

CITY OF OAKLAND
Public Ethics Commission

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Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: June 20, 2012
RE: Campaign-Related Information Packet for Local Candidates

In August, 2012, the City Clerk will certify the nominations of candidates for local office, which triggers, among other things, the start of the Limited Public Financing program for the November 6, 2012, General Election. In preparation for the certification, staff revised the Limited Public Financing program handbook to be distributed to candidates upon certification. In addition, staff prepared a packet that includes additional information for candidates to provide them with background about state and local laws related to running for local office. Staff proposes including the handbook as part of the larger packet of information, all of which will help local candidates with the information needed to comply with state and local campaign-related laws.

The information contained in the packet comes from a variety of sources and mostly includes fact sheets and written materials prepared by the state Fair Political Practices Commission as well as printed versions of state and local laws from online sources. While this packet is not an ideal format of conveying this information, it will provide candidates with more information than they previously received on these laws. In the future, when Commission staff resources permit, staff suggests the Commission compile this information in a more condensed and user-friendly format.

Staff requests Commission approval of the attached information packet, including the Limited Public Financing handbook, so that it can be distributed in August during the nominations period.

Campaign-Related Information for Local Candidates Running for Office in City of Oakland

Because state and local laws impose many requirements on candidates for local office, this packet aims to provide information to candidates to assist in complying with these laws.

Campaign Activities

1. **State Campaign Reporting Rules** – download and print the Campaign Disclosure Manual 2 (for local candidates) from the Fair Political Practices Commission website or access the manual directly at the following link:
<http://www.fppc.ca.gov/manuals/manual2local.pdf>.
2. **Oakland Campaign Reform Act (local)** – download and print the Guide to the Oakland Campaign Reform Act from the Oakland Public Ethics Commission website at www.oaklandnet.com/pec, or call (510) 238-3593 to receive a copy by mail.
3. **Limited Public Financing (local)** – candidates may apply for reimbursement of campaign expenses with public funds, to begin after candidate nominations are certified by the City Clerk: (Attached)
4. **Additional Advertising Restrictions** (see also State Campaign Disclosure Manual 2, mentioned above)
 - a. **Political Advertising Disclaimers** (Attached)
 - b. **Posting of Signs Regulations (local)** (Attached)
 - c. **Oakland False Endorsement in Campaign Literature (local)** (Attached)
5. **Restrictions on Source of Funds Used for Campaign Purposes**
 - a. **Prohibition on the Use of Public Resources for Campaign Purposes** (Attached)
 - b. **New Rules for Campaign Related Communications by a Governmental Agency** (Attached)

Gift Rules

1. **Limitations and Restrictions on Gifts, Honoraria, Travel and Loans for Local Officials** (Attached)
2. **Changes to Gift Rules, effective January 1, 2012** (Attached)

Conflicts of Interest

1. **Form 700 Statement of Economic Interests** (Attached)
2. **Conflict of Interest in Decision-making – Can I Vote?** (Attached)

Additional Restrictions

1. **Revolving Door and Post-Employment Restrictions** (Attached)
2. **Campaign Contributions May Cause Conflicts for Appointees and Commissioners** (usually applies when the official serves in a non-elected position) (Attached)
3. **Holding Two Positions** (Attached)

Please note that the Oakland Campaign Reform Act imposes restrictions on a variety of campaign activities including a rule that prohibits a person who contracts or proposes to contract with the City from making contributions to local candidates and elected City officials during and immediately following the contract bidding negotiation process. (See section 3.12.140 of the Oakland Campaign Reform Act).

Helpful Contacts

More information about State requirements for local candidates for office, and copies of many of the attached documents, can be found online at the California Fair Political Practices Commission website at www.fppc.ca.gov. For more information about filing campaign forms and other required documents, contact the Oakland City Clerk's office at (510) 238-3611.

For more information about the Limited Public Financing program, local campaign laws, and conflict-of-interest rules, please visit the City of Oakland Public Ethics Commission website at www.oaklandnet.com/pec or contact the Commission's offices at:

Public Ethics Commission

1 Frank H. Ogawa Plaza (City Hall), 11th Floor
Oakland, CA 94612
(510) 238-3593
ethicscommission@oaklandnet.com

CITY OF OAKLAND

**HOW TO APPLY FOR
PUBLIC FINANCING**

**A HANDBOOK OF THE
OAKLAND PUBLIC ETHICS COMMISSION**



2012

I. INTRODUCTION

In December 1999, the Oakland City Council adopted the Limited Public Financing Act. The Act provides a limited amount of public funds for eligible candidates to assist in running for District City Council office.

In July 2010, the City Council adopted a comprehensive set of amendments to the Act that changes the way in which public funds are made available to candidates.

The highlights of the newly amended Act are:

- The City will no longer match campaign contributions as before, but will instead reimburse District City Council candidates for certain campaign expenditures they have incurred and paid. The maximum amount a candidate can receive is 30 percent of Oakland's voluntary expenditure ceiling for the office being sought, although the actual amount of available funds is likely to be less.
- Candidates must first raise in Oakland campaign contributions, and incur in campaign expenditures, an amount equal to at least 5 percent of the voluntary expenditure ceiling for the office being sought. Eligible candidates must also agree to abide by the voluntary expenditure ceilings.

The Oakland Public Ethics Commission is authorized to implement and administer the public financing program.

Enclosed in this Handbook you will find:

- The Limited Public Financing Act
- Limited Public Financing Forms
- January 2012 Contribution Limits and Expenditure Ceilings

This Handbook is intended to be advisory only. To the extent the Handbook conflicts with the actual Act or any administrative regulations, those laws shall govern the interpretation, implementation and enforcement of the public financing program.

Any questions about this Handbook or the public financing program should be directed to:

Oakland Public Ethics Commission
One Frank H. Ogawa Plaza, 11th Floor
Oakland, CA 94612
(510) 238-3593
(510) 238-3315 (fax)

II. APPLYING FOR PUBLIC FINANCING

1. Who May Participate In The Public Financing Program?

All candidates for the office of District City Councilmember who are certified to appear on the ballot may apply for public financing. Candidates for the Oakland Unified School District Board of Directors are no longer eligible.

2. How Does A Candidate Become Eligible To Receive Public Financing?

The first step in applying for public financing is to complete and file with the Public Ethics Commission LPF Form No. 1, entitled: "Statement Of Acceptance Or Rejection Of Public Financing." See enclosed **Form No. 1**.

The candidate must complete, execute and timely file LPF Form No. 1 no later than fourteen (14) days after the City Clerk has certified the names of all candidates to appear on the ballot. Commission staff will send candidates a notice advising them of the specific deadline for filing LPF Form No. 1. ***The failure to timely file LPF Form No. 1 shall constitute an irrevocable rejection of public financing for the election in which the candidate's name appears on the ballot.***

After the candidate has timely filed his or her "Statement Of Acceptance Or Rejection Of Public Financing" the candidate may, prior to the date of the election, submit a claim for reimbursement. In order to do so, the candidate must meet the following conditions of eligibility:

- The City Clerk must have certified the candidate's name to appear on the ballot;
- The candidate must have filed OCRA Form No. 301 with the City Clerk, in which the candidate agrees to accept voluntary expenditure limitations;
- The candidate demonstrates that he or she has received campaign contributions totaling at least five (5) percent of the voluntary expenditure ceiling for the office being sought, exclusive of any personal loans or contributions, and which contributions originate from within the City of Oakland;
- The candidate demonstrates that he or she has made campaign expenditures totaling at least five (5) percent of the voluntary expenditure ceiling for the office being sought;
- The candidate is opposed by another candidate for the same office;

- The candidate declares that he or she has not made any contributions or loans from personal funds in an amount exceeding ten (10) percent of the voluntary expenditure ceiling for the office being sought;
- The candidate declares that he or she will timely file, and completely and accurately execute, all pre-election and post-election campaign statements;
- The candidate or his or her campaign treasurer or designee has attended a training program conducted or sponsored by the Public Ethics Commission; and
- The candidate agrees to submit to any reasonable audits or reviews deemed appropriate by the Public Ethics Commission or other civil authority.

3. What Is The Voluntary Expenditure Ceiling For This Election?

The City Clerk annually adjusts the voluntary expenditure ceilings every January to reflect any increase in the Consumer Price Index. The voluntary expenditure ceilings and campaign contribution limits for 2012 are enclosed.

4. What Types Of Expenditures Will Be Reimbursed?

Reimbursement will only be provided for the following campaign expenditures:

- Candidate filing and ballot fees
- Printed campaign literature and production costs
- Postage
- Print advertisements
- Radio airtime and production costs
- Television or cable airtime and production costs
- Website design and maintenance costs

5. How Does A Candidate Make His Or Her Claim For Reimbursement?

A candidate applies for reimbursement by completing and submitting to the Public Ethics Commission LPF Form No. 2 ("Initial Application For Public Financing") and LPF Form No. 3 ("Reimbursement Claim Form"). **See Enclosed LPF Form No. 2 and LPF Form No. 3.**

LPF Form No. 2 requires the candidate to submit copies of campaign contributions (i.e., contribution checks; not cash) demonstrating that the candidate has received contributions from Oakland donors totaling at least five (5) percent of the voluntary expenditure ceiling for the office being sought. (The written instrument used to make the contribution must demonstrate an Oakland address.) The candidate must also submit proof in the form of invoices or payments that he or she has made campaign expenditures totaling at least five (5) percent of the voluntary expenditure ceiling for the office being sought.

