may not appear in all capital letters (<i>not applicable to non-recipient committees</i>) <ul style="list-style-type: none"> ○ Newspaper, magazine or other print advertisements that are 20 square inches or less must only disclose the single top contributor of \$50,000 or more • “Funding Details at www.fppc.ca.gov” must be shown immediately below the top three donor text for state primarily formed ballot measure and candidate committees that raise \$1,000,000 (See Section 84223) • Disclaimer Format: Text must be in Arial equivalent font, at least 10-point in size, in a contrasting color, and located in a printed or drawn box with a solid white background at the bottom of at least one page and set apart from other printed matter

Communication	Disclaimer and Manner of Display
<p>Print ads larger than those designed to be individually distributed, such as billboards and signs (including yard signs)</p>	<ul style="list-style-type: none"> • “Paid for by [committee’s name]” (on file with Form 410 or 461) • “Committee major funding from [names of top three donors of \$50,000 or more]” each listed on a separate horizontal line, centered horizontally, or on one line separated by commas, in descending order, beginning with the largest contributor and may not appear in all capital letters (<i>not applicable to non-recipient committees</i>) • Disclaimer Format: Text must be in Arial equivalent font. The font must be a height of at least five percent of the advertisement, meaning that each line must be at least five percent of the advertisement, on a solid background with sufficient contrast that is easily readable by the average viewer
<p>Radio ads, telephone calls and audio only electronic media ads</p>	<ul style="list-style-type: none"> • “Paid for by [committee’s name]” (on file with Form 410 or 461) • “Committee major funding from [names of top three donors of \$50,000 or more]” in descending order, beginning with the largest contributor (<i>not applicable to non-recipient committees</i>) • Disclaimer Format: Must be spoken clearly for at least three seconds at the beginning or end of the ad or call, in a pitch and tone substantially similar to the rest of the advertisement <ul style="list-style-type: none"> ○ Radio and prerecorded telephone ads must disclose only the top two contributors of \$50,000 or more unless the ad lasts 15 seconds or less or the disclaimer statement would last more than eight seconds, in which case only the single top contributor must be disclosed

Communication	Disclaimer and Manner of Display
<p>Television and video ads (including those disseminated over the Internet)</p>	<ul style="list-style-type: none"> • “Paid for by [committee’s name]” (on file with Form 410 or 461) • “Committee major funding from [names of top three donors of \$50,000 or more]” in descending order, beginning with the largest contributor (<i>not applicable to non-recipient committees</i>) • Disclaimer Format: Text must be in a contrasting color and in Arial equivalent type and must be underlined unless specified below <p>The size for the smallest letters in the disclaimer must be four percent of the height of the display screen unless this causes the name of any top contributors to exceed the width of the screen or causes the disclaimers to exceed one-third of the display screen, the type size of the name of the top contributor shall be reduced until the name fits on the width of the screen or the entire disclaimer fits within one-third of the display screen, but in no case shall the type size be smaller than 2.5 percent of the height of the screen</p> <p>Disclaimer must appear on a solid black background on the entire bottom third of the display screen, or bottom one-fourth of the screen if the committee has no top contributors</p> <p>Disclaimer must be displayed at the beginning or end of the ad for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast longer than 30 seconds</p> <p>Each top contributor must be centered horizontally on a separate horizontal line and is not required to be underlined and may not appear in all capital letters</p>

Communication	Disclaimer and Manner of Display
<p>Electronic media ads not covered below (except video ads, see above), and email</p>	<ul style="list-style-type: none"> • “Who funded this ad?” text as a hyperlink in a contrasting color and font size that is easily readable by the average viewer* <ul style="list-style-type: none"> ○ Must hyperlink to a website containing the “Paid for by” and “Committee major funding from” disclaimers in a contrasting color and in no less than 8-point font ○ “Committee major funding from” may not appear in all capital letters ○ Must remain online until 30 days after the date of election
<p>Social media ads</p>	<ul style="list-style-type: none"> • “Paid for by” and “Committee major funding from” disclaimers in a contrasting color and in no less than 8-point font on the committee’s profile, landing page, or similar location and is not required to include disclaimers on each individual post or comment <ul style="list-style-type: none"> ○ “Committee major funding from” may not appear in all capital letters ○ Not required when the only expense or cost of the communication is compensated staff time unless the social media account was created only for the purpose of advertisements under the Act
<p>Website</p>	<ul style="list-style-type: none"> • “Paid for by” and “Committee major funding from” disclaimers in a contrasting color and in no less than 8-point font <ul style="list-style-type: none"> ○ “Committee major funding from” may not appear in all capital letters
<p>Electronic media ads that are audio only</p>	<ul style="list-style-type: none"> • See disclaimer requirements for radio ads above <p>*This text is not required if including it is impracticable. In such circumstances the ad need only include a hyperlink to a website containing the website disclaimers.</p>

