

Article 7: Elections, Campaign Finance and Lobbying

Division 29: San Diego Municipal Election Campaign Control Ordinance

*(“San Diego Municipal Election Campaign Control Ordinance”
added 4–10–1973 by O–11034 N.S.)*

*(“San Diego Municipal Election Campaign Control Ordinance”
repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)*

§27.2901 Purpose and Intent

It is the purpose and intent of the *City Council* of the *City* of San Diego in enacting this division to preserve an orderly political forum in which individuals may express themselves effectively; to place realistic and enforceable limits on the amounts of money that may be contributed to political campaigns in municipal *elections*; to prohibit *contributions* by organizations in order to develop a broader base of political efficacy within the community; to limit the use of loans and credit in the financing of municipal *election* campaigns; to provide full and fair enforcement of all the provisions of this division; to avoid the corruption or the appearance of corruption brought about when *candidates* for *elective City office* accept large campaign *contributions*; and to avoid the corruption or the appearance of corruption brought about when large campaign *contributions* are made to support or oppose the recall of an individual holding *elective City office*. This division is enacted in accordance with the terms of section 5 of article XI of the Constitution of the State of California and articles II and III of the Charter of The City of San Diego. The provisions of section 27.0102 of this article shall not apply to this division.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 5-8-2008 by O-19744 N.S; effective 6-7-2008.)

§27.2902 Citation

This division shall be cited as the San Diego Municipal Election Campaign Control Ordinance.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§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 means a *person* who acts on behalf or at the behest of any other *person*.

Assistant Treasurer means an individual designated by a *committee* to have the duties, responsibilities, and obligations of a treasurer as described in title 2, section 18426.1 of the California Code of Regulations.

Campaign literature means any printed communication that is authorized and paid for by a *candidate* or *committee* for the purpose of supporting or opposing one or more *City candidates* or *City measures*, including, but not limited to, mailers, flyers, pamphlets, door hangers, walking cards, posters, yard signs, billboards, business cards, campaign buttons 10 inches in diameter or larger, and bumper stickers 60 square inches or larger, regardless of whether distributed through the mail, by campaign workers, or any other means. *Campaign literature* does not include pens, pencils, or other similarly small promotional items on which the disclosures required by this Division cannot reasonably be printed or displayed in an easily legible typeface; wearing apparel; skywriting; communication from an organization to its members, other than a communication from a political party to its members; or any web-based or Internet-based communication.

Candidate means any individual who:

- (a) is listed on the ballot for *elective City office*; or
- (b) has begun to circulate nominating *petitions* or authorized others to do so on his or her behalf for nomination for or election to a *City office*; or
- (c) has received a *contribution* or made an *expenditure* or authorized another *person* to receive a *contribution* or make an *expenditure* with the intent to bring about his or her nomination for or *election* to any *City office*; or
- (d) is a *City* officeholder who becomes the subject of a recall *election*. A *City* officeholder “becomes the subject of a recall *election*” on the earlier of:
 - (1) the date a notice of intention to circulate a recall *petition* is published pursuant to the recall provisions of this article; or,
 - (2) the date a statement of organization for a *committee* to recall the officeholder is filed with the *City Clerk* or the Secretary of State pursuant to state and local law.

City means the *City* of San Diego.

City Clerk means the City Clerk of the City of San Diego.

City Council means the Council of the City of San Diego vested with all legislative powers of the City of San Diego pursuant to article III, section 11 of the Charter of the City of San Diego.

Citywide General Election means either the *election* at which the Mayor and City Attorney are elected unless such officers are elected at the *Citywide Primary Election*, or the Citywide municipal *election* consolidated with the statewide *election* on the first Tuesday after the first Monday in November of each even-numbered year.

Citywide Primary Election means the *election* at which the Mayor and City Attorney are nominated.

City Official includes:

- (a) any elected or appointed *City* officeholder, including any *City* officeholder elected but not yet sworn in; and
- (b) any *City* Board member, as defined in section 27.3503; and
- (c) any employee of the *City*, except for classified employees as that term is defined in San Diego Charter section 117, who is required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended; and
- (d) *City Council* members acting in their capacity as Housing Authority and Redevelopment Agency officers; and
- (e) any consultants of the *City* who are required to file a statement of economic interests pursuant to the California Political Reform Act of 1974, as amended.

For purposes of this definition, an officeholder is considered elected to office on the date the Council adopts its resolution declaring the results of the election.

Clearly identified candidate means a *candidate* who is identified in a communication by name, by an unambiguous reference to the *candidate's* office or status as a *candidate*, or by any other unambiguous description. A *candidate* is also clearly identified if a communication contains the voice or a visual depiction of the *candidate*.

Clearly identified measure means a *measure* that has qualified to be placed on the ballot and that is identified in a communication by a proposition number, official title, or popular name associated with the *measure*. A *measure* is also clearly identified if a communication refers to the subject matter of the *measure* and either states that the *measure* is before the people for a vote or, taken as a whole and in context, unambiguously refers to the *measure*. A *measure* that has not qualified to be placed on the ballot is clearly identified if a communication refers to the subject matter of the measure and to the qualification drive

Committee means any *person* acting, or any combination of two or more *persons* acting jointly, who raise \$2,000 or more, or make *independent expenditures* of \$1,000 or more, within a single calendar year on behalf of or in opposition to a *candidate* or for the qualification to the ballot or adoption or rejection of one or more ballot *measures*. *Committees* include *controlled committees*, *independent expenditure committees*, *primarily formed recipient committees*, and *general purpose recipient committees*.

Contribution has the same meaning as that term is defined in California Government Code section 82015 and is subject to the inclusions and exceptions contained in title 2, section 18215 of the California Code of Regulations, except as modified by the following provisions. In the event of any conflict between the state law definition and the following provisions, the following provisions shall control:

- (a) *contribution* includes any forgiveness of a debt or other obligation to pay for goods or services rendered, or reduction of the amount of a debt or other obligation to pay for goods or services rendered, unless it is clear from the circumstances that the amount of the reduction was reasonably based on a good faith dispute. A good faith dispute shall be presumed if the *candidate* or *committee* produces:
 - (1) evidence that the *candidate* or *committee* protested the *payment* of a bill no later than 30 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered; and
 - (2) evidence that the protest was based on the quality or quantity of goods delivered or services rendered.
- (b) *contribution* does not include an *independent expenditure*.
- (c) *contribution* does not include a *payment* made for *member communications*.

Controlled committee means any *committee* controlled directly or indirectly by a *candidate* or that acts jointly with a *candidate* or *controlled committee* in connection with the making of *expenditures*. A *candidate* controls a *committee* if the *candidate*, the *candidate's agent* or any other *committee* controlled by the *candidate* has a significant influence on the actions or decisions of the *committee*.

District General Election means an *election* at which *City Council candidates* are elected unless such officers are elected at the *District Primary Election*.

District Primary Election means an *election* at which *City Council candidates* are nominated.

Election means a *District* or *Citywide Primary Election*, a *District* or *Citywide General Election*, or a *Special Election* or *Special Run-off Election* held in the *City*. *Election* includes a ballot *measure* election, but does not include an election of the San Diego Unified School District. For the purpose of this division, a *District* or *Citywide Primary Election*, a *District* or *Citywide General Election*, and a *Special Election* or *Special Run-off Election*, are single and separate *elections*.

Electioneering communication means any form of communication that mentions or refers to a *clearly identified candidate*, but does not expressly advocate the nomination, election, defeat, or recall of the *candidate*, and that is disseminated, broadcast, or otherwise published within 90 calendar days of an *election* for which the *candidate* is on the ballot.

Elective City office means the office of the Mayor, Councilmember, or City Attorney of the City of San Diego. *Elective City office* does not include the office of a member of the governing board of the San Diego Unified School District.

Electronic media communication means any electronic mass media communication that is authorized and paid for by a *candidate* or *committee* for the purpose of supporting or opposing one or more *City candidates* or *City measures*, including, but not limited to, television advertisements; radio advertisements; and video, audio, and written advertisements disseminated over the Internet. *Electronic media communications* do not include email communications; text messages; social media posts; or websites under the control of a *candidate* or *committee*.

Enforcement Authority means the City of San Diego Ethics Commission. Nothing in this article limits the authority of the City Attorney, any law enforcement agency, or any prosecuting attorney to enforce the provisions of this article under any circumstances where the City Attorney, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.

Expenditure means a *payment*, a forgiveness of a loan, a *payment* of a loan by a third party, or an enforceable promise to make a *payment*, unless it is clear from the circumstances that it is not made for *political purposes*. An *expenditure* is made on the date the *payment* is made or on the date consideration, if any, is received, whichever is earlier. An *expenditure* does not include a *payment* for *member communications*, nor does it include costs incurred for communications advocating the nomination, election, or defeat of a *candidate* or the qualification, passage, or defeat of a *measure* by a federally regulated broadcast outlet or by a regularly published newspaper, magazine, or periodical of general circulation that routinely carries news, articles, or commentary of general interest.