LPF Form No. 3 accompanies specific request(s) for reimbursement. To initiate a claim for reimbursement, candidates must include with LPF Form No. 3: (1) a copy of the billing invoice(s) for which reimbursement is sought; (2) a copy of the check(s) by which the candidate's campaign committee made payment on the billing invoice(s); and (3) a copy, when applicable, of the campaign literature, advertisement, radio or television script, or website configuration.

Once the candidate has submitted these forms to the Public Ethics Commission, Commission staff will review them to determine if they have been correctly completed and signed, and to confirm whether the conditions of eligibility have occurred.

6. Is There A Process To Appeal A Commission Staff Decision?

Yes. Any decision made by the Commission's Executive Director to deny or limit a request for reimbursement may be appealed to the Commission whose decision shall be final. A request to agendaize an appeal of the Executive Director's decision shall be made in writing and delivered to the Office of the Public Ethics Commission no more than ten (10) calendar days after receiving written notice of the Executive Director's decision.

7. What Happens If A Candidate Decides To Withdraw Or Is Disqualified From Participating In The Election?

Any candidate who is determined to be eligible to receive public financing but who is later disqualified from appearing on the ballot or who withdraws from the election will be suspended from receiving public financing during the remaining election period.

III. AMOUNT OF MONEY AVAILABLE FROM THE PUBLIC FINANCING PROGRAM

1. What Is The Most A Candidate Can Receive?

Eligible candidates may receive up to 30 percent of the voluntary expenditure ceiling for the office being sought. However, this maximum amount **may be less** depending on the number of candidates who qualify to receive public financing. If the money available in the Election Campaign Fund is not sufficient to permit each eligible candidate to receive the maximum individual amount, the Public Ethics Commission is authorized to allocate the available funds on a "pro rata" or other equitable basis and to revise the amounts as necessary throughout the campaign. The Public Ethics Commission will timely notify candidates if there is any change in the maximum amount a candidate may receive.

IV. DISTRIBUTION OF PUBLIC MATCHING FUNDS

1. When Can A Campaign Get The Money?

Candidates may apply for reimbursement in minimum increments of \$1,000 or more. Within ten (10) calendar days of the election, candidates may apply for reimbursement in minimum increments of \$500. Commission staff will not process claims for reimbursement for less than the required minimum amounts.

Public matching funds checks will only be made payable to a candidate's campaign committee. Candidates must deliver to the Public Ethics Commission a copy of the deposit receipt within three (3) business days of deposit into the candidate's campaign account.

2. What Is The Deadline To Submit A Claim For Reimbursement?

Candidates may receive public financing for properly documented claims that are submitted **prior to** the day of the election. No claim submitted on or after the date of the election will be considered.

3. Are There Any Restrictions On The Money A Candidate Receives?

Public financing is only available to reimburse the specified campaign expenditures described in Section II.4, above. Money received from the Election Campaign Fund may not be previously earmarked or specifically encumbered to pay or to secure payment of any loan, return of contribution or of any expenditure other than the one for which reimbursement was sought.

V. POST-ELECTION PROCEDURES

1. What Happens If A Campaign Has Money Left Over?

The Act requires that a portion of any surplus campaign funds remaining as of December 31, 2012, be returned to the Election Campaign Fund no later than January 31, 2013. The amount to be returned shall be calculated by multiplying the amount of surplus campaign funds by the percentage that total public financing received represents of total monetary contributions received for the election period.

- For example, if a candidate receives \$40,000 in contributions, \$10,000 in public financing, and claims a surplus of \$5,000, the candidate would owe the Election Campaign Fund \$1,250.

A candidate shall not be required to return any surplus funds in an amount greater than the amount of public financing received.

2. Are There Penalties For Violations Of The Limited Public Financing Act?

Yes. The Public Ethics Commission is authorized to administratively enforce the provisions of the Limited Public Financing Act, which may include the imposition of fines, penalties and the return of public financing received.

3. Will Campaign Financial Statements Be Audited Or Reviewed?

Yes. The Limited Public Financing Act requires that the Office of the City Auditor complete audits of all candidates receiving public financing to ensure compliance with the rules of the program.

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

AS ADOPTED 7/27/10

AN ORDINANCE AMENDING CHAPTER 3.13 OF THE OAKLAND MUNICIPAL CODE (AKA "THE LIMITED PUBLIC FINANCING ACT OF THE CITY OF OAKLAND") TO 1) LIMIT ELIGIBILITY TO CANDIDATES FOR DISTRICT CITY COUNCIL; 2) PROVIDE THAT PUBLIC FINANCING BE LIMITED TO THE REIMBURSEMENT OF SPECIFIED CAMPAIGN EXPENDITURES; 3) LIMIT CANDIDATES FROM MAKING CONTRIBUTIONS OR LOANS FROM PERSONAL FUNDS TO TEN PERCENT OF THE VOLUNTARY EXPENDITURE CEILING; 4) REQUIRE CANDIDATES TO RAISE IN LOCAL CONTRIBUTIONS AND MAKE IN EXPENDITURES AMOUNTS EQUAL TO FIVE PERCENT OF THE VOLUNTARY EXPENDITURE CEILING; 5) PERMIT CANDIDATES TO APPEAL TO THE PUBLIC ETHICS COMMISSION ANY REQUEST FOR REIMBURSEMENT; AND 6) REQUIRE CANDIDATES TO REPAY THE ELECTION CAMPAIGN FUND FROM ANY SURPLUS CAMPAIGN FUNDS IN AN AMOUNT NOT TO EXCEED THE PERCENTAGE THAT PUBLIC FINANCING REPRESENTS OF TOTAL CONTRIBUTIONS RECEIVED

WHEREAS, on December 14, 1999, the City Council adopted the Limited Public Financing Act of the City of Oakland (Oakland Municipal Code Chapter 3.13) in order to provide for the limited public financing of certain campaigns for public office within the City of Oakland; and

WHEREAS, the City Council has amended the O.M.C. Chapter 3.13 from time to time; and

WHEREAS, the City Council desires to amend O.M.C. Chapter 3.13 to:

- Limit public financing for District City Council races; and
- Require candidates to decide whether to participate in the public financing program within fourteen days after the City Clerk has certified their name to appear on the ballot; and
- Continue to require candidates to agree to accept voluntary expenditure ceilings as a condition of receiving public financing; and
- Limit candidates from making contributions or loans from their personal funds to no more than 10 percent of the voluntary expenditure limit; and

Require candidates to raise in local contributions and make in expenditures in aggregate amounts equal to five percent of the voluntary expenditure ceiling for the office being sought; and

- Provide that public financing shall be provided solely by reimbursing candidates for certain lawful campaign expenditures; and
- Require that requests for reimbursement include copies of the billing invoice, the check used to pay the invoice, and the campaign literature, print advertisement, radio or television script, or website configuration for which reimbursement is sought; and
- Permit candidates to appeal to the Commission for any request for reimbursement denied by Commission staff; and
- Require candidates to repay the Election Campaign Fund from any surplus campaign funds in an amount not to exceed the percentage that public financing represents of total contributions received, as hereinafter provided; now therefore,

BE IT ORDAINED, that Oakland Municipal Code Chapter 3.13 is amended to read as follows:

Article I. Findings and Purpose

3.13.010 Title

This Act shall be known as the "Limited Public Financing Act of the City of Oakland."

3.13.020 Findings and Declarations

The findings of this Act are as follows:

A. The financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.

B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by city government. This has caused the public perception that votes are being improperly influenced by monetary contributions.

C. High campaign costs are forcing officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

3.13.030 Purpose of this Act

The purpose of this act is to accomplish the objectives stated in Oakland's Campaign Reform Act as follows:

A. To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.

B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the City of Oakland, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.

C. To reduce the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.

D. To encourage competition for elective office.

E. To allow candidates and office holders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.

F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of important issues involved in political campaigns.

G. To help preserve public trust in governmental and electoral institutions.

Article II. Definitions

3.13.040 Interpretation of this Act

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the text, the definitions set forth in Chapter 3.12 of the Oakland Municipal Code and in Government Code sections 81000 et seq. as amended govern the interpretation of this Act.

For purposes of this Act, "principal residence" shall mean the place in which a person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning.

For purposes of this Act, "primary place of doing business" shall mean the street address of a corporation's or association's principal executive office as filed with the California Secretary of State or the street address of an unincorporated association's principal office as filed with the California Secretary of State.

Article III. Election Campaign Fund

3.13.050 Election Campaign Fund

There is hereby established an account within a special revenue fund of the City of Oakland to be known as the "Election Campaign Fund."

3.13.060 Appropriation of Funds

A. The Oakland City Council shall appropriate to the Election Campaign Fund, under the City's current two year budget cycle, an amount sufficient to fund all candidates eligible to receive public financing for the office of District City Councilmember.

B. The Oakland Public Ethics Commission shall provide in the form and at the time directed by the Mayor and City Administrator a written estimate of the amount necessary to be appropriated for any two-year budget cycle according to the provisions of this Act for all eligible candidates. The amount of funds to be allocated to the Election Campaign Fund shall be based on a consideration of anticipated campaign activity, anticipated administrative costs, and existing unspent funds within the account. The amount of funds to be allocated to the Election Campaign Fund shall not exceed \$500,000 for any two-year budget cycle.

C. The Election Campaign Fund shall be established as an interest bearing account. Unspent funds in the Election Campaign Fund at the end of a two year budget cycle shall remain in the Fund and accrue for disbursement to candidates eligible for public financing in future elections and for administrative costs.