Communication	Disclaimer and Manner of Display
<p>Paid Spokesperson: Payment of \$5,000 or more to an individual for individual’s appearance in a ballot measure ad</p> <p>Paid Spokesperson: Payment of any amount to an individual portraying a member of a licensed or certified occupation (e.g., nurse, firefighter, lawyer)</p> <p><i>Exception:</i> If the paid individual is actually a member of the occupation portrayed, the committee may omit this disclaimer. The committee must maintain documentation of the individual’s license or certification.</p>	<ul style="list-style-type: none"> • In addition to other disclaimers, include: “(spokesperson’s name) is being paid by this campaign or its donors” • Printed, televised or video ad: shown continuously in highly visible font except when the disclosure for television and video ads above is being shown • Radio broadcast or phone message: spoken in clearly audible format <ul style="list-style-type: none"> • In addition to the disclaimer above, include: “Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations” • Printed or televised ad: shown continuously in highly visible font • Radio broadcast or phone message: spoken in clearly audible format

C. Mass Mailings – Postal Mailings and Emails

Unless otherwise covered in the chart above, all **mass mailings** of more than 200 similar pieces sent in a calendar month must contain:

- the committee’s name and address on the outside of the mailing and on at least one of the inserts
- in no less than 6-point type and in a color or print that contrasts with the background

If the sender is a single committee, the name and address need only be shown on the outside of each piece of mail

Unless otherwise covered in the chart above, all **mass emails** of more than 200 similar pieces sent in a calendar month must contain:

- the name of the committee sending the email preceded by the words “Paid for by” in at least the same size font as the majority of the text

Recordkeeping for Mass Mailings (Including Emails)

For each mass mailing and electronic mailing, the committee must retain the following for four years:

- A sample of the mailing;
- The date of the mailing;
- The number of pieces sent; and
- The method of postage used for postal mailings.

Answering Your Mailing Questions

A. Must the committee's identification number appear on a mailing?

No. The committee may include its committee ID #, but it is not legally required.

B. If an organization includes a copy of a committee's flyer in its regularly published newsletter, is the committee required to be identified on the outside of the mailer?

No. The committee's name and address must be identified on the flyer only.

C. A committee has more than one address. Which address must be used on mailings?

Any address that appears on the committee's Statement of Organization (Form 410) on file with the Secretary of State may be used.

D. A committee pays for a ballot measure committee's mailing as a nonmonetary contribution. Which committee must be identified on the outside, the committee paying for the mailing or the ballot measure committee?

Only the committee that pays for the mailing is required to be identified on the outside of the mailing.

D. Disclaimers – Clear and Conspicuous

Disclaimers on political ads and literature must be shown clearly so as to be understood by the intended public. Written disclaimers must be printed clearly and legibly.

Spoken disclaimers must be clearly audible and intelligible. Specific requirements for color contrast, print font size and time appearing on screen are listed in the disclaimer chart above.

For political advertisements in **languages other than English**, disclaimers should be written or spoken in the same language used in the advertisement.

E. Updating a Disclaimer

When a committee's name changes, when there are new top contributors or when the order of the top contributors change, advertisement disclaimers must be revised. Television, radio, electronic media, or robocalls must be amended within five business days. Print media, mailings, or other tangible items must be amended every time an order to reproduce is placed.

F. Electronic Media Ads

Different disclaimers are required depending on the type of electronic media ad. For example, the "Paid for by" and "Committee major funding from" disclaimers are required on websites and certain social media ads. Other types of electronic media ads (e.g., email) must include a hyperlink to a website that includes the "Paid for by" and "Committee major funding from" language. Please see the chart above for details or contact the FPPC for specific questions.

Space or Time-Limited Ads

For certain audio, video and television ads or small-size print ads, the Act permits the full disclaimer to be shortened.

- **Radio and prerecorded phone ads.** Only the top two contributors of \$50,000 or more must be disclosed. If the ad lasts 15 seconds or less or the statement would last more than eight seconds, only the top contributor must be disclosed.

