



March 19, 2024

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The Levine Act's Application to Campaign Contributions for Separate Races

In the March 2024 primary election, several local elected officials ran for City Council or Mayor while also running for a seat on their political party's Central Committee. Some of these races involved simultaneous fundraising for both the elective office and the Central Committee seat.

The San Diego Ethics Commission has reviewed California Government Code section 84308, also known as the Levine Act, and its implementing regulations in light of the primary races and candidates who ran simultaneously for two offices. The Ethics Commission offers the following analysis as a courtesy to local elected officials and their staffs, and encourages officials to seek related advice from the California Fair Political Practices Commission (FPPC). The FPPC has sole jurisdiction to administer, interpret, and enforce the Political Reform Act, including the Levine Act. Questions for the FPPC and requests for formal and informal advice may be directed to advice@fppc.ca.gov.

The Levine Act prohibits officers from accepting "contribution[s] of more than two hundred fifty dollars (\$250) from any party, or a party's agent, or from any participant, or a participant's agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest...." Cal. Gov't Code § 84308(b). Additionally, under the Levine Act, "[a]n officer of an agency shall not make, participate in making, or in any way attempt to use the officer's official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months . . ." Cal. Gov't Code § 84308(c).

The Ethics Commission's analysis concludes that donations made to any committee connected to an elected official would amount to a contribution under the Levine Act. Stated differently, if a Councilmember received a \$300 contribution from Person X to a

committee established to support that Councilmember's run for a Central Committee seat, and within 12 months Person X appeared before the City Council regarding a proceeding involving a license, permit, or other entitlement for use, that Councilmember could not participate in that proceeding. Additionally, donations made to any committee connected to an elected official will likely be aggregated for the Levine Act analysis. In this hypothetical, if Person X donated \$150 to the committee established for the Councilmember's Central Committee seat, and a separate \$150 to the Councilmember's reelection campaign for the Council seat, that Councilmember also could not participate in a proceeding involving Person X.

The San Diego Ethics Commission remains committed to monitoring developments related to the Levine Act and is available to provide education and analyze the implications of the law. We are also available to discuss your potential requests for advice from the FPPC on this subject. Please reach out to the Ethics Commission with any questions by calling 619-533-3476 or sending an email to ethicscommission@sandiego.gov.

The Ethics Commission is an independent City entity dedicated to administering, enforcing, and reforming the City's ethics laws. The Commission has jurisdiction over City laws regarding ethics, campaigns and campaign finance, and lobbying. Commission staff provide the regulated community with education and technical legal advice regarding ethics laws, conduct investigations, audit City campaign committees, and work on reform of City laws.