D. Up to 7.5% of the amount allocated to the Election Campaign Fund pursuant to subsections 3.13.060 (a) and (b) may be utilized by the Public Ethics Commission to cover the anticipated cost of administering the provisions of this Act.

3.13.065 Allocation of Election Campaign Fund

No later than seven (7) days after the City Clerk has certified the names of all candidates to appear on the ballot, the Public Ethics Commission shall determine at a publicly noticed meeting whether, based on the number of potentially eligible candidates, the amount of money in the Election Campaign Fund is adequate to provide the maximum amount to potentially eligible candidates. If the Commission determines that the Election Campaign Fund will not be adequate to provide the maximum amount of funds to potentially eligible candidates, the Commission shall order the disbursement of available funds on a *pro rata* or other equitable basis. The Commission may at any time revise the disbursement plan consistent with these rules and prevailing law.

Article IV. Eligibility for Public Financing

3.13.070 Application and Withdrawal Procedures

A. Each candidate for District City Council shall file a statement with the City Clerk on a form approved for such purpose indicating acceptance or rejection of the voluntary spending ceilings pursuant to Oakland Municipal Code Section 3.12.190.

B. Each candidate for District City Council shall file with the Public Ethics Commission a Statement of Acceptance or Rejection of Public Financing on a form approved by the Public Ethics Commission no later than fourteen (14) calendar days after the date the City

Clerk has certified the names of candidates to appear on the ballot for the election in which public financing will be sought. The Statement of Acceptance or Rejection of Public Financing shall advise and require that the candidate's decision to reject public financing is irrevocable for the election in which his or her name appears on the ballot. The failure to timely file a Statement of Acceptance or Rejection of Public Financing shall constitute a rejection of public financing.

C. If a candidate declines to accept the voluntary expenditure ceilings prescribed in Oakland Municipal Code Section 3.12.200, the candidate shall be subject to the contribution limits of Sections 3.12.050(a) and 3.12.060 (a) and shall not be eligible for public financing.

D. If a candidate agrees to accept the voluntary expenditure ceilings prescribed in Oakland Municipal Code Section 3.12.200, the candidate shall be subject to the contribution limits of Oakland Municipal Code Sections 3.12.050 (b) and 3.12.060 (b) as adjusted pursuant to Sections 3.12.050(g) and 3.12.060(g), and shall be eligible for public financing upon meeting the qualification requirements as provided in this Act.

E. In the event expenditure ceilings are lifted pursuant to Oakland Municipal Code Section 3.12.200, a candidate who accepted expenditure ceilings shall be permitted to receive public financing but shall no longer be subject to expenditure ceilings.

3.13.080 Qualification Procedures

A candidate shall be approved to receive public financing if the candidate meets all of the following requirements:

A. The candidate has filed a timely statement of acceptance of the voluntary spending ceilings and acceptance of public financing.

B. The candidate is certified to appear on the ballot for the election for which public financing is sought.

C. The candidate has (1) received contributions in an aggregate amount of at least five (5) percent of the expenditure ceiling for the office being sought from contributors whose principal residence or whose primary place of doing business is located within the City of Oakland and which residence or business address appears on the written instrument used to make the contribution, and (2) made qualified campaign expenditures in an aggregate amount of at least five (5) percent of the expenditure ceiling for the office being sought. Contributions from the candidate's own funds shall not be counted towards meeting this five percent requirement. The candidate shall provide copies of the contribution checks received and records of payments made to meet the five percent eligibility requirements.

D. The candidate is opposed by another candidate for the same office.

E. The candidate agrees to all conditions and requirements of this Act and to submit to any reasonable audit deemed appropriate by the Public Ethics Commission or other civil authorities.

F. The candidate or his or her campaign treasurer or designee attends a training program conducted or sponsored by the Public Ethics Commission.

G. The candidate has filed, and completely and accurately executed, all pre-election campaign statements that are due at the time public financing is payable. All candidates receiving public financing shall timely file, and completely and accurately execute, all post-election campaign statements for each election in which they received public financing.

3.13.090 Use of Personal Funds

A candidate who accepts public financing shall not receive contributions or loans from the candidate's own funds which aggregate total exceeds ten (10) percent of the voluntary expenditure ceiling for the office being sought. If the voluntary expenditure ceilings for the office being sought are lifted, this provision shall not apply.

Article V. Disbursement of Public Financing.

3.13.100 Duties of the Public Ethics Commission and Office of the City Auditor

A. The Public Ethics Commission shall develop any and all forms necessary to carry out the provisions of the Act. The Public Ethics Commission may, in its discretion, require any document or form to be filed in an electronic format that is provided by the Public Ethics Commission to the candidates free of charge.

B. The Public Ethics Commission shall review records submitted to determine a candidate's eligibility to receive public financing and requests for reimbursement promptly. For any candidate determined not to be eligible for public financing, the Commission or its designee shall inform the candidate of the reasons why the candidate is not eligible and what actions, if any, the candidate may take to correct any insufficiencies.

C. The City Auditor shall conduct mandatory post-election audits of all candidates accepting public financing. The City Auditor may choose to limit the scope of any audit to the items submitted for reimbursement. The audit report shall be a public record and provided to the Public Ethics Commission. The City Auditor shall conduct all audits in accordance with Generally Accepted Government Auditing Standards.

3.13.110 Requests for Public Financing

A. Public financing pursuant to this Act shall be provided solely by reimbursing eligible candidates for certain qualified campaign expenditures lawfully made by the candidate and his or her campaign committee.

- B. The qualified campaign expenditures eligible for reimbursement are:
1. candidate filing and ballot fees;
 2. printed campaign literature and production costs;

3. postage;
4. print advertisements;
5. radio airtime and production costs;
6. television or cable airtime and production costs; and
7. website design and maintenance costs.

C. The following conditions and restrictions shall apply to any request for reimbursement:

1. All requests for reimbursement shall be made on a form authorized by the Public Ethics Commission and shall include: (a) a copy of the billing invoice for which reimbursement is sought; (b) a copy of the check(s) by which the candidate's campaign committee made payment on the billing invoice; and (c) a copy, when applicable, of the campaign literature, advertisement, radio or television script, or website configuration.

2. All requests for reimbursement shall include a sworn declaration by the candidate and his or her campaign treasurer that (a) the check(s) used to make payment on the billing invoice represents payment in full of the billing invoice submitted for reimbursement and that sufficient funds exist in the campaign account to provide payment and (b) any money received from the Election Campaign Fund has not been previously earmarked or specifically encumbered to pay or to secure payment of any loan, return of contribution or of any expenditure other than the one for which reimbursement was sought.

D. Any decision made by the Executive Director to deny a request for reimbursement may be appealed to the Commission whose decision shall be final. A request to appeal of the Executive Director's decision shall be made in writing and delivered to the Office of the Public Ethics Commission no more than ten (10) calendar days after receiving written notice of the Executive Director's decision.

E. The total amount of public financing allocated to each candidate shall not exceed thirty (30) percent of the voluntary expenditure ceiling per election for the office being sought.

3.13.120 Disbursement and Deposit of Public Financing

A. A candidate or candidate's controlled committee, certified as eligible to receive public financing, shall submit requests for reimbursement to the Public Ethics Commission in minimum increments of 1,000 or more.

B. A candidate or candidate's controlled committee, certified as eligible to receive public financing, shall submit requests for reimbursement in minimum increments of \$500 or more ten (10) calendar days before the election.

C. The Public Ethics Commission or its designee shall have ten (10) calendar days to cause the review and approval or denial of the request for reimbursement and disburse funds from the Election Campaign Fund to the candidate or candidate's controlled committee.

D. All funds disbursed from the Election Campaign Fund shall be made payable to the candidate's controlled committee and shall be deposited directly into the candidate's campaign checking account within three (3) business days of receipt.

3.13.150 Return of Surplus Funds

A. Surplus campaign funds remaining at the end of the post-election reporting period following the election for which public financing was received shall be returned to the Election Campaign Fund no later than thirty-one (31) calendar days from the last day of the semi-annual reporting period following the election in an amount specified by this section. A candidate shall not be required to return any surplus funds in an amount greater than the amount of public financing received. The amount of surplus campaign funds to be returned to the Election Campaign Fund shall be calculated by multiplying the amount of surplus campaign funds by the percentage that total public financing received represents of total monetary contributions received for the election period.

B. For purposes of this Act, campaign funds shall be considered "surplus" campaign funds to the extent that the total amount of contributions (excluding the receipt of public financing) exceed the total financial obligations of the candidate's campaign committee (excluding unlawful or non-qualified campaign expenditures) as of the last day of the semi-annual reporting period following the election. A financial obligation includes 1) accounts payable billed, or, 2) accounts payable for which bills may be expected, for goods or services received during the election.

C. Public financing shall not be disbursed to the certified candidate from the Election Campaign Fund following the day of the election or the candidate's withdrawal from the election, whichever occurs first, except that public financing may be disbursed to a certified candidate after the date of the election or withdrawal provided that the candidate submitted a properly documented request for reimbursement before the date of the election or the date of withdrawal from the election.

3.13.170 Public Debates

While not a condition for receiving public financing, candidates receiving public financing are strongly encouraged to participate in one or more nonpartisan candidate debates for each election.