General purpose recipient committee means any *person* that receives *contributions* totaling \$1,000 or more during a calendar year to support or oppose more than one *candidate* or *measure*, and is intended to be consistent with the definition of “general purpose committee” set forth in California Government Code section 82027.5.

Independent expenditure means any *expenditure* made by any *person* in connection with a communication that:

- (a) expressly advocates the nomination, election, defeat, or recall of a *clearly identified candidate*; or
- (b) expressly advocates the qualification, passage, or defeat of a *clearly identified measure*; or
- (c) taken as a whole and in context, unambiguously urges a particular result in a *City election*.

An *expenditure* that is made to or at the behest of a *candidate* or a *controlled committee* is not an *independent expenditure*.

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.

Measure means any City Charter amendment or proposition that is submitted to a popular vote at a *City election* by action of the *City Council*, or submitted or intended to be submitted to a popular vote at a *City election* by the procedure of initiative or referendum whether or not it qualifies for the ballot. A *measure* and a proposition are synonymous. A *measure* does not include a recall *election*.

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.

Municipal decision has the same meaning as defined in San Diego Municipal Code section 27.4002.

Payment means any payment, reimbursement, distribution, transfer, loan, advance, deposit, gift, or other rendering of money, property, services or any other thing of value, whether tangible or intangible.

Person means any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, association, *committee*, labor union, or any other organization or group of *persons* acting in concert.

Petition means one or more documents seeking action by the *City Council* or some officer. It includes a nominating, initiative, referendary, or recall *petition*.

Political purpose means the purpose of influencing or attempting to influence the action of the *voters* for or against the nomination, election, defeat, or recall of any *candidate* or elected City officer, for or against the qualification of a *City measure* for the ballot, or for or against the adoption or defeat of any *City measure*.

Primarily formed recipient committee means any *person* that receives *contributions* totaling \$1,000 or more during a calendar year primarily to support or oppose one or more *City candidates* being voted on in the same election or one or more *City measures* being voted on in the same election, and is intended to be consistent with the definition of “primarily formed committee” set forth in California Government Code section 82047.5.

Professional expense committee means a committee created and controlled by an elected *City Official* or *candidate* for the purpose of receiving and spending funds to defray the *professional fees and costs* incurred in the *City Official’s* or *candidate’s* response to an audit or the legal defense of one or more civil, criminal, or administrative proceedings.

Professional fees and costs means expenses related to the retention of an attorney, treasurer, fundraiser, or any other *person* retained to perform services reasonably related to the purpose for which a *professional expense committee* is created.

Special Election means any *election* other than a *District* or *Citywide Primary Election*, or a *District* or *Citywide General Election*. It includes *elections* to consider ballot *measures*, *elections* to fill vacancies in *elective City office*, and recall *elections*.

Special Run-off Election means any *election* that is required by the failure of any *candidate* to receive a majority of votes cast at a *Special Election*.

Sponsor of a *committee* means any *person*, except a *candidate*, proponent, or other individual, to whom any of the following applies:

- (a) The *committee* receives 80 percent or more of its *contributions* either from the *person* or from the *person's* members, officers, employees or shareholders;
- (b) The *person* collects *contributions* for the *committee* by use of payroll deductions or dues from its members, officers, or employees;
- (c) The *person* provides, alone or in combination with other organizations, all or nearly all of the administrative services for the *committee*; or
- (d) The person sets, alone or in combination with other organizations, the policies for soliciting *contributions* or making *expenditures* of *committee* funds.

Sponsored committee means a *committee*, other than a *controlled committee*, which has one or more *sponsors*.

Telephone communications mean any live or recorded telephone calls that are authorized or paid for by a *candidate* or *committee* for the purpose of supporting or opposing one or more *City candidates* or *City measures*.

Treasurer means the individual designated to perform the duties of *treasurer* pursuant to section 27.2911.

Voter means an elector who is qualified and entitled to vote under general law in *City elections* and who is validly registered at the time he or she seeks to exercise the right to vote.

Vendor means any *person* who delivers goods or renders services to a *candidate* or *committee*, unless it is clear from the circumstances that they were not made for *political purposes*.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 2-9-2016 by O-20595 N.S.; effective 3-10-2016.)

(Amended 6-14-2018 by O-20941 N.S.; effective 7-14-2018.)

§27.2910 Candidate and Committee Status; Duration

- (a) For purposes of this division, any individual who is a *candidate* retains the status of *candidate* until that status is terminated either:
 - (1) pursuant to California Government Code section 84214; or
 - (2) pursuant to sections 27.2991(c) or 27.2991(d) of this Municipal Code.
- (b) For purposes of this division, any *committee* retains the status of *committee* until that status is terminated pursuant to California Government Code section 84214.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-1-2005.)

§27.2911 Duty to Have Campaign Treasurer

Every *candidate* and every recipient *committee* shall have a *treasurer*. A *candidate* may designate himself or herself as *treasurer*. A committee may designate an *assistant treasurer* to perform the duties and responsibilities of the *treasurer* in the event of a temporary vacancy in the office of the *treasurer* or in the event the *treasurer* is unavailable. Only an individual may be designated as a *treasurer* or *assistant treasurer*.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

§27.2912 Authority of Treasurer

It is unlawful for any *expenditure* to be made by or on behalf of a recipient *committee* without the express authorization of the *treasurer*. It is unlawful for any *contribution* to be accepted by a recipient *committee* or any *expenditure* to be made on behalf of a recipient *committee* at a time when the office of *treasurer* is vacant.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

§27.2916 Campaign Contribution Checking Account

- (a) Every *controlled committee* that accepts *contributions* and every *primarily formed recipient committee* shall establish one campaign checking account at a bank or other financial institution with an office or branch in the state of California.

- (b) Upon opening of an account, the name of the bank or other financial institution and account number thereof shall be filed with the *City Clerk* on the same forms and in the time and manner required by California Government Code sections 81000 *et seq.*
- (c) All *contributions* of money or checks, or anything of value converted by such *committee* to money or a check, shall be placed in the *committee's* checking account.
- (d) The *committee* shall return a *contribution* to the donor if the *committee* is not in possession of all donor information required by title 2, section 18401 of the California Code of Regulations by the earlier of:
 - (1) the 60th calendar day following *committee's* receipt of the *contribution*; or,
 - (2) the filing of the campaign statement or contribution report covering the reporting period in which the *contribution* was received.

If the *contribution* is not returned to the donor within the applicable timeframe identified above, the amount of the *contribution* shall be paid from campaign funds and delivered to the *City Clerk* within that timeframe. If a donor fails to cash a returned check within 90 calendar days of the check being sent, the amount of the *contribution* shall be paid from campaign funds and delivered to the *City Clerk* within an additional 30 calendar days. Payments delivered to the *City Clerk* shall be made payable to the City Treasurer for deposit in the General Fund of the *City*.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 11-25-2014 by O-20439 N.S.; effective 1-1-2015.)

(Amended 11-1-2016 by O-20731 N.S.; effective 1-1-2017.)

§27.2917 Lawful Use of Campaign Funds by a Committee

Uses of campaign funds held by any *committee* formed in accordance with this division shall be governed by title 9 of the California Government Code and title 2, division 6 of the California Code of Regulations. It is unlawful to use campaign funds in any manner that would violate these provisions of California law.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

§27.2918 Disbursements

It is unlawful for any funds to be disbursed from a *controlled committee's* campaign *contribution* checking account unless such disbursement is done by check signed by the *candidate*, the *candidate's* campaign *treasurer*, *assistant treasurer*, or other designated *agent* of the campaign *treasurer*.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2919 Petty Cash Fund

A petty cash fund may be established for each *controlled committee* bank account under the following conditions:

- (a) No more than \$100 may be held in the petty cash fund at any one time.
- (b) No *expenditure* that totals \$100 or more may be made from the petty cash fund.
- (c) *Expenditures* from a petty cash fund are deemed to be *expenditures* from the campaign bank account.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2920 Transfers

- (a) A *candidate* may transfer campaign funds from one *controlled committee* to a *controlled committee* for *elective City 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 section 27.2935.
- (b) It is the intent of this section that transfers of a *candidate's* campaign funds be consistent with the provisions of law set forth in title 2, section 18536 of the California Code of Regulations.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2921 Carryover of Contributions

