

SAN DIEGO ETHICS COMMISSION REVIEW OF THE CITY'S
Election Campaign Control Ordinance

PROPOSED AMENDMENTS

July 11, 2014

**Chapter 2: Government
Article 7: Elections, Campaign Finance and Lobbying
Division 29: Election Campaign Control Ordinance**

§27.2916 Campaign Contribution Checking Account

- (a) Every *controlled committee* that accepts *contributions* and every *primarily formed recipient committee* shall establish one campaign checking account at an office of a bank or other financial institution ~~providing checking account services located in the City of San Diego~~ with an office or branch in the state of California.
- (b) – (c) [No change in text.]

§27.2947 Duplication of a Candidate's Campaign Materials

- (a) Any committee that makes a payment for distributing or disseminating an advertisement that duplicates, reproduces, or republishes a candidate's campaign materials, in whole or in part, has made a contribution to the candidate for purposes of the contribution limits and source prohibitions set forth in sections 27.2934, 27.2935, 27.2950, and 27.2951.
- (b) The "making" of a contribution to a candidate under subsection (a) does not mean that the candidate