3.13.180 Enforcement

The Public Ethics Commission is the sole body for civil enforcement of this Act. In the event criminal violations of the Act come to the attention of the Public Ethics Commission, the Commission shall promptly advise in writing the City Attorney and the appropriate prosecuting enforcement agency.

3.13.190 Criminal Misdemeanor Actions

Any person who knowingly or willfully 1) misrepresents his or her eligibility for public financing, 2) makes a material misrepresentation in connection with a request for reimbursement, or 3) causes, aids or abets any other person to violate the provisions of this Act, is guilty of a misdemeanor. Prosecution shall be commenced within four (4) years after the date on which the violation occurred.

3.13.200 Enforcement Actions

A. Any person who intentionally or negligently 1) misrepresents his or her eligibility for public financing, 2) makes a material misrepresentation in connection with a request for reimbursement, or 3) causes, aids or abets any other person to violate the provisions of this Act, is subject to enforcement proceedings before the Public Ethics Commission pursuant to the Public Ethics Commission General Rules of Procedure.

B. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

C. Any person alleging a violation of this Act shall first file with the Public Ethics Commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The Public Ethics Commission shall review, investigate and make determinations regarding any alleged violation consistent with the Public Ethics Commission's General Complaint Procedures.

D. The Commission has full authority to settle any action involving public financing in the interest of justice.

E. If the Commission determines a violation has occurred, the Commission is hereby authorized to administer appropriate penalties and fines not to exceed \$1,000 per violation and to order the repayment of public financing received or expended in violation of law.

F. The Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

G. No complaint alleging a violation of any provision of this Act shall be filed more than four (4) years after the date the violation occurred.

3.13.220 Construction

The Act shall be liberally construed to accomplish its purposes.

3.13.240 Applicability of Other Laws

Nothing in this Act shall exempt any person from applicable provisions of any other laws of the city, state or other appropriate jurisdiction.

3.13.260 Severability

If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and
PRESIDENT BRUNNER

NOES –

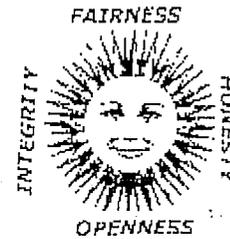
ABSENT –

ABSTENTION –

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
LPF FORM NO. 1



"STATEMENT OF ACCEPTANCE OR REJECTION
OF PUBLIC FINANCING"

I, _____ (print name), declare that I am a candidate for the Office of City Council District _____ (state district number) in the November 6, 2012, municipal election.

I hereby agree to _____ (state preference) public financing
Accept/Reject

pursuant to the laws and rules of the Limited Public Financing Act (O.M.C. Chapter 3.13) during the November 6, 2012, election:

I understand that if I choose to **reject** public financing for the November 6, 2012, election that my decision is irrevocable and I will not be eligible to apply for or receive public financing at a later time for the November 6, 2012, election.

I further understand that if I fail to file this "Statement Of Acceptance Or Rejection Of Public Financing" by the deadline specified in O.M.C. §3.13.070(B) that my failure to do so will constitute an irrevocable rejection of public financing for the November 6, 2012, election.

I hereby certify that the above statement is true and correct.

Executed on this _____ day of _____, 2012.

Signature: _____ (candidate must sign here)

*This form must be filed with the Office of the Public Ethics Commission at:
1 Frank H. Ogawa Plaza (City Hall), 11th Floor, Oakland, CA 94612
Fax: (510) 238-3315*

This form is due no later than 14 days after the City Clerk has certified the names of all candidates to appear on the ballot.

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION LPF FORM NO. 2
"INITIAL APPLICATION FOR PUBLIC FINANCING"**



Candidate Name:	
District Office Being Sought:	Date of Election:
Mailing Address:	
Phone: <small>(Number at which candidate can be reached during business hours)</small>	Fax:
Name of Controlled Committee	Email:
	Campaign ID No.:
	EIN No.
Name and Address of Financial Institution	Campaign Bank Acct No.

Each candidate must complete and file this form to receive public financing. In order to be eligible for public financing, candidates must have: 1) executed and filed OCRA Form No. 301 (available from the Office of the City Clerk) and agree to accept the voluntary expenditure ceilings prescribed in Oakland Municipal Code section 3.12.200; and 2) executed and timely filed a "Statement Of Acceptance Or Rejection Of Public Financing" and agree to accept public financing for the November 6, 2012, election.

I hereby apply for public financing and certify that the following information is true and correct:

1. I have executed and timely filed OCRA Form No. 301 accepting voluntary expenditure ceilings.
2. I have executed and timely filed a "Statement Of Acceptance Or Rejection Of Public Financing" (LPF Form No. 1) and have agreed to accept public financing for the November 6, 2012, election.
3. I am certified to appear on the ballot for the election for which public matching funds are sought.
4. I have received campaign contributions from donors located within the City of Oakland totaling at least 5% of the voluntary expenditure ceiling for the office

being sought, exclusive of any loans or contributions from my personal funds.
Copies of the checks received to meet this 5% threshold are attached.

5. I have made qualified campaign expenditures in an aggregate amount of at least 5% of the voluntary expenditure ceiling for the office being sought.
Copies of the invoices and/or checks evidencing proof of meeting this 5% expenditure threshold are attached.
6. I have not made any contribution or loan to my campaign from any personal funds in an amount exceeding 10% of the voluntary expenditure ceiling for the office being sought.
7. I or my campaign treasurer or designee have attended a training program conducted or sponsored by the Public Ethics Commission.

I understand and agree that in order to be able to receive public financing I must be opposed by a candidate for the same office.

I understand and agree that as a condition of receiving public financing I must timely file, and completely and accurately execute, all pre-election campaign statements that are due at the time public financing is payable as well as timely file, and completely and accurately execute, all post-election campaign statements for the election in which I receive public financing.

I understand and agree that I must return to the Election Campaign Fund no later than 31 days after the last day of the semi-annual reporting period following the election any surplus campaign funds in an amount specified by the Limited Public Financing Act.

I understand and agree to all conditions of and requirements for the use of public financing set forth in this Application, the Act and any regulations adopted thereunder. I understand and agree to submit to reasonable audits deemed necessary by the Oakland Public Ethics Commission or other civil authorities as specified by the Limited Public Financing Act.

By my signature below, I certify that:

1. I have read and understand the requirements and conditions set forth in this Application, in the Oakland Limited Public Financing Act, the applicable Administrative Regulations promulgated thereto, and understand that those requirements and conditions must be satisfied before, during and after I receive public financing.
2. I have not made and I agree to not make any expenditures in excess of the voluntary expenditure limits of Oakland Municipal Code Section 3.12.200. (This requirement shall not apply if the voluntary expenditure ceilings have been lifted pursuant to Oakland Municipal Code Section 3.12.220.)

3. The copies attached hereto are true and accurate copies of the original. I understand that they will be used by representatives of the Public Ethics Commission to determine my eligibility to apply for and receive public financing.

CANDIDATE'S DECLARATION

I declare under penalty of perjury under the laws of the State of California that my campaign committee and I have complied with all applicable contribution and expenditure limitations under the Oakland Campaign Reform Act at all times in which those limitations apply to my candidacy for the office in contest and I further declare that the representations set forth above are true and correct.

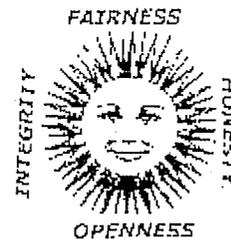
Date: _____

Candidate's Signature

Print or Type Candidate's Name

***This form must be filed with the Office of the Public Ethics Commission at:
1 Frank H. Ogawa Plaza (City Hall), 11th Floor, Oakland, CA 94612
Fax: (510) 238-3315***

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION LPF FORM NO. 3
"REIMBURSEMENT CLAIM FORM"**



PLEASE TYPE OR PRINT IN INK.

I. CANDIDATE INFORMATION		
Name:	District Office Sought	Date of Election

II. ATTACHMENTS

Each candidate must submit with this claim form the following:

- Copies of billing invoices for which reimbursement is sought
- Copies of the check(s) used to pay the invoices for which reimbursement is sought
- Copies of any applicable campaign literature, advertisement, radio or television script, or website configuration

Note: Any claim form that is not accompanied by the above documents will not be considered for payment.

The attached copies document a claim for reimbursement for the following permitted categories of expenditures (check all that apply):

- Candidate filing or ballot fees
- Printed campaign literature and production costs
- Postage
- Print advertisements
- Radio airtime and production costs
- Television or cable airtime and production costs
- Website design and maintenance costs

This form continues on Page 2

III. CANDIDATE AND TREASURER VERIFICATION

I declare under penalty of perjury under the laws of the State of California that to the best of my knowledge: (1) the information contained in this form and in all attachments submitted herewith are true and correct; (2) the check(s) used to make payment on the billing invoice(s) submitted for reimbursement represent payment in full of said invoice(s) and that sufficient funds exist in the candidate's campaign account to provide payment on those invoices; and (3) any public financing received from the Election Campaign Fund has not been previously earmarked or specifically encumbered to pay or to secure payment of any loan, return of contribution, or of any expenditure other than the one for which reimbursement was sought.