- **Television and video ads.** The size for the smallest letters in the disclaimer must be four percent of the height of the display screen. If this causes the name of any top contributors to exceed the width of the screen or causes the disclaimers to exceed one-third of the display screen, the type size of the name of the top contributor shall be reduced until the name fits on the width of the screen or the entire disclaimer fits within one-third of the display screen. In no case shall the type size be smaller than 2.5 percent of the height of the screen.

Ex 7.4 – If a committee purchases radio time for ads each 15 seconds or less in duration, the ads must identify the name of the committee and the highest single contributor of \$50,000 or more.

G. Exceptions

Campaign Buttons and Bumper Stickers

A disclaimer is not required on regular-size campaign buttons, (less than 10 inches in diameter) pins, bumper stickers, (less than 60 square inches) or magnets. It is not required on pens, pencils, rulers, mugs, potholders, key tags, golf balls and similar small campaign promotional items where a disclaimer cannot be conveniently printed.

The disclaimer is not required on t-shirts, caps, hats, and other articles of clothing; skywriting and airplane banners; or committee checks and receipts.

Member Communications

A disclaimer is not required on communications from organizations to their members, but a disclaimer is required on communications from a political party committee to its members.

H. Ballot Measure Ad – Paid Spokesperson

When a ballot measure committee makes an expenditure of \$5,000 or more to an individual for his or her appearance in an advertisement to support or oppose a ballot measure, the advertisement must include a statement that the individual is being paid for his or her appearance. For example, “Dr. Jane Miller is being paid by this campaign or its donors.”

Ex 7.5 – “Paid for by Yes on 88, Tobacco Tax Funds Research, Committee major funding from the CA Nurses Association and American Medical Association PAC. Dr. Jane Miller is being paid by this campaign or its donors.”

Also, when a ballot measure committee makes any payment to an individual in an advertisement portraying a member of a licensed occupation (nurse, doctor, firefighter, scientist, engineer, lawyer, etc.) who is not actually a member of that occupation, the advertisement must include a disclaimer stating “Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations.”

If the individual is actually a member of the occupation portrayed, the committee may omit this disclaimer and shall maintain documentation of the individual’s license or certification for the occupation. Upon request from the FPPC, documentation of an individual’s occupation must be provided by electronic means within 24 hours.

The statement must be in highly visible font, shown continuously if the advertisement consists of printed or televised material, or spoken in a clearly audible format if the advertisement is a radio broadcast or telephone message. In addition, the committee must file the Paid Spokesperson Report, Form 511. (See Chapter 11.)

I. Slate Mailer Disclaimer Requirements

A slate mailer is a mass mailing that supports or opposes four or more candidates or ballot measures. A ballot measure committee may be subject to slate mailer disclaimer and identification requirements if it:

- Is involved in the production of one or more slate mailers and exercises control over the selection of candidates and measures to be supported or opposed in the slate mailers; and
- Receives or is promised payments that total \$500 or more in a calendar year for the production of one or more slate mailers.

For more information on slate mailer disclaimers, consult the FPPC and Section 84305.5.

J. Penalties

The penalty for failing to comply with the Act’s disclaimer requirements is a fine of up to \$5,000 per violation. In addition, any person who violates the disclaimer requirements concerning ballot measure and

independent expenditure advertisements may be liable for a fine of up to three times the cost of the advertisement, including placement costs.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

- 82025 Expenditure.
- 82031 Independent Expenditure.
- 82041.5 Mass Mailing.
- 84305 Requirements for Mass Mailing.
- 84305.5 Slate Mailer Identification and Disclaimer Requirements.
- 84310 Identification Requirements for Telephone Calls.
- 84501 Advertisement.
- 84502 Disclaimer; Committee Name.
- 84503 Top Contributor Disclosure.
- 84504 Disclaimer; Radio and Telephone Ads.
- 84504.1 Disclaimer; Television Ads.
- 84504.2 Disclaimer; Print Ads.
- 84504.3 Disclaimer; Electronic Media Ads.
- 84505 Avoidance of Disclosure.
- 84509 Amended Disclaimers.
- 84511 Ballot Measure Ads; Paid Spokesperson Disclosure.

Title 2 Regulations

- 18247.5 Primarily Formed Committees.
- 18401 Required Recordkeeping for Chapters 4 & 5.
- 18435 Definition of Mass Mailing.
- 18440 Telephone Advocacy.
- 18450.1 Definitions. Advertisement Disclosure.
- 18450.5 Amended Advertising Disclosure.
- 18450.11 Spokesperson Disclosure.