- (a) Notwithstanding subdivision (a) of section 27.2920, a *candidate* for *elective City office* may carry over contributions raised in connection with one *election* for *elective City office* to pay campaign expenditures incurred in connection with a subsequent *election* for the *same elective City office*.
- (b) It is the intent of this section that the carrying over of a *candidate's* campaign funds be generally consistent with the provisions of law set forth in title 2, section 18537.1 of the California Code of Regulations.
- (c) Nothing in this section shall be interpreted to permit a *candidate* for *elective City office* to use *contributions* collected for a *district* or *citywide general election* to pay campaign expenditures incurred in connection with an earlier *district* or *citywide primary election*, or for *contributions* collected for a *special run-off election* to pay campaign expenditures incurred in connection with an earlier *special election*.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)

§27.2922 Loans

- (a) It is unlawful for any *candidate* to personally make outstanding loans to his or her campaign or *controlled committee* that total at any one time more than \$100,000. Nothing in this section shall prohibit a *candidate* from making unlimited *contributions* to his or her own campaign.
- (b) It is unlawful for any *candidate* who makes a loan to his or her *committee* from his or her personal funds to charge interest on that loan.
- (c) The limits on loans imposed by this section apply to loans and lines of credit obtained from a bank or similar financial institution, but do not apply to debt incurred through the use of a credit card account established by a *candidate* and paid from the *candidate's* campaign bank account.
- (d) Every *candidate* and *committee* shall disclose loans in the same time and manner required by California Government Code sections 84211, 84216, and 84216.5.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2923 Liquidation of Accounts

In the event that *payment* has been made for all goods and services furnished in connection with the campaign of a *candidate*, a *controlled committee* checking account may be liquidated by paying the remaining balance in the checking account in any lawful manner pursuant to section 27.2924.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2924 Surplus Campaign Funds

- (a) Upon the 90th day after leaving any elected office, or 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) After the failure of a recall petition or after the recall election, all remaining *controlled committee* campaign funds shall be considered surplus campaign funds.
- (c) Surplus campaign funds shall be used only for the following purposes:
 - (1) To pay outstanding campaign debts, as long as any vendor debts are paid within the 180-day period set forth in section 27.2960;
 - (2) To repay *contributions*;
 - (3) To make a donation to any bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, where no substantial part of the proceeds will have a material financial effect on the *candidate*, any member of his or her immediate family, or his or her campaign *treasurer*.
 - (4) To make a *contribution* to a political party *committee*, provided the campaign funds are not used to support or oppose *candidates* for *elective City office*. However, the campaign funds may be used by a political party *committee* to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers.
 - (5) To make a *contribution* to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot *measure*.

- (6) To pay for professional services reasonably required by the *candidate* or *committee* to assist in the performance of its administrative functions, including *payment* for attorney's fees for litigation that arises directly out of a *candidate's* activities or his or her status as a *candidate*, including, but not limited to, an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 2-9-2016 by O-20595 N.S.; effective 3-10-2016.)

§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 *campaign literature*, 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 *campaign literature* disseminated by the *candidate* or *committee*, except that an advertising proof or comparable image of the item in printed or electronic format will comply with this requirement when the size of the item makes maintaining an original sample impracticable;
 - (2) for *telephone communications*, 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; and

- (3) for *electronic media communications*, newspapers, magazines, and periodicals, records that identify the publication or website or media outlet 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 or recording 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) 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.
- (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*.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Retitled from “Accounting” to “Accounting and Recordkeeping” and amended 2-9-2016 by O-20595 N.S.; effective 3-10-2016.)

(Amended 6-14-2018 by O-20941 N.S.; effective 7-14-2018.)

§27.2930 Base Level of Campaign Statements and Disclosures

Each *candidate* and *committee* shall file campaign statements in the time and manner required by California Government Code sections 81000 *et seq.* and title 2 of the California Code of Regulations with the following additional requirements:

- (a) Every *candidate* and *controlled committee* for *elective City office* that has pre-election filing obligations with the *City Clerk* pursuant to California Government Code section 84200.5 shall, on the Friday before the *election*, disclose on a Fair Political Practices Commission Form 497 filed with the *City Clerk* all previously undisclosed *contributions* of \$100 or more received after the closing date of its most recent Fair Political Practices Commission Form 460.
 - (1) The Form 497 shall have a closing date of the Wednesday before the *election* and shall cover all *contributions* received through that day.

- (2) The Form 497, if not filed electronically in accordance with section 27.2931, shall be filed using a shipping service with delivery guaranteed by the Monday before the *election*, or by personal delivery.
- (b) When reporting *contributions* for regularly scheduled *City candidate elections, candidates* and *committees* shall include the notation “(P)” for all *contributions* that the contributor has designated for a primary *election*, and shall include the notation “(G)” for all *contributions* that the contributor has designated for a general *election*. In instances where the contributor has not designated his or her *contribution* for a particular *election*, the *candidate* or *committee* shall include the notation “(P)” for all *contributions* the *candidate* or *committee* has allocated for the primary *election*, and shall include the notation “(G)” for all *contributions* the *candidate* or *committee* has allocated for the general *election*.
- (c) When reporting *contributions* for specially scheduled *City candidate elections, candidates* and *committees* shall include the notation “(S)” for all *contributions* that the contributor has designated for a *special election*, and shall include the notation “(R)” for all *contributions* that the contributor has designated for a *special run-off election*. In instances where the contributor has not designated his or her *contribution* for a particular *election*, the *candidate* or *committee* shall include the notation “(S)” for all *contributions* the *candidate* or *committee* has allocated for the *special election*, and shall include the notation “(R)” for all *contributions* the *candidate* or *committee* has allocated for the *special run-off election*.
- (d) In conjunction with making the notations required by subsections (b) and (c), *candidates* and *committees* shall disclose the cumulative amount of *contributions* received from the contributor for each *election*.
- (e) *Sponsors* and *sponsored committees* participating in *City elections* are subject to the reporting obligations set forth in title 2, section 18419 of the California Code of Regulations.
- (f) Every *City primarily formed recipient committee* formed to support or oppose the qualification of an initiative or referendum *measure* prior to the commencement of the *petition* drive shall, within 10 calendar days of the commencement of the *petition* drive, file a Fair Political Practices Commission Form 497 with the *City Clerk* disclosing all *contributions* of \$100 or more received after the closing date of its most recent Fair Political Practices Commission Form 460, or if the *primarily formed recipient committee* has not previously filed a Form 460, the Form 497 shall instead disclose all *contributions* of \$100 or more received since January 1 of that year.

- (1) For purposes of subsections (f) and (g), a *petition* drive commences when the proponent of an initiative or referendum *measure* begins circulating a *petition* for signatures.
 - (2) The Form 497 shall have a closing date of the day immediately preceding the commencement of the *petition* drive.
 - (3) The Form 497, if not filed electronically in accordance with section 27.2931, shall be filed using a shipping service with delivery guaranteed no later than 12 calendar days after the commencement of the *petition* circulation.
- (g) For the period of time that begins with the commencement of a *petition* drive to qualify an initiative or referendum *measure* and concludes with the day that the *petition* is submitted to the *City Clerk*:
- (1) every *City primarily formed recipient committee* formed to support or oppose the qualification of the *measure* shall file with the *City Clerk*, within 24 hours of receiving a monetary *contribution* of \$1,000 or more or within 48 hours of receiving a non-monetary *contribution* of \$1,000 or more, a Fair Political Practices Commission Form 497 disclosing the receipt of that *contribution*.
 - (2) every *City committee* that is not formed to support or oppose the qualification of the *measure* shall file with the *City Clerk*, within 24 hours of making an *independent expenditure* of \$1,000 or more supporting or opposing the qualification of the *measure*, a Fair Political Practices Commission Form 496 disclosing the making of the *independent expenditure* and the *committee's* receipt of *contributions* of \$100 or more received after the closing date of the *committee's* last campaign statement.
 - (3) The Forms 496 and 497, if not filed electronically in accordance with section 27.2931, shall be filed using personal delivery, facsimile transmission, or guaranteed overnight delivery. For purposes of this subsection, the filing deadline is not extended for weekends or holidays.
- (h) It is unlawful to fail to comply with the disclosure requirements of California Government Code sections 81000 *et seq.*, the disclosure requirements of title 2 of the California Code of Regulations, and the additional requirements of this section.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)
(Amended 11-8-2007 by O-19676 N.S.; effective 12-8-2007.)
(Amended 10-27-2008 by O-19795; effective 1-1-2009.)
(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)
(Amended 10-28-2015 by O-20572 N.S.; effective 11-27-2015.)
(Amended 11-1-2016 by O-20731 N.S.; effective 1-1-2017.)