Executed on _____ at _____

Candidate Signature

Executed on _____ at _____

Treasurer Signature

IV. Authorization

Names of Persons Authorized to Pick up Reimbursement Checks: _____

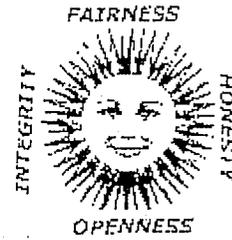
FOR PEC USE ONLY

Reimbursement Totals	Claim No. _____
This Period _____	Check request date: _____
Prior Period _____	Check Amount: \$ _____
Total Reimbursement _____	Authorized by: _____

*This form must be filed with the Office of the Public Ethics Commission at:
1 Frank H. Ogawa Plaza (City Hall), 11th Floor, Oakland, CA 94612
Fax: (510) 238-3315*

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION LPF FORM NO. 4

"VERIFICATION OF OAKLAND ADDRESS
FOR PUBLIC FINANCING"



This form is for use by candidates seeking to establish that they have received a contribution from an Oakland-based donor when the contributor's check does not have an imprinted Oakland address. The following statement, signed by the contributor, will be considered verification of an Oakland address for the purpose of determining whether the five-percent contribution threshold has been met.

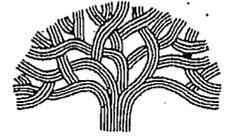
I, _____ (name of contributor), declare that as of the date of my contribution to: _____ (name of candidate or candidate committee), that I was a resident of the City of Oakland and resided at the following address: _____.

I declare that the above information is true and correct.

Signature of contributor

Date

CITY OF OAKLAND



CITY HALL • ONE FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Clerk
City Clerk and Clerk of the Council

(510) 238-3611
FAX (510) 238-6699
TDD: (510) 839-6451

February 17, 2012

TO: All Interested Persons

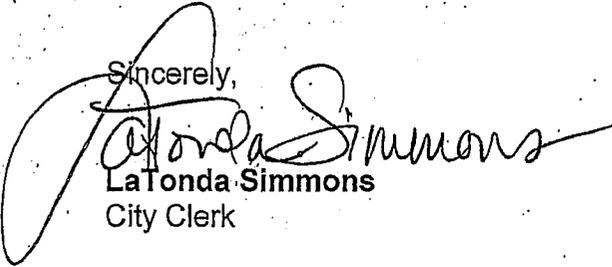
SUBJECT: Adjusted Voluntary Expenditure Ceiling & Contribution Limitation Amounts

Pursuant to the City of Oakland's Campaign Reform Act, the Office of Budget has performed its annual adjustment of expenditure ceilings and contribution limitations for elected officials and candidates. Adjustments are based on the cost of living increase according to the Consumer Price Index for the San Francisco Bay Area.

Please find the attached tables which reflect these adjusted amounts.

If you have any questions or need more information, please contact Tamika Thomas at (510) 238-7369.

Sincerely,


LaTonda Simmons
City Clerk

Attachment

cc: Mark Morodomi, Deputy City Attorney

JANUARY 2012
 EXPENDITURE CEILINGS FOR CITY OF OAKLAND
 ELECTED OFFICIALS AND CANDIDATES PER ELECTION

Voluntary expenditure ceiling amounts are adjusted once annually on a calendar basis by the City Clerk to reflect any increase in the cost of living in the immediate San Francisco Bay Area as shown on the Consumer Price Index.

City Wide Offices (399,484 residents):

Mayor	\$384,000.00	\$0.70 per resident / plus annual adjustment
City Auditor	\$275,000.00	\$0.50 per resident / plus annual adjustment
City Attorney	\$275,000.00	\$0.50 per resident / plus annual adjustment
Council Member At-Large	\$275,000.00	\$0.50 per resident / plus annual adjustment

Councilmembers

District 1 (53,749 residents)	\$111,000.00	\$1.50 per resident / plus annual adjustment
District 2 (53,228 residents)	\$110,000.00	\$1.50 per resident / plus annual adjustment
District 3 (57,680 residents)	\$119,000.00	\$1.50 per resident / plus annual adjustment
District 4 (57,076 residents)	\$118,000.00	\$1.50 per resident / plus annual adjustment
District 5 (60,353 residents)	\$124,000.00	\$1.50 per resident / plus annual adjustment
District 6 (55,854 residents)	\$115,000.00	\$1.50 per resident / plus annual adjustment
District 7 (61,537 residents)	\$127,000.00	\$1.50 per resident / plus annual adjustment

School Board Members

District 1 (53,749 residents)	\$74,000.00	\$1.00 per resident / plus annual adjustment
District 2 (53,228 residents)	\$73,000.00	\$1.00 per resident / plus annual adjustment
District 3 (57,680 residents)	\$79,000.00	\$1.00 per resident / plus annual adjustment
District 4 (57,076 residents)	\$78,000.00	\$1.00 per resident / plus annual adjustment
District 5 (60,353 residents)	\$83,000.00	\$1.00 per resident / plus annual adjustment
District 6 (55,854 residents)	\$77,000.00	\$1.00 per resident / plus annual adjustment
District 7 (61,537 residents)	\$85,000.00	\$1.00 per resident / plus annual adjustment

JANUARY 2012
EXPENDITURE CEILINGS FOR CITY OF OAKLAND
ELECTED OFFICIALS AND CANDIDATES PER ELECTION

Voluntary expenditure ceiling amounts are adjusted once annually on a calendar basis by the City Clerk to reflect any increase in the cost of living in the immediate San Francisco Bay Area as shown on the Consumer Price Index.

Contributions from persons (per election):

To Candidates and Controlled Committees who **have not** adopted the voluntary expenditure ceiling
(OCRA Article 3 §3.12.050 (A)):

\$100.00

To Candidates and Controlled Committees who **have** adopted the voluntary expenditure ceiling
(OCRA Article 3 §3.12.050 (A)):

\$700.00

Contributions from Broad-Based Political Committees (per election):

To Candidates and Controlled Committees who **have not** adopted the voluntary expenditure ceiling
(OCRA Article 3 §3.12.060 (B)):

\$300.00

To Candidates and Controlled Committees who **have** adopted the voluntary expenditure ceiling
(OCRA Article 3 §3.12.060 (B)):

\$1,300.00

**INDEPENDENT EXPENDITURE COMMITTEE THRESHOLD FOR CITY OF OAKLAND
ELECTED OFFICIALS & CANDIDATES
1998 INDEX YEAR**

Position	Expenditure Threshold (based on 1998 index)	Population	CPI Adjustment Factor	CPI Adjusted Expenditures	Total Change After CPI Adjustment	New Limit After Rounding*
Citywide offices	\$ 70,000		39.64%	\$ 97,750	\$ 27,750	\$ 98,000
District offices	\$ 15,000		39.64%	\$ 20,946	\$ 5,946	\$ 21,000

1998 CPI 165.50
2011 CPI** 231.1

% Increase 39.64%

* Per Municipal Code the CPI Adjusted Expenditure amount must be rounded to the nearest one thousand (1,000).
**2009 annual increase (U.S. Bureau of Labor Statistics - San Francisco Bay Area All Items) - Jan-Dec



Elections

The Elections and Compliance Unit of the Office of the City Clerk is responsible for conducting and supervising municipal elections. We can provide you with helpful information regarding voting and elections including registering to vote, polling places and more.

We also provide nomination packets and general information regarding campaign filings. Candidates are strongly recommended to familiarize themselves with all applicable provisions of Oakland's City Charter, Oakland's Campaign Reform Act (OCRA), the Municipal Elections Code and the Political Reform Act of 1974. The mechanics of campaigning and campaign strategy are matters for the candidates and their staff. It wouldn't be appropriate for the City Clerk's office to become involved with these facets of election activities. We will try our best, however, to answer questions within our purview.

Important Election Information

The next regular election will take place November 6, 2012.

[2012 Expenditure Ceilings for City of Oakland Elected Officials and Candidates](#)

[OCRA FORM 301](#)

[Frequently asked Questions](#)

[Qualifying a Ballot Initiative](#)

[Campaign Disclosure Filing Schedule](#)

[General Candidate Information](#)

[Campaign Statement Log](#)

-
- [2012 High School Student Pollworker Program](#)
 - [Bilingual Election Workers Needed in Alameda County](#)
 - [Alameda County Registrar of Voters](#)
 - [California Secretary of State](#)
 - [SmartVoter.org](#)
 - [Registration By District](#)
 - [Campaign Reform Act](#)
 - [Limited Public Financing Act](#)
 - [Ranked Choice Voting](#)
 - [Public Ethics Commission](#)
 - [The League of Women Voters](#)
-

Sample Nomination Documents

The Nomination Period opens 113 days before an election and closes 88 days before the election. During the nomination period, those persons interested in running for elected office may pick up a Candidate Nomination Packet. A representative of the candidate may obtain a Candidate Nomination Packet with written authorization from the candidate. The Candidate must appear personally to file nomination papers however.

Those running for district offices must be a registered voter and resident of the district for which they seek nomination for **at least thirty (30) days** prior to the date nomination petitions are issued. For City-wide office, a candidate must be a registered voter of the city and a resident for **at least thirty (30) days** prior to the date the nomination papers are issued. Elector and resident status must be maintained during the term of office.

Below are sample nomination documents. These documents are for informational purposes only. Actual nomination documents can be obtained from the Office of the City Clerk during the nominations period.

- [Affidavit of Nominee](#)
 - [Declaration of Candidacy](#)
 - [Nomination Petition](#)
 - [Verified Statement of Candidate](#)
-

Statement of Economic Interests Form 700

Public officials and designated employees must file Statements of Economic Interest. Public officials are specified in Government Code Section 87200. They include Mayors, Councilmembers, City Attorneys, City Managers, Planning Commissioners, and persons who manage public investments. Additionally, candidates for elected positions are required to file a Candidate statement. Designated employees and certain consultants who hold positions that involve making or participating in the making of decisions, which may foreseeably have a material effect on the holder's financial interests also must file. Such positions are listed in the City's conflict of interest code; people in these positions must file Statements of Economic Interests – Form 700 pursuant to the disclosure categories specified in that code.

- [2010-2011 Statement of Economic Interest - Form 700](#)
- [FPPC 2010-2011 Reference Pamphlet](#)
- [FPPC \(Fair Political Practices Commission\)](#)
- [Form 700 - Frequently Asked Questions](#)

Campaign Disclosure

State law requires that local candidates for elective office, elected officeholders, and committees supporting or opposing local candidates or ballot measures file campaign disclosure statements. Statements are filed on a regular cycle, with additional statements required during election years. These statements provide the public with details on who contributes money to a committee, and how that money is spent. Disclosure requirements are very complicated. Those involved with campaign committees should become fully aware of the legal requirements surrounding campaign reporting. Candidates and Committees within the jurisdiction of the City of Oakland are required to file their disclosure statements with the Office of the City Clerk.

Typical forms include: [Statement of Intention-Form 501](#)
[Statement of Organization-Form 410](#)
[Campaign Disclosure Statement-Form 460](#)
[Supplemental Independent Expenditure Report-Form 465](#)

For a comprehensive listing of disclosure forms and/or detailed instructional manuals, visit the Fair Political Practices Commission (FPPC) web site at www.fppc.ca.gov.

- [Campaign Filings](#)
- [FPPC Manual - When and Where to File](#)



[Home](#) | [Residents](#) | [Business](#) | [Visitors](#) | [Government](#) | [Contact Us](#) | [Feedback](#)

Political Advertising Disclaimers

Under California's Political Reform Act, committees must put "paid for by" disclaimers on campaign advertising, including campaign mailers, radio and television ads, telephone robocalls, and electronic media ads. This brochure discusses "disclaimer" requirements for committees that purchase advertisements or circulate material supporting or opposing a state or local candidate or ballot measure in California.

What is a disclaimer?

A "disclaimer" is the portion of a political message that identifies the person or entity who paid for or authorized the communication. "Paid for by *committee name*" is the basic disclaimer required by the Act on most campaign communications sent by a *committee*.

Who is a committee?

A candidate's campaign committee, a political action committee, a political party committee, a major donor, and a person or entity making independent expenditures on candidates or ballot measures in California are all types of committees. A person or entity qualifies as a *committee* under the Act if they receive contributions from others for political purposes of \$1,000 or more per year; if they make independent expenditures on California candidates or ballot measures of \$1,000 or more per year; or if they make contributions to California candidates or ballot measures of \$10,000 or more per year.

When is a disclaimer required on political ads or materials?

Political committees must include the following disclaimers:

- **Mass mailings** must include identification of the sender;
- **Paid telephone calls** must identify the candidate or committee who paid for or authorized the call;
- **Radio and television ads** must include "paid for by" disclaimer under Federal Communications Commission (FCC) law;

Ballot measure ads and independent expenditure ads require the following disclaimers:

- **Broadcast ads, including television, radio, and electronic media advertisements** must include "paid for by *committee name*" and list top two donors of \$50,000 or more;
- **Newspaper ads, billboards, yard signs, and other print advertisements** for ballot measures must include "paid for by *committee name*" and list top two donors of \$50,000 or more.

Are the Act's disclaimer rules the same for all committees and all ads?

No. Basic disclaimer rules apply to campaign materials disseminated by a candidate for their own election campaign because it is generally clear to the public that the candidate is sending the communication. Stricter disclaimer rules apply to (1) ballot measure advertisements and (2) independent expenditure advertisements on candidates and ballot measures, because it is less clear to the public who is responsible for these ads.

What does the disclaimer have to state?

The basic disclaimer must state: "Paid for by *committee name*." Ballot measure and independent expenditure ads must also list top two donors of \$50,000 or more and special committee name rules apply. All *independent expenditure* ads for or against a candidate must state that the ad was: "Not authorized by a candidate or a committee controlled by a candidate."

What is an independent expenditure?

An "independent expenditure" is an expenditure made by any person in connection with a communication that expressly advocates the election or defeat of a clearly identified candidate or measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made at the behest of (e.g., in consultation, cooperation or coordination with) the affected candidate or committee. For further clarification see FPPC Regulation 18225.

Political Advertising Disclaimer Charts

Click on these links to charts showing the disclaimer requirements for your communication

Candidates

1. [Communications by Candidate Committees for their own Election](#)

2. [Independent Expenditure Ads on Candidates](#)

(by general purpose recipient committees, major donors, and independent expenditure committees)

Ballot Measures

3. [Ballot Measure Ads](#) (by committees primarily formed for a state or local ballot measure)

4. [Independent Expenditures Ads on Ballot Measures](#)

(by general purpose recipient committees, major donors, and independent expenditure committees)

On mass mailings, what does the disclaimer state?

A mass mailing -- over 200 substantially similar pieces of mail -- must include on the outside of the envelope: "Paid for by" and the name and address of the candidate or committee sending the mailing. The name and address must be in no less than 6-point type and in a color or print which contrasts with the background so that it is easily read.

If a mass mailing is paid for by more than one candidate or committee, the name and address of the candidate or committee who is paying the greatest share of the mass mailing (including costs for designing, postage, and printing) must be placed on the outside of each piece of mail as described above. If two or more candidates or committees pay equally for the mailer, the name and address of at least one of the candidates or committees must be shown on the outside as described above, and the names and addresses of all candidates or committees paying for the mailer must appear on at least one insert.

Candidate:

Paid for by Jones for Mayor 2012 123 Elm Street Elmton, CA 95523	Fred Smith 7200 Oak St Oakville, CA
--	---

Measure:

Paid for by Citizens in Support of Measure B 123 Elm Street Elmton, CA 95523	Fred Smith 7200 Oak St Oakville, CA 92253
--	---

Independent Expenditure:

Paid for by ABC Company 123 Elm Street Elmton, CA 95523	Fred Smith 7200 Oak St Oakville, CA 92253
---	---

How must the disclaimer appear?

Disclaimers on political ads and literature must be clear and conspicuous so as to be understood by the intended public. Written disclaimers must be printed clearly and legibly. Spoken disclaimers must be clearly audible and intelligible. Specific requirements for color contrast, print font size and time appearing on screen are listed in the disclaimer charts above.

Updating a disclaimer

When a committee's name changes because of new top donors or otherwise, advertisement disclaimers must be revised. Television, radio or electronic media must be amended within five calendar days. Print media or other tangible items must be amended every time an order to reproduce is placed.

Advertisements in Languages Other than English

Disclaimers on political advertisements should be written or spoken in the same language used in the advertisement.

Does a disclaimer have to appear on ALL printed materials or campaign items?

No. A disclaimer is not required on regular-size campaign buttons, pins, bumper stickers, or magnets. It is not required on pens, pencils, rulers, mugs, potholders, key tags, golf balls and similar small campaign promotional items where a disclaimer cannot be conveniently printed. The disclaimer is not required on t-shirts, caps, hats, and other articles of clothing; skywriting; or committee checks and receipts.

Does a disclaimer have to appear on communications from an organization to its members?

For political party communications, yes. For communications from other organizations to their members, a disclaimer is not required.

Can the FPPC answer my questions about disclaimers on my campaign communications?

Yes. The FPPC can assist you with questions about disclaimers on campaign communications. Call the Technical Assistance Division toll-free at 1-866-ASK-FPPC. In some cases a copy of the ad will be required.

Is there a penalty for circulating or publishing literature or other material concerning a candidate or ballot measure without a disclaimer?

Yes. The penalty for failing to comply with the Act's disclaimer requirements is a fine of up to \$5,000 per violation. In addition, any person who violates the disclaimer requirements concerning ballot measure and independent expenditure advertisements may be liable for a fine of up to three times the cost of the advertisement, including placement costs.

What is the proper procedure to report violations for circulating or publishing materials without a disclaimer?

You may file a written complaint with the Fair Political Practices Commission's Enforcement division.

Can the FPPC check the truth or accuracy of the political communication?

No. The Act does not regulate the truth or accuracy of the content of political communications, given the broad First Amendment protection for political speech.

Must political messages in literature or other material concerning candidates for federal offices include a disclaimer?

Federal election law governs disclaimers on election materials for federal candidates. Contact the Federal Election Commission at www.fec.gov or (800) 424-9530 for information.

“Do not call” lists

Questions or comments regarding “do not call” lists should be addressed to the National Do Not Call Registry, administered by the Federal Trade Commission (FTC) at www.donotcall.gov. The federal Do Not Call Registry is a list of phone numbers of consumers who want to limit the telemarketing calls they receive. The “do not call” provisions do not cover calls from political organizations, charities, telephone surveyors or companies with which a consumer has an existing business relationship.

Posting political signs on utility poles and other public property

Check local ordinances for rules on posters and yard signs. Local law may restrict or prohibit the placement of campaign signs on government-owned property.

This brochure presents a summary of the law. For further legal information, consult the Act and its corresponding regulations and opinions.