§27.2931 Online Disclosure of Campaign Statements

- (a) Except as set forth in subsections (e) and (f), every *candidate* and *committee* required to file a campaign statement with the *City Clerk* that has received *contributions* or made *expenditures* of \$10,000 or more in connection with *City elections*, and every *professional expense committee* required to file a campaign statement pursuant to section 27.2967, shall electronically file that campaign statement using the *City Clerk's* online filing system.
- (b) It is unlawful for a *candidate* or *committee* to electronically file a campaign statement for which California law requires a signature under penalty of perjury unless each required *treasurer*, *candidate*, or officer has reviewed the campaign statement and electronically certified under penalty of perjury that to the best of their knowledge the information contained therein is true and complete.
- (c) Any *candidate* or *committee* not required to file online pursuant to subsection (a) may do so voluntarily.
- (d) A *candidate* or *committee* that has electronically filed a campaign statement using the *City Clerk's* online filing system is not required to file a paper copy of that statement with the *City Clerk*.
- (e) A *candidate* or *committee* required by California law to file an original campaign statement with the Secretary of State and a copy of that statement with the *City Clerk* may elect to file the copy with the *City Clerk* either in paper format or by using the *City Clerk's* online filing system.
- (f) If the *City Clerk's* online filing system is not capable of accepting a particular type of campaign statement, *candidates* and *committees* shall file that campaign statement in paper format with the *City Clerk*.

(Amended 9-12-2000 by O-18846 N.S.)
(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)
(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

§27.2934 Contribution Limitations for Political Party Committees

- (a) A political party committee, as defined in California Government Code section 85205, shall not be prohibited from making *contributions* to a *candidate* or *controlled committee* in a *City candidate election*, but shall be subject to the restrictions set forth in this section.
- (b) It is unlawful for a political party committee to make, or for a *candidate* or *controlled committee* to solicit or accept, a *contribution* that would cause the total amount contributed by all local, state, and federal committees of the same political party to the *candidate* and the *candidate's controlled committee* to exceed \$10,000 for any *City Council district election* or to exceed \$20,000 for any *election* for the office of Mayor or City Attorney.
- (c) The dollar amounts set forth in this section are subject to changes in the Consumer Price Index as described in section 27.2937.

(Added 5-18-2010 by O-19954; effective 6-17-2010.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 7-2-2013 by O-20270 N.S.; effective 8-1-2013.)

§27.2935 Contribution Limitations

- (a) It is unlawful for an individual to make, or for a *candidate* or *controlled committee* to solicit or accept, a *contribution* that would cause the total amount contributed by that individual to the *candidate* and the *candidate's controlled committee* to exceed \$500 for any single *election* for a *City Council* district office, or to exceed \$1,000 for any single *election* for the office of Mayor or City Attorney.
- (b) For purposes of this section, an officeholder who is the subject of a recall *election* is deemed to be a *candidate* seeking elective office, and the *contribution* limits set forth in subsection (a) shall apply to any *payment* made to any *candidate controlled committee* for purposes of supporting or opposing the recall of that officeholder, regardless of whether such *payment* is made before, during, or after the circulation of a recall *petition*.
- (c) Nothing in this section is intended to limit the amount of his or her own money or property that a *candidate* may contribute to, or expend on behalf of, the *candidate's* own campaign.
- (d) The *contribution* limits imposed by this section do not apply to *contributions* made to a *general purpose recipient committee* or a *primarily formed recipient committee*.

- (e) The *contribution* limits imposed by this section do not apply to *contributions* made to a *professional expense committee*, as discussed in sections 27.2965-27.2969.
- (f) The dollar amounts set forth in this section are subject to changes in the Consumer Price Index as described in section 27.2937.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 5-8-2008 by O-19744 N.S; effective 6-7-2008.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

§27.2937 Indexing of Campaign Contribution Limits

- (a) The *contribution* limits set forth in sections 27.2934, 27.2935, and 27.2965 shall be adjusted on a biennial basis in accordance with this section, commencing as follows:
 - (1) Adjustments for the *contribution* limits applicable to *elections* for a *City Council* district office, as set forth in section 27.2935(a), shall commence in 2011.
 - (2) Adjustments for the *contribution* limits applicable to *elections* for the office of Mayor or City Attorney, as set forth in section 27.2935(a), shall commence in 2015.
 - (3) Adjustments for the limits applicable to *contributions* from political party committees to *candidates*, as set forth in section 27.2934(b), shall commence in 2015.
 - (4) Adjustments for the *contribution* limit applicable to *professional expense committees*, as set forth in section 27.2965(c), shall commence in 2011.
- (b) The *City Clerk* shall adjust the *contribution* limits to reflect any changes in the Consumer Price Index for the San Diego area for the two-year period ending December 31 of the previous year. Adjustments shall be rounded to the nearest fifty dollars.
- (c) The *City Clerk* shall publish a public notice of any adjustments by March 1, or as soon as practicable, following the Bureau of Labor Statistics release of the applicable Consumer Price Index data.

- (d) *Contribution* limits adjusted in accordance with this section shall go into effect immediately upon the release of the *City Clerk's* public notice of the adjustment.
- (e) Notwithstanding subsection (d), adjustments to *contribution* limits shall be effective only with regard to *elections* held in subsequent calendar years, and shall not be construed to raise the *contribution* limits applicable to past *elections* or to *special elections* or *special run-off elections* held in the same calendar year that the limits are adjusted.

(Added 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 5-18-2010 by O-19954; effective 6-17-2010.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 7-2-2013 by O-20270 N.S.; effective 8-1-2013.)

§27.2938 Restrictions on Time Period of Contributions

- (a) It is unlawful for any *candidate* or *controlled committee* seeking *elective City office* to solicit or accept *contributions* prior to January 1 of the odd-numbered year immediately preceding the primary *election* for the office sought.
- (b) It is unlawful for any *candidate* or *controlled committee* seeking *elective City Office* to solicit or accept, after the date of an *election*, a *contribution* that exceeds the net debts outstanding from the *election*.
 - (1) As used in this subsection, the term “*election*” means the *election* for which the *candidate* incurred bills and debts and is raising *contributions* to pay net debts outstanding.
 - (2) As used in this subsection, the term “net debts outstanding” has the same meaning as that set forth in title 2, section 18531.61 of the California Code of Regulations.
 - (3) *Contributions* received after the date of an *election* shall reduce the total amount of net debts outstanding.
- (c) Notwithstanding subsection (b), it is unlawful for any *candidate* or *controlled committee* seeking *elective City office* to solicit or accept a *contribution* more than 180 days after the date of an *election*.
- (d) The restrictions set forth in this section do not apply to:

- (1) *contributions* made by a *candidate* to his or her *controlled committee*; or,
 - (2) *contributions* made to a *professional expense committee*, as discussed in sections 27.2965-27.2969.
- (e) The restrictions on accepting *contributions* imposed by subsection (a) do not apply to *contributions* for special *elections*.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 5-18-2010 by O-19954; effective 6-17-2010.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 11-1-2016 by O-20731 N.S.; effective 1-1-2017.)

§27.2939 Pre-Primary Contributions for General Election

- (a) A *candidate* for *elective City office* may raise contributions for a general election prior to a primary election for the same *elective City office* if the *candidate* sets aside these *contributions* and uses them only for the general election.
- (b) If the *candidate* wins outright in the primary election, is defeated in the primary election, or otherwise withdraws from the general election, the *contributions* raised for the general election shall be refunded to the *contributors* on a pro rata basis less any expenses associated with the raising and administration of general election *contributions*. *Candidates* who are obligated to refund *contributions* raised for the general election shall be subject to the same provisions applicable to candidates for elective state office under title 2, section 18531.2 of the California Code of Regulations.
- (c) For purposes of this section, a “primary election” includes a *district primary election*, a *citywide primary election*, and a *special election*, and a “general election” includes a *district general election*, a *citywide general election*, and a *special run-off election*.
- (d) The particular *election* for which *contributions* are received shall be reported in accordance with section 27.2930(b) and (c).

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 11-1-2016 by O-20731 N.S.; effective 1-1-2017.)

§27.2940 Family Contributions

- (a) *Contributions* by a husband and wife shall not be aggregated.
- (b) A *contribution* made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2941 Cash Contributions

- (a) It is unlawful for any *candidate* or *committee* to receive cash *contributions* totaling \$100 or more from the same contributor for the same *election*.
- (b) A cash *contribution* includes a *contribution* made by money order, cashier's check, or other instrument that is drawn from an account that does not belong to the contributor or an intermediary of the contributor.
- (c) A cash *contribution* shall not be deemed received if it is not deposited and is returned to the contributor before the closing date of the campaign statement on which the *contribution* would otherwise be reported.
- (d) A cash *contribution* that is deposited shall not be deemed received if it is refunded within 72 hours of receipt, or within 48 hours of receipt if it is a "late contribution" as defined in California Government Code section 82036.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

§27.2942 Prohibition of Anonymous Contributions

It is unlawful for any *candidate* or *committee* to use more than \$200 in total anonymous *contributions* with respect to a single *election*. To the extent that a *candidate* or *committee* accepts anonymous *contributions* in excess of \$200, the excess shall be paid promptly, from available campaign funds, if any, to the *City Clerk* and made payable to the City Treasurer for deposit in the General Fund of the *City*.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2943 Prohibition of Contributions in the Name of Another Person

- (a) It is unlawful for any *person* to make directly or indirectly a *contribution* in a name other than the name by which that *person* is identified for legal purposes.
- (b) It is unlawful for any *person* to make directly or indirectly a *contribution* in the name of another *person*.
- (c) It is unlawful for any *person* to make directly or indirectly a *contribution* in his or her or its name of:
 - (1) anything belonging to another *person*; or
 - (2) anything received from another *person* on the condition that it be used as a *contribution*.
- (d) When it is discovered by the campaign *treasurer* that a *contribution* has been received and deposited in violation of this section, the campaign *treasurer* shall pay promptly from available campaign funds, if any, the amount received in violation of this section. That amount shall be delivered to the *City Clerk* and made payable to the City Treasurer for deposit in the General Fund of the *City*.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2944 Intermediaries

- (a) No *person* shall make a contribution on behalf of another, or while acting as the intermediary or agent of another, without disclosing to the recipient of the *contribution* both his or her own full name and street address, occupation, and the name of his or her employer, if any, or his or her principal place of business if he or she is self-employed, and the full name and street address, occupation, and the name of employer, if any, or principal place of business if self-employed, of the other *person*.
- (b) A *person* is considered an “intermediary” for a *contribution* if any of the following apply:
 - (1) The recipient of the *contribution* would consider the *person* to be the contributor without the disclosure of the identity of the true source of the *contribution*; or
 - (2) The *person* is an intermediary pursuant to title 2, section 18419 of the California Code of Regulations.

- (c) The recipient of the *contribution* shall include in his or her campaign statement the full name and street address, occupation, and the name of the employer, if any, or the principal place of business if self-employed, of both the intermediary and the contributor.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2946 Solicitation of Contributions from City Employees

- (a) It is unlawful for a *candidate* or a *candidate's controlled committee* to solicit, directly or indirectly, a *contribution* from a *City* employee with knowledge that the *person* from whom the *contribution* is solicited is a *City* employee.
- (b) This section shall not prohibit a *candidate* or a *candidate's controlled committee* from soliciting *contributions* from *City* employees if the solicitation is part of a solicitation made to a significant segment of the public that may include *City* employees, and the solicitation does not otherwise violate the provisions of this Division.
- (c) Nothing in this section prohibits a *City* employee from making a *contribution* to a *candidate*, and nothing in this section prohibits a *candidate* from accepting a *contribution* from a *City* employee.
- (d) As used in this section, the term “*City* employee” means any employee of the City of San Diego or any of its organizational subdivisions, agencies, offices, or boards.

(“*Solicitation of Contributions from City Employees*” added 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

§27.2947 Duplication of a Candidate’s Campaign Materials

- (a) Any *committee* that makes a *payment* for distributing or disseminating an advertisement that duplicates, reproduces, or republishes a *candidate's* campaign materials, in whole or in part, has made a *contribution* to the *candidate* for purposes of the *contribution* limits and source prohibitions set forth in sections 27.2934, 27.2935, 27.2950, and 27.2951.
- (b) The “making” of a *contribution* to a *candidate* under subsection (a) does not mean that the *candidate* has “accepted” or “received” a *contribution* for purposes of *contribution* limits or source prohibitions. Accordingly, nothing in this section imposes any liability on a *candidate* whose campaign materials were duplicated, reproduced, or republished.

- (c) This section applies to a *committee's* advertisement that uses materials created, prepared, or obtained by the *candidate* or the *candidate's controlled committee* for campaign purposes, including, but not limited to, mailers; flyers; pamphlets; door hangers; walking cards; posters; yard signs; billboards; banners and large signs; business cards; campaign buttons; bumper stickers; newspaper, magazine, television, radio, and Internet advertisements; photographs; audio recordings; and videos, regardless of whether such materials were accessible to members of the public on the Internet or through other means not requiring coordination with the *candidate* or the *candidate's controlled committee*.
- (d) This section does not apply to:
- (1) any written words, phrases, or sentences contained in a *candidate's* campaign materials;
 - (2) any statements made by a *candidate* while delivering a speech or speaking at a debate, forum, or similar public event and contained in an advertisement that does not use an audio or video recording made by the *candidate* or the *candidate's controlled committee*;
 - (3) the duplication of three or fewer photographs of the *candidate*;
 - (4) an advertisement that clearly advocates the defeat of the *candidate*;
 - (5) *member communications*; or,
 - (6) instances in which a *payment* was “made at the behest” of a *candidate*, as that term is defined in title 2, section 18225.7 of the California Code of Regulations. Such a *payment* is a *contribution* regardless of whether any campaign materials were duplicated, reproduced, or republished.
- (e) Nothing in this section imposes on any *candidate* or *committee* any filing obligations in addition to those set forth in California Government Code sections 81000 *et seq.* and title 2 of the California Code of Regulations.

(“Duplication of a Candidate’s Campaign Materials” added 11-25-2014 by O-20439 N.S.; effective 1-1-2015.)

§27.2950 Prohibitions and Limits on Contributions From Organizations

- (a) It is unlawful for a *candidate* or *controlled committee*, or any *treasurer* thereof, or any other *person* acting on behalf of any *candidate* or *controlled committee*, to solicit or accept a *contribution* from any *person* other than an individual or a political party committee for a *City candidate election*.
- (b) It is unlawful for a *person* other than an individual or a political party committee to make a *contribution* to a *candidate* or *controlled committee* for a *City candidate election*.
- (c) The prohibitions in subsections (a) and (b) shall not be construed to prevent a *person* other than an individual or political party committee from making a *contribution* to a *controlled committee* that is organized solely for the purpose of supporting or opposing the qualification, adoption, or defeat of one or more ballot *measures*, and the *controlled committee* pursues no other purpose.
- (d) For purposes of subsection(c), a recall *election* is not a ballot *measure election*.
- (e) For purposes of this section, a *contribution* made from a personal or family trust account is considered a *contribution* made by an individual.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

§27.2951 Prohibition on Contributions From Organization Bank Accounts

For purposes of a *City candidate election*, including a *City recall election*:

- (a) It is unlawful for any individual to make a *contribution* to a *candidate* or *controlled committee* drawn against a checking account or credit card account unless such account belongs to one or more individuals in their individual capacity.
- (b) It is unlawful for any *candidate* or *controlled committee* to accept a *contribution* unless it is drawn against a checking account or credit card account belonging to a political party committee or to one or more individuals in their individual capacity.

- (c) For purposes of this section, a *contribution* made from a personal or family trust account is considered a *contribution* made by an individual in his or her individual capacity.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 5-8-2008 by O-19744 N.S.; effective 6-7-2008.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

§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 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 a check or on a credit card account.
- (c) The provisions of this section apply solely to individuals treated 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.

(“Contributions from Sole Proprietorships” added 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 2-9-2016 by O-20595 N.S.; effective 3-10-2016.)

§27.2953 Contributions for Recall Elections

- (a) For purposes of making, soliciting, and accepting *contributions* under this division, the eventual occurrence of a recall *election* may be presumed upon the earlier of:

- (1) the date a notice of intention to circulate a recall *petition* is published pursuant to the recall provisions of this article; or,
 - (2) the date a statement of organization for a *committee* to recall the officeholder is filed with the City Clerk or the Secretary of State pursuant to state and local law.
- (b) The limits on *contributions* set forth in sections 27.2934 and 27.2935 and the prohibition against *contributions* from non-individuals other than political party committees set forth in sections 27.2950 and 27.2951 shall apply to every *payment* made to support or oppose the recall of an individual holding *elective City office*, regardless of whether such *payment* is made before, during, or after the circulation of a recall *petition*.
- (c) *Contributions* accepted for a recall *election* shall not count toward the *contribution* limits applicable to any other *election* even if ballots pertaining to the recall effort are never cast.
- (d) After the failure of a recall *petition* or after the recall election, all remaining *controlled committee* campaign funds shall be considered surplus campaign funds subject to the provisions of section 27.2924(c).