Political Advertising Disclaimers

1. Communications by Candidate Committees for their own Election

The disclaimer must include, unless otherwise noted: "Paid for by committee name."
 Examples: "Paid for by Jones for Assembly 2012"
 "Paid for by Friends of Smith for Mayor 2012"

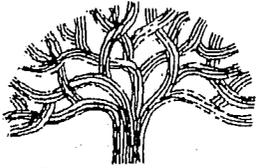
Communication	Manner of Display
<p>All mass mailings (more than 200)</p>	<ul style="list-style-type: none"> • Candidate's committee name/address (on file with Form 410) on outside of mailing - see example in fact sheet • If sent by more than one candidate/committee: <ul style="list-style-type: none"> ◦ Also on at least one insert in the mailing • No less than 6 pt type/contrasting print color • Return envelopes (included in solicitation) – committee's name, address and ID number are recommended but not required
<p>Telephone calls advocating candidate's own election (500 or more) - made by:</p> <ul style="list-style-type: none"> • Vendors (e.g. "robo" calls) or • Paid individuals other than the candidate, campaign manager or volunteers 	<ul style="list-style-type: none"> • Any time during the message • Must identify the candidate that paid for the call unless an organization authorizing the call is identified and files campaign reports • Must state that the call is "paid for by" or "authorized by" the identified candidate or organization • <i>Examples: This call was paid for by Senator Jones; This call was authorized by (name of committee)</i> • No ID required on telephone calls personally dialed by candidate, campaign manager or volunteers
<p>The Political Reform Act does not require a specific disclaimer on the following communications, although the FPPC recommends placing "paid for by committee name" and committee ID number on all public campaign materials.</p>	
<p>Newspaper, radio and television ads</p>	<ul style="list-style-type: none"> • Radio or television advertisements require "paid for by" or sponsor identification under Federal Communications Commission rules • Check the Elections Code for newspaper ad requirements
<p>Electronic media (Websites, blogs, Twitter feeds, faxes, emails, social media pages - i.e. Facebook)</p>	<ul style="list-style-type: none"> • "Paid for by committee name" and committee ID number are recommended but not legally required

Candidate Committee Communications

Communication	Manner of Display
Billboards, yard signs, business cards, door hangers, flyers, and posters	<ul style="list-style-type: none"> • "Paid for by <i>committee name</i>" and committee ID number are recommended but not legally required.

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control. Communications made by a candidate to support or oppose a ballot measure or other candidates are not addressed in this chart.

References: Government Code Sections: 84305, 84310.
Title 2 Regulations: 18435, 18440.



CITY OF OAKLAND
POSTING OF SIGNS
REGULATIONS

All persons who register as candidates for public office in the City of Oakland are hereby notified that the Oakland Municipal Code places certain restrictions upon the use of advertising literature. Pertinent portions of the Code are set forth below:

SEC. 5.06.020 REGULATIONS GOVERNING THE POSTING OF SIGNS

- A. Except as otherwise provided in this code, it is unlawful for any person, candidate or political committee, except a public officer or employee in the performance of his or her duty, to post, stick, stamp, paint, mark, staple, or otherwise affix any sign, banner, billboard, pennant, flyer, poster, notice, handbill, or advertisement of any kind:
1. Upon any private property, without permission in writing from the owner, agent, trustee or occupant of such premises; or
 2. Upon any public property, which includes, but is not limited to:
 - a. Any sidewalk, crosswalk, curb, curbstone, street lamp post, hydrant, public tree, public shrub, public tree stake or guard, railroad trestle, electric light or power or telephone or telegraph or trolley wire pole, or wire appurtenance thereof or upon any fixture of the fire alarm or police telegraph system or upon any public lighting system, upon bridge, public drinking fountain, public ornamental fountain, public life buoy, public life preserver, public life boat or other life saving equipment, street sign, traffic sign, public building, improvement or facility, or
 - b. On any public trash or garbage receptacle, or parking meter; or
 3. To suspend any banner, sign, or advertising notice from, or attach the same to, any wire or other device crossing or overhanging any public street, sidewalk, park, thoroughfare or right-of-way, without the written permission of the city.
- B. Nothing contained in this section shall apply to the installation of terrazzo sidewalks or sidewalks of similar construction, sidewalks permanently colored by an admixture in the material of which the same are constructed, and for which the city has granted a written permit.
- C. Nothing in this section shall apply to the painting of house numbers under curbs done under permits issued by the city.
- D. Any sign, banner, billboard, pennant, flyer, poster or handbill found, placed, painted, marked, written upon, posted, stapled, taped, glued or otherwise affixed upon any public

property contrary to the provisions of this section may be removed immediately by the city.

- E. As defined in this section, "sign" shall include, but not be limited to, any sign designed to influence voters to support or oppose any candidate or ballot measure.
- F. As defined in this section, "candidate" shall include any person who seeks nomination or election to an office at any election.
- G. As defined in this section, "political committee" shall include any committee, organization, association, or corporation organized for the purpose of charged with the duty of conducting the election campaign in support of or in opposition to any candidate or ballot measure at any election.
- H. As defined in this section, the term "public" shall include any facility, structure, building, property activity or object which is owned, leased, or otherwise operated, controlled or managed by the City of Oakland, Redevelopment Agency of the city, any department, office, agency or sub-agency of the city.

SEC. 5.06.040 ADVERTISING MATTER IN MOTOR VEHICLES

It is declared to be unlawful for any person to place, stick or affix, or cause or permit any other person in his or her behalf to place, stick or affix, any broadside, booklet, card, circular, dodger, handbill, poster, or any other advertising medium of a like or similar nature, in or upon any automobile or other motor vehicle not in such person's rightful possession, while said automobile or other vehicle is in or upon any public street, highway or other public place.

Oakland, California, Code of Ordinances >> Title 3 - MUNICIPAL ELECTIONS >> Chapter 3.14 - OAKLAND FALSE ENDORSEMENT IN CAMPAIGN LITERATURE >>

Chapter 3.14 - OAKLAND FALSE ENDORSEMENT IN CAMPAIGN LITERATURE

Sections:

Article I. - In General

Article II. - Definitions

Article III. - Prohibition on False Endorsements

Article IV. - Enforcement

Article V. - Miscellaneous

Oakland, California, Code of Ordinances >> Title 3 - MUNICIPAL ELECTIONS >> Chapter 3.14 - OAKLAND FALSE ENDORSEMENT IN CAMPAIGN LITERATURE >> Article I. - In General >>

Article I. - In General

3.14.010 - Findings and Purpose.

3.14.020 - Citation.

3.14.010 - Findings and Purpose.

The Oakland City Council finds and declares:

- (A) Campaign literature that falsely represented the position of persons was distributed in a recent municipal election.
- (B) Such false representations confuse voters and do not materially advance the public's interest in an uninhibited, robust and wide-open debate on public issues or election of candidates for public office.
- (C) False representations made and distributed during a period near the election unduly burden persons whose positions are misrepresented by precluding them from effectively addressing the falsehood through the production of more speech in order to bring forth a more truthful campaign.
- (D) Prohibiting falsehoods that are knowingly or recklessly made in campaign literature during the period set forth in this chapter will serve the city of Oakland's compelling interest in ensuring the integrity of the electoral process.

(Ord. 12536 § 1, 2003)

3.14.020 - Citation.

This chapter may be cited as the Oakland False Endorsement In Campaign Literature.

(Ord. 12536 § 1, 2003)

Oakland, California, Code of Ordinances >> Title 3 - MUNICIPAL ELECTIONS >> Chapter 3.14 - OAKLAND FALSE ENDORSEMENT IN CAMPAIGN LITERATURE >> Article II. - Definitions >>

Article II. - Definitions

3.14.030 - Definitions.

3.14.030 - Definitions.

For the purposes of this chapter, the following definitions shall be applicable:

- A. "Campaign literature" includes but is not limited to any advertisements on radio or television or in a newspaper or periodical, sample ballots, press releases, flyers, door hangers, pamphlets, brochures, cards, or billboards distributed with the intent of influencing the outcome of an election.
- B. "Candidate" means any individual who seeks election to any city elective office.
- C. "False endorsement" means the use of any statement, signature, name, photograph or image which represents as a fact that a person supports or opposes a candidate or measure when the person does not.
- D. "Measure" means any city referendum, recall, initiative or ballot proposition, which is submitted or intended to be submitted to the voters of the city of Oakland.
- E. "Person" means any individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

(Ord. 12536 § 1, 2003)

Oakland, California, Code of Ordinances >> Title 3 - MUNICIPAL ELECTIONS >> Chapter 3.14 - OAKLAND FALSE ENDORSEMENT IN CAMPAIGN LITERATURE >> Article III. - Prohibition on False Endorsements >>

Article III. - Prohibition on False Endorsements

3.14.040 - False Endorsement in Campaign Literature Prohibited.

3.14.050 - Exemptions.

3.14.040 - False Endorsement in Campaign Literature Prohibited.

No person, within forty-five (45) days before any primary or general election held in the city of Oakland, shall knowingly pay for, direct, supervise or authorize the distribution of any campaign literature that contains a false endorsement if such person acts either with knowledge of the falsity of the endorsement or with reckless disregard for the truth or falsity of the endorsement.

(Ord. 12536 § 1, 2003)

3.14.050 - Exemptions.

- A. This chapter shall not apply to any person whose only action in connection with the false endorsement is to make a lawful contribution to any candidate or committee.

(Ord. 12536 § 1, 2003)

Oakland, California, Code of Ordinances >> Title 3 - MUNICIPAL ELECTIONS >> Chapter 3.14 - OAKLAND FALSE ENDORSEMENT IN CAMPAIGN LITERATURE >> Article IV. - Enforcement >>

Article IV. - Enforcement

3.14.060 - Enforcement and Penalties.