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 5-8-2008 by O-19744 N.S; effective 6-7-2008.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

§27.2955 Obligations Regarding Unlawful Contributions

- (a) If a *candidate, committee, or committee treasurer* is offered a *contribution*, the acceptance of which would constitute a violation of this division, the *candidate, committee, or committee treasurer* shall refuse the offer.
- (b) Except as set forth in sections 27.2943 and 27.2956, if a *candidate, committee, or committee treasurer* receives a monetary *contribution*, the acceptance of which would constitute a violation of this division, neither the *candidate, committee, nor committee treasurer* shall be subject to any penalty for receipt of that *contribution* if the *candidate, committee, or committee treasurer* either:
 - (1) does not deposit the *contribution* into the campaign *contribution* checking account; or

- (2) deposits the *contribution* into the campaign *contribution* checking account, but returns the *contribution* to the contributor within ten calendar days of the deposit or before the filing deadline for the reporting period in which the *contribution* was received, whichever occurs first.
- (c) Except as set forth in subsection (b) above and in sections 27.2943 and 27.2956, if a *candidate*, *committee*, or *committee treasurer* deposits into the campaign *contribution* checking account a monetary *contribution*, the acceptance of which constitutes a violation of this division, the *candidate*, *committee*, or *committee treasurer* shall within ten calendar days of the date of the *candidate's*, *committee's*, or *committee treasurer's* discovery of the violation provide in writing to the *City Clerk* all facts pertaining to the *contribution*, including but not limited to: (1) a copy of any check(s), draft(s), or other instrument(s) by which the *contribution* was made; and (2) if made in cash, a report of the amount and denominations of currency tendered and a legible photocopy of the bank deposit slip; and (3) if by wire or other electronic fund transfer, a legible printout or photocopy of the transaction; and (4) a report of the means of tender, delivery, or confirmation of the *contribution* (e.g. U.S. Postal Service or private mail, courier service, in person); and (5) a report of the full name and street address of the contributor.
- (d) The *candidate* or *committee treasurer* shall promptly deliver from available funds, if any, an amount equal to any monetary *contribution* constituting a violation of this division that has been deposited into the campaign *contribution* checking account. Such amount shall be made payable to the *City Treasurer* and delivered to the *City Clerk*. The *City Treasurer* shall deposit into the *City's* General Fund any amount he or she receives under this section.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)

(Retitled to "Obligations Regarding Unlawful Contributions" and amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

§27.2956 Return of Contributions - Mistaken Identity

If a *candidate*, *committee*, or *committee treasurer* receives a *contribution* that exceeds the contribution limits set forth in this division, neither the *candidate*, *committee*, nor *committee treasurer* shall be subject to any penalty or obligation under section 27.2955 for receipt of that *contribution* if all of the following circumstances are present:

- (a) the *candidate*, *committee*, or *committee treasurer* received more than one *contribution* from the same contributor for the same *election*; and

- (b) variations in the spelling of the contributor’s name reasonably resulted in confusion regarding the contributor’s identity; and
- (c) the *candidate, committee, or committee treasurer* returned the *contribution* to the contributor before the end of the filing deadline for the reporting period in which the *contribution* was received
(Added 12-5-2005 by O-19448 N.S; effective 1-11-2006.)

§27.2959 Extensions of Vendor Credit – Primarily Formed Recipient Committees

- (a) *Vendors* may extend credit to *primarily formed recipient committees* in the ordinary course of business in the same manner they extend it to *persons* for other than *political purposes*, except as set forth in subsection (b).
- (b) A *primarily formed recipient committee* may not accept credit from a *vendor*, but shall instead pay the *vendor* in full from existing funds at the time of placing the order, if all three of the following conditions are met:
 - (1) the *vendor* is providing goods or services relating to designing, creating, printing, mailing, posting, broadcasting, or disseminating a campaign advertisement;
 - (2) the balance in the *committee’s* bank account, including funds received but not yet available, is insufficient to cover in full the *committee’s* advertising debt liability; and,
 - (3) the identity of the *committee’s sponsors* or contributors of \$10,000 or more would change if any *person* made a *contribution* to the *committee* in an amount equal to the *committee’s* advertising debt liability.
- (c) For purposes of this section:
 - (1) “a campaign advertisement” means any tangible or intangible campaign content that requires a “paid for by” or similar funding disclosure under section 27.2970;
 - (2) “a *contribution* to the *committee*” refers to a potential *contribution* by any *person* who would be contributing to the *committee* for the first time as well as by any *person* who has already contributed to the *committee*;

- (3) “advertising debt liability” means the full costs of the campaign advertisement being considered by the *committee* plus the remaining balance owed for all other campaign advertisements purchased by the *committee* on credit; and,
- (4) the costs of a campaign advertisement do not include costs owed solely to a *vendor* who is paid at regular intervals for providing consulting services to the *committee* over and above those associated with campaign advertisements.

(“Extensions of Vendor Credit – Primarily Formed Recipient Committees” added 11-25-2014 by O-20439 N.S.; effective 1-1-2015.)

(Amended 6-14-2018 by O-20941 N.S.; effective 7-14-2018.)

§27.2960 Extensions of Vendor Credit

- (a) *Vendors* may extend credit to *candidates* and their *controlled committees* in the ordinary course of business in the same manner they extend it to *persons* for other than *political purposes*.
- (b) A *candidate* or *controlled committee* for *elective City office* that accepts goods or services for *political purposes* on credit under subsection (a), shall pay for those goods or services in full no later than 180 calendar days after the date of the *election* for which the goods or services were provided.
- (c) The provisions of subsection (b) do not apply to debt owed to a financial institution for an outstanding credit card balance.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 5-8-2008 by O-19744 N.S.; effective 6-7-2008.)

(Amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 11-1-2016 by O-20731 N.S.; effective 1-1-2017.)

§27.2961 Continuing Violations — Extensions of Vendor Credit

A *candidate* or *committee treasurer* violates section 27.2960 whenever the *candidate* or *committee treasurer* fails to make *payment* in full for rent, goods, or services within the time periods set forth in section 27.2960. Each and every calendar day any obligation remains partially or wholly unpaid after the time periods set forth in section 27.2960 constitutes a separate violation.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2962 Suppliers of Goods and Services — Disclosure of Records Required

It is unlawful for any *person* who supplies goods or services to a *candidate* or *committee* for use in connection with the campaign of any *candidate* for *elective City office* or for or against any *City measure* to knowingly refuse to divulge or disclose to the *Enforcement Authority* that *person's* record of any *expenditures* made by the *candidate* or *committee* as *payment* for such goods or services.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2965 Professional Expense Funds

- (a) Every elected *City Official* and every *candidate* for *elective City office* shall be permitted to establish and maintain one *professional expense committee* and one professional expense checking account for the purpose of soliciting, accepting, and spending professional expense funds.
- (b) In addition to *contributions* received in connection with seeking an elective *City office*, any elected *City Official* or *candidate* for *elective City office* may receive professional expense fund *contributions* from individuals and may use such *contributions* solely for the following purposes:
 - (1) to defray *professional fees and costs* incurred in the *City Official's* or *candidate's* response to an audit of his or her campaign activity conducted by the City of San Diego Ethics Commission, the California Fair Political Practices Commission, or the California Franchise Tax Board; or
 - (2) to defray *professional fees and costs* incurred in the *City Official's* or *candidate's* legal defense to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the *City Official's* governmental activities and duties.
- (c) It is unlawful for any individual to make, or for any elected *City Official* or *candidate* to solicit or accept from any individual, professional expense fund *contributions* totaling more than \$500 during a single calendar year in connection with an audit or a civil, criminal, or administrative proceeding identified in the Statement of Organization required by section 27.2966(b). This dollar amount is subject to changes in the Consumer Price Index as described in section 27.2937.

- (d) An individual's *contributions* to a *professional expense committee* do not count toward the campaign *contribution* limits set forth in section 27.2935, and are not subject to the time limits set forth in section 27.2938.
- (e) Every individual making a *contribution* to a *professional expense committee* shall accompany such *contribution* with a signed disclosure form indicating whether the individual has a financial interest in any *municipal decisions* pending before the applicable *City Official* or *candidate*. If the individual has such a financial interest, he or she shall identify the *municipal decision* and describe the nature of the interest on the disclosure form.
- (1) For purposes of this subsection:
- (A) a *municipal decision* is pending before a *City Official* or *candidate* if it is reasonably foreseeable that it will be acted on by the *City Official* or *candidate* or by any governmental body of which that *City Official* or *candidate* is a member;
- (B) the term "governmental body" in (e)(1)(A) above means the *City Council*, any *City Council* committee, the board of directors of any *City* agency, and any *City Board*, commission, committee, or task force; and
- (C) an individual has a financial interest in a *municipal decision* if:
- (i) the individual or any member of the individual's immediate family is a claimant, applicant, respondent, contracting party, or otherwise named as a party to the decision; or
- (ii) the individual or any member of the individual's immediate family holds a managerial level position, or has a 10% or greater ownership interest, in a business entity that is a claimant, applicant, respondent, contracting party, or otherwise named as a party to the decision; or
- (iii) the individual or any member of the individual's immediate family has an ownership interest in real property that is the subject of the decision; or

- (iv) it is reasonably foreseeable that the decision will have a direct or substantial financial impact on real property in which the individual or any member of the individual's immediate family has an ownership interest.
 - (v) Notwithstanding subsections (e)(1)(C)(i) through (e)(1)(C)(iv), an individual does not have a financial interest in a *municipal decision* that will have only a nominal, inconsequential, or insignificant financial effect on the individual's financial interests or those of his or her immediate family.
 - (D) An individual who makes an electronic or telephonic *contribution* to a *professional expense committee* is deemed to be in compliance with this section if, within one calendar day of making the *contribution*, the individual provides the signed disclosure form to the *committee*

or deposits it with the U.S. Postal Service or a comparable service for delivery to the *committee*.
- (2) An individual is not required to identify a financial interest in a *municipal decision* on the disclosure form if both of the following are true:
 - (A) the individual's *contributions* are required to be disclosed by a *lobbying firm* or *organization lobbyist* (as both are defined in San Diego Municipal Code section 27.4002) in accordance with San Diego Municipal Code section 27.4017; and
 - (B) the *municipal decision* in which the individual has a financial interest has been identified on the most recent registration form or quarterly disclosure report filed by the *lobbying firm* or *organization lobbyist* (as both are defined in San Diego Municipal Code section 27.4002).
- (3) It is unlawful for a *professional expense committee* to deposit a *contribution* from any individual without first obtaining a signed disclosure form from that individual.
- (4) Within 10 calendar days of the filing deadline applicable to the campaign statement required by section 29.2967, the *professional expense committee* shall file with the *City Clerk* a copy of each disclosure form received during the reporting period pursuant to this subsection.

- (f) It is unlawful for a *person* other than an individual to make a *contribution* to a *professional expense committee*. It is unlawful for a *City Official* or *candidate* to solicit or accept a *contribution* for a *professional expense committee* from any *person* other than an individual.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)

(Retitled and amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 2-9-2016 by O-20595 N.S.; effective 3-10-2016.)

§27.2966 Establishment of a Professional Expense Committee and Checking Account; Recordkeeping

- (a) A *City Official* or *candidate* who raises professional expense funds shall deposit the funds in, and expend the funds from, a professional expense checking account that is separate from any other bank account held by the *City Official* or *candidate*. The checking account shall be established at a bank or other financial institution with an office or branch in the state of California.
- (b) The *City Official* or *candidate* shall establish a *professional expense committee* for the professional expense checking account by filing a Statement of Organization with the Secretary of State and the *City Clerk* pursuant to California Government Code section 84101. The Statement of Organization shall contain a description of the specific audit or civil, criminal, or administrative proceeding or proceedings for which the *professional expense committee* is established, and shall be amended pursuant to Government Code section 84103 as audits or proceedings are either resolved or initiated. The words “Legal Defense Fund” and the *City Official’s* or *candidate’s* name shall be included in the name of the *professional expense committee*.
- (c) The *City Official* or *candidate*, and the *treasurer* of the *professional expense committee*, are subject to the recordkeeping requirements set forth in title 2, section 18401 of the California Code of Regulations, and shall keep separate detailed accounts, records, bills, and receipts for each audit and legal proceeding specified in the Statement of Organization filed pursuant to subsection (a), including documentation substantiating the basis for each expenditure made with professional expense funds.

- (d) The records required by section 27.2966(c) shall be kept by the *City Official, candidate, or treasurer* for a period of four years following the date that the campaign statement to which they relate is filed.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Retitled and amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 11-25-2014 by O-20439 N.S.; effective 1-1-2015.)

§27.2967 Disclosures by Professional Expense Committee

- (a) The *professional expense committee* of any *City Official or candidate* who is a *candidate* in an upcoming *City election* shall disclose its professional expense fund activity on campaign statements filed in accordance with the schedule prescribed by the Political Reform Act for other *candidate controlled committees* in the *City*.

- (b) The *professional expense committee* of any *City Official or candidate* who is not a *candidate* in an upcoming *City election* shall disclose its professional expense fund activity on campaign statements filed quarterly, as follows:

- (1) No later than April 30 for the period of January 1 through March 31.

- (2) No later than July 31 for the period of April 1 through June 30.

- (3) No later than October 31 for the period of July 1 through September 30.

- (4) No later than January 31 for the period of October 1 through December 31.

- (c) The disclosures required under this section shall be made electronically using the *City Clerk's* online filing system, as described in section 27.2931.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Retitled and amended 10-27-2008 by O-19795; effective 1-1-2009.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

§27.2968 Impermissible Use of Professional Expense Funds

- (a) It is unlawful for a *City Official* or *candidate* to use any funds in a professional expense checking account to pay a judgment, settlement, fine, sanction, or other type of penalty.
- (b) It is unlawful for a *City Official* or *candidate* to transfer any funds in a professional expense checking account to any other *committee*.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Retitled and amended 10-27-2008 by O-19795; effective 1-1-2009.)

§27.2969 Conclusion of Audit or Proceeding; Termination of Professional Expense Committee

- (a) At the conclusion of an audit or legal proceeding identified in a *professional expense committee's* Statement of Organization, and after the payment of all *professional fees and costs* incurred in connection with that audit or proceeding, the *City Official* or *candidate* may use any remaining *contributions* collected for that audit or proceeding to pay outstanding *professional fees and costs* incurred in connection with any other audit or proceeding identified in the *professional expense committee's* Statement of Organization, so long as such *contributions*, when aggregated with all other *contributions* from the same contributor for the same audit or proceeding, do not exceed the *contribution* limits set forth in section 27.2965(c).
- (b) Within six months after the conclusion of all audits and proceedings for which the *professional expense committee* was established, the *City Official* or *candidate* shall refund any remaining funds to contributors on a "last in, first out" or "first in, first out" accounting basis, close the professional expense checking account, and terminate the *professional expense committee* pursuant to title 2, section 18404(b) and (c) of the California Code of Regulations. The Ethics Commission's Executive Director may for good cause extend the termination date. An application to extend the termination date shall be in writing and shall include copies of all supporting documents including copies of any relevant billing statements. The Executive Director shall report to the Ethics Commission at its next regularly scheduled meeting, or as soon thereafter as practicable, any extensions granted pursuant to this section.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)

(Retitled and amended 10-27-2008 by O-19795; effective 1-1-2009.)

§27.2970 Disclosures on Campaign Advertisements

- (a) Subject to the additional requirements and exceptions expressly noted in section 27.2970, and limited to advertisements concerning *City candidates* and *City measures*, the campaign advertising disclosure rules included in the Political Reform Act of 1974, as amended, including but not limited to California Government Code sections 84305 through 84511, and the regulations of the California Fair Political Practices Commission, as amended, including but not limited to Regulations 18440 through 18450.11, are adopted by reference and incorporated into the San Diego Municipal Election Campaign Control Ordinance as if fully set forth herein.
- (b) When a *candidate* or *candidate-controlled committee* established for *elective City office* is not required to make a “paid for by” advertising disclosure under state law, the *candidate* or *committee* shall make such a disclosure as if the advertisement is an *independent expenditure*.
- (c) When a *candidate* or *committee* uses volunteers to make *telephone communications*, such volunteers shall disclose the name of the *candidate* or *committee* during the communication in the same manner required of paid callers under state law, except that this disclosure may follow the words “on behalf of” instead of “paid for by.”
- (d) For purposes of identifying a *committee’s* “top contributors,” as defined in California Government Code section 84501, a *committee’s* “cumulative contributions” means the cumulative amount of *contributions* received by the *committee* since the filing of its original Statement of Organization and ending seven calendar days before the *committee* submits the advertising order.
- (e) Every *primarily formed recipient committee* that has received *contributions* cumulatively totaling \$10,000 or more from any single contributor since the filing of its original Statement of Organization shall include the text “Funding details at www.sandiego.gov/donors” on or during its campaign advertisements in the following manner:
 - (1) The disclosure statement shall be made on campaign literature, visual *electronic media communications*, and newspaper and periodical advertisements immediately below and in the same font size and format as the “paid for by” disclosure. For advertisements disseminated over the Internet, the web address portion of the disclosure statement shall be a hyperlink whenever practicable.
 - (2) The disclosure statement shall be made during *telephone communications* and audio-only *electronic media communications* immediately following the “paid for by” or “on behalf of” disclosure in the same pitch and tone as the rest of the advertisement.

- (3) A *committee* has not violated subsection (e) by failing to include the disclosure statement on a campaign advertisement if the advertising order was placed less than seven calendar days after first receiving *contributions* cumulatively totaling \$10,000 or more from any single contributor.
- (f) Nothing in this section establishes a Municipal Code requirement:
- (1) that any *candidate* or *committee* include advertising disclosures on email communications; text messages; social media posts; or websites under the control of the *candidate* or *committee*; or
 - (2) that any *candidate* or *candidate-controlled committee* established for *elective City office* make an advertising disclosure on *telephone communications* or items sent through the U.S. mail unless already required to do so under state law; or
 - (3) that any *committee* make an advertising disclosure on a *member communication* unless already required to do so under state law; or
 - (4) that any *candidate* or *committee* comply with California Government Code section 84506.5; or
 - (5) that any *general purpose recipient committee* disclose its “top contributors” on campaign advertisements; or
 - (6) that is applicable to any slate mailer organization.
- (g) Nothing in this section relieves any *candidate* or *committee* from its obligation to comply with the advertising disclosure requirements included in state law.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)

(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 2-9-2016 by O-20595 N.S.; effective 3-10-2016.)