3.14.060 - Enforcement and Penalties.

- A. Criminal Violation. Any person who violates the provisions of this chapter is guilty of a misdemeanor.
- B. Complaints Filed With The Public Ethics Commission. The Oakland Public Ethics Commission, pursuant to its General Complaint Procedures, may receive complaints alleging a violation of this chapter for the purpose of determining whether to request the District Attorney to prosecute an alleged misdemeanor violation. No complaint alleging a violation of this Act may be filed with the Public Ethics Commission until after the election in which the alleged false endorsement was distributed. Nothing in this section is intended to create a mandatory duty for the Public Ethics Commission to request prosecution of an alleged misdemeanor violation.

(Ord. 12536 § 1, 2003)

Oakland, California, Code of Ordinances >> Title 3 - MUNICIPAL ELECTIONS >> Chapter 3.14 - OAKLAND FALSE ENDORSEMENT IN CAMPAIGN LITERATURE >> Article V. - Miscellaneous >>

Article V. - Miscellaneous

3.14.070 - Statute of Limitations.

3.14.080 - Severability.

3.14.070 - Statute of Limitations.

No criminal action alleging a violation of this chapter shall be filed more than four years after the date the violation occurred.

(Ord. 12536 § 1, 2003)

3.14.080 - Severability.

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of

the application thereof to any person or circumstances, shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

(Ord. 12536 § 1, 2003)

**Prohibition on the Use of Public Resources for Campaign Purposes
California Government Code Section 8314**

8314. (a) It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.

(b) For purposes of this section:

(1) "Personal purpose" means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to state business. "Personal purpose" does not include the incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call.

(2) "Campaign activity" means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. "Campaign activity" does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.

(3) "Public resources" means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time.

(4) "Use" means a use of public resources which is substantial enough to result in a gain or advantage to the user or a loss to the state or any local agency for which a monetary value may be estimated.

(c) (1) Any person who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.

(2) If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasurer of that city.

(3) No civil action alleging a violation of this section may be

commenced more than four years after the date the alleged violation occurred.

(d) Nothing in this section shall prohibit the use of public resources for providing information to the public about the possible effects of any bond issue or other ballot measure on state activities, operations, or policies, provided that (1) the informational activities are otherwise authorized by the constitution or laws of this state, and (2) the information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(e) The incidental and minimal use of public resources by an elected state or local officer, including any state or local appointee, employee, or consultant, pursuant to this section shall not be subject to prosecution under Section 424 of the Penal Code.

New Rules for Campaign Related Communications by a Governmental Agency

Provisions outside of the Political Reform Act, not summarized here, also restrict the use of public resources for campaign or private purposes. (See Cal. Const., art. XVI, § 6; Gov. Code §§ 3207 and 8314; Ed. Code §§ 7054 et seq.; Pen. Code §§ 424, 503, and 504; Stanson v. Mott (1976) 17 Cal. 3d 206; and Vargas v. City of Salinas (2009) 46 Cal.4th 1.)

In addition to the new rules summarized below, the Political Reform Act also prohibits an agency from sending, at public expense, a mass mailing that features an elected officer. (See Section 89001 and Regulation 18901.)

Regulation 18420.1.

The Political Reform Act requires a person to report campaign expenditures if the person qualifies as a committee. A person, including a state or local governmental agency, qualifies as a committee if it does any of the following:

- Accepts contributions of \$1,000 or more.
- Makes independent expenditures of \$1,000 or more.
- Makes contributions of \$10,000 or more.

A state or local agency making payments for campaign related communications may become a committee subject to reporting if the payments qualify as contributions or independent expenditures. (See Regulation 18420.) Regulation 18420.1 provides the Commission's rules for determining when a payment for a communication by a state or local agency is a contribution or independent expenditure.

In short, a payment of public moneys for a communication by a state or local agency is a contribution or independent expenditure if the communication (1) expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure *or* (2) unambiguously urges a particular result in an election. If the payment is made at the behest of the affected candidate or committee, the payment is a contribution. Otherwise, the payment is an independent expenditure.

Under this test, the determination of whether a communication "expressly advocates" is relatively straightforward and requires only an analysis of whether the communication contains so called "magic words" of advocacy such as the following words or phrases:

- "Vote For"
- "Elect"
- "Support"
- "Cast Your Ballot"
- "Vote Against"
- "Defeat"
- "Reject"
- "Sign Petitions For"

A communication "unambiguously urges a particular result in an election" if it (1) is clearly campaign material or activity *or* (2) can be reasonably characterized as campaign material or activity and is not a fair presentation of facts serving only an informational purpose.

If related to an election, payments of public moneys by a state or local agency for the following materials or activities are clearly campaign materials or activities:

- Bumper stickers.
- Billboards.
- Door-to-door canvassing.
- Mass Media Advertising including, but not limited to, television and radio spots.

For other communications, the determination of whether the material or activity can be reasonably characterized as campaign material or activity requires a case-by-case analysis of the planned communication and the context in which it is made. The style, tenor, and timing of a communication are critical for making this determination. Other factors that assist in determining whether any specific communication can be reasonably characterized as campaign material or activity include, but are not limited to, whether the communication is any of the following:

- Funded from a special appropriation related to the measure as opposed to a general appropriation.
- Is consistent with the normal communication pattern for the agency.
- Is consistent with the style of other communications issued by the agency.
- Uses inflammatory or argumentative language.

Regulation 18901.1.

The Political Reform Act states the general rule, "No newsletter or other mass mailing shall be sent at public expense. The Act further defines "mass mailing" as "over two hundred substantially similar pieces of mail" not including a "form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry." Regulations 18901 and 18901.1 interpret the Act's prohibition on mass mailings narrowing the prohibition to mailings that (1) feature or include the name, office, photograph, or other reference to an elected official affiliated with the agency producing or sending the mailer and (2) campaign related mailings by governmental agencies paid for with public moneys. For campaign related mailings, Regulation 18901.1 prohibits a mailing if all of the following criteria are met:

- The item sent is a "tangible" item such as a written document, video tape, record, or button and is delivered to the recipient at his or her residence, place of employment or business, or post office box.
- The item sent (1) expressly advocates or (2) unambiguously urges a particular result in an election.
- The agency (1) pays to distribute the item or (2) pays costs, exceeding \$50, reasonably related to designing, producing, printing, or formulating the content of the item including, but not limited to, payments for polling or research and payments for the salary, expenses, or fees of the agency's employees, agents, vendors, or consultants with the intention of sending the item.
- More than two hundred substantially similar items are sent during the course of the election including items sent during the qualification drive or in anticipation of an upcoming election.

As with Regulation 18420.1, a mailing "unambiguously urges a particular result in an election" if the communication (1) can be reasonably characterized as campaign material or activity and (2) is not a fair presentation of facts serving only an informational purpose when taking into account the style, tenor, and timing of the communication.

Example.

City Council, facing a substantial reduction in revenue should a local measure be approved by the City's voters in an upcoming election, votes to cut numerous services if the measure is adopted. In an effort to inform the City's residents of the council's decision, the City may:

- *Post on its website the detailed minutes of all council meetings relating to the council's action, with the detailed and analytical reports prepared by the various municipal departments and presented by department officials during the meetings.*
- *Provide copies of a document merely listing the services and program reductions the city council had voted to implement in a public location.*

Should the city mail materials related to the measure to potential voters, the materials may be campaign material or activity and may be prohibited if more than two hundred items are mailed in the course of the

election, although a mailing is not campaign material or activity if the mailing is a fair presentation of facts serving only an informational purpose.

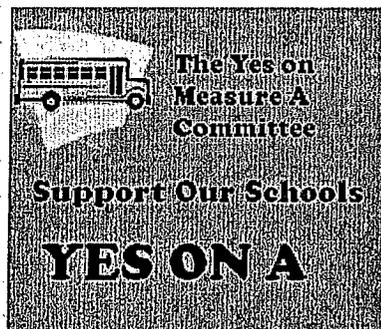
For instance, the city may publish and mail a regular edition of its newsletter containing various articles describing the proposed reductions in city services that the council had voted to implement, if the measure is adopted. However, the articles should be objective and nonpartisan. Articles that convey a city department's views regarding the importance of a specific service must be moderate in tone and may not exhort the voters with regard to how they should vote. (See Vargas v. City of Salinas, supra, 46 Cal.4th 1.)

On the other hand, a specially funded flyer, inconsistent with regular mailings by the City unrelated to an election matter, that list the benefits of the measure in an argumentative or inflammatory manner would be considered campaign materials or activity, may subject the City to reporting under the Act's campaign reporting provisions, and may be prohibited as an illegal mass mailing.

As stated above, the style, tenor, and timing of a communication assist in determining whether any particular communication is campaign material or activity. For example, the following bumper sticker distributed by a school district would not be campaign material or activity if had no relationship to an upcoming election or ballot measure:



The bumper sticker, however, is campaign material or activity if the circumstances in which it is distributed indicate that the bumper sticker is related to an election. For example, the bumper sticker above would be considered campaign material or activity if distributed by the school district simultaneously with the distribution of the following campaign flyer, using the same logotype, by a political campaign:



Finally, it is important to remember that the entirety of the communication and the factual circumstances under which the communication was made must be considered in determining whether any particular communication is campaign material or activity. Merely labeling a communication as "informational" is not determinative as to whether a communication is informational material or campaign material or activity.