(Amended 11-1-2016 by O-20731 N.S.; effective 1-1-2017.)

(Retitled from “Mass Campaign Literature” to “Disclosures on Campaign Advertisements” and amended 6-14-2018 by O-20941 N.S.; effective 7-14-2018.)

§27.2975 Major Funding of Primarily Formed Recipient Committees

- (a) Every *primarily formed recipient committee* shall notify the City of San Diego Ethics Commission within three business days of receiving *contributions* cumulatively totaling \$10,000 or more from a single contributor. The notice shall be sent by email and include:
- (1) the *committee*’s full name and identification number;

- (2) the contributor's name; and
 - (3) if the contributor is a *primarily formed recipient committee* or a *general purpose recipient committee*, the contributor's identification number.
- (b) The information provided shall be made available to the public on the City of San Diego Ethics Commission's website.
- (c) The aggregation rules of California Government Code section 85311 and any implementing regulations adopted by the California Fair Political Practices Commission shall apply for purposes of identifying the *committee's* contributors.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)

(Retitled to "Major Funding of Advertisements Supporting or Opposing Candidates and Ballot Measures" and amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)

(Amended 2-9-2016 by O-20595 N.S.; effective 3-10-2016.)

(Amended 11-1-2016 by O-20731 N.S.; effective 1-1-2017.)

(Amended 6-14-2018 by O-20941 N.S.; effective 7-14-2018.)

(Retitled from "Major Funding of Advertisements Supporting or Opposing Candidates and Ballot Measures" to "Major Funding of Primarily Formed Recipient Committees" and amended 6-14-2018 by O-20941 N.S.; effective 7-14-2018.)

§27.2976 Identification of Ballot Measure Committees

Within 30 days of the designation of the alphabetical order of the *measures* appearing on the ballot, any *committee* that is primarily formed to support or oppose a ballot *measure*, shall, if supporting the *measure*, include the statement, "a committee for Measure __," or "Yes on Measure __" or, if opposing the *measure*, include the statement, "a committee against Measure __," or "No on Measure __," in any reference to the *committee* required by law.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

(Amended 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)

(Retitled from "Identification of Entities Supporting Ballot Measures" to "Identification of Ballot Measure Committees" and amended 6-14-2018 by O-20941 N.S.; effective 7-14-2018.)

§27.2980 Disclosure of Electioneering Communications

- (a) Every *electioneering communication* in printed form shall include the words “paid for by” immediately followed by the name, street address, and city of the *person* who paid for the communication in a bold, sans serif typeface that is easily legible, contrasts with the background, and is no less than 14 points in size.
- (b) Every *electioneering communication* in spoken form shall include the words “paid for by” immediately followed by the name of the *person* who paid for the communication in a manner that is clearly audible and at the same general volume and speed as the rest of the communication.
- (c) Any *person* who makes a payment or an enforceable promise to make a payment totaling \$1,000 or more for an *electioneering communication* shall file with the *City Clerk* an “Electioneering Communication Disclosure Report” disclosing the *person’s* name, address, occupation, and employer, and the amount of the payment. The report shall be filed within 24 hours of making the payment or the promise to make the payment, and shall be accompanied by a legible copy of the *electioneering communication* if in printed form or a transcript of the *electioneering communication* if in spoken form.
- (d) Except as provided in subsection (e), if any *person* has received a payment or an enforceable promise to make a payment from another *person* totaling \$100 or more for the purpose of making an *electioneering communication*, the *person* receiving the payments shall disclose on the report the other *person’s* name, address, occupation, and employer; the amount received; and the date of the payment.
- (e) A *person* who receives or is promised a payment that is otherwise reportable under subsection (d) is not required to report the payment if the *person* provides goods or services in the normal course of business and receives or is promised the payment in exchange for providing goods or services.
- (f) The communications subject to this section do not include:
- (1) news stories and editorials by broadcast outlets or regularly published newspapers, periodicals, or magazines of general circulation;
 - (2) *member communications*, except those made by a political party;
 - (3) communications made in the form of a slate mailer;

- (4) communications paid for by a governmental entity;
 - (5) communications that occur during a *candidate* debate or forum;
 - (6) communications made solely to promote a *candidate* debate or forum made by or on behalf of the *person* sponsoring the debate or forum, provided that such communications do not otherwise discuss the positions or experience of a *candidate*;
 - (7) communications in which a *candidate*'s name is required by law to appear and the *candidate* is not singled out in the manner of display;
 - (8) printed materials in quantities of 200 or less distributed within a single calendar month;
 - (9) live telephone calls made to less than 500 individuals or households per day; or,
 - (10) pre-recorded telephone calls made to less than 500 individuals or households per election.
- (g) Any communication, other than a *member communication*, made at the behest of a *candidate* is a *contribution* to that *candidate* and is subject to the limits and prohibitions specified in sections 27.2935 and 27.2950.
- (h) The obligation to file an "Electioneering Communication Disclosure Report" under subsection (c) shall not apply to any entity that is a *committee*.

(Added 12-5-2005 by O-19448 N.S.; effective 1-11-2006.)
(Amended 11-27-2012 by O-20227 N.S.; effective 1-1-2013.)
(Amended 11-25-2014 by O-20439 N.S.; effective 1-1-2015.)
(Amended 2-9-2016 by O-20595 N.S.; effective 3-10-2016.)
(Amended 6-14-2018 by O-20941 N.S.; effective 7-14-2018.)
(Amended 12-10-2018 by O-21026 N.S.; effective 1-9-2019.)

§27.2985 Duties of the City Clerk

In addition to other duties required of the *City Clerk* under the terms of this division, the *City Clerk* shall:

- (a) supply appropriate forms and manuals prescribed by the state Fair Political Practices Commission. These forms and manuals shall be furnished to all *candidates* and *committees*, and to all other *persons* required to report.
- (b) determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of state law.
- (c) report, at the *City Clerk's* discretion, apparent violations of this division and applicable state law to the *Enforcement Authority*.
- (d) compile and maintain a current list of all statements or parts of statements filed with the office pertaining to each *candidate* and each *measure*.
- (e) cooperate with the *Enforcement Authority* in the performance of the duties of the *Enforcement Authority* as prescribed in this division and applicable state law.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2990 Enforcement Authority — Duties, Complaints, Legal Action, Investigatory Powers

- (a) Any *person* who believes that a violation of any portion of this division has occurred may file a complaint with the *Enforcement Authority*.
- (b) The *Enforcement Authority* shall have such investigative powers as are necessary for the performance of the duties prescribed in this division. The *Enforcement Authority* may demand and shall be furnished records of campaign *contributions* and expenses at any time.
- (c) The *Enforcement Authority* may elect to enforce the provisions of this division administratively pursuant to chapter 2, article 6, division 4, or may otherwise recommend or refer enforcement actions to the City Attorney or other law enforcement agency with jurisdiction.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)

§27.2991 Penalties

- (a) Any *person* who violates any part of this division, or who counsels, aids, abets, advises, or participates with another to commit any such violation, is guilty of a misdemeanor and is subject to the penalties set forth in chapter 1 of this code, or if the matter is pursued by the *Enforcement Authority* as an administrative matter, any *person* found in violation is subject to the administrative penalties provided for in chapter 2, article 6, division 4.
- (b) In addition to being subject to the penalties set forth in chapter 1 of this code, any *person* found guilty of violating sections 27.2935 or 27.2950, or both, shall be required to forfeit the amount received in violation of this division and pay over these funds to the City Treasurer for deposit in the *City's* General Fund.
- (c) If, after an *election*, a *candidate* or office holder is convicted in a court of law of a violation of any provision of this division, the *election* to office of such *candidate* or officeholder shall be void and the office shall become vacant immediately upon the later of the following two dates:
 - (1) The date of the *candidate* or officeholder's conviction; or
 - (2) The date the *candidate* would have taken office, if the *candidate* is not an incumbent. In the event of a vacancy resulting from application of this subsection, the vacancy shall be filled in accordance with the procedures set forth in the *City's* Charter for the filling of vacant *City* offices.
- (d) If a *candidate* is convicted in a court of law of violating any provision of this division any time prior to the *election*, the candidacy shall be terminated immediately and the *person* shall be no longer eligible for *election*.
- (e) Any *person* convicted in a court of law of a violation of any provision of this division shall be ineligible to hold a *City elective office* for a period of five years from and after the date of the conviction.
- (f) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the *City's* discovery of the violation.

(Amended 9-12-2000 by O-18846 N.S.)

(Repealed and added 9-7-2004 by O-19317 N.S.; effective 1-5-2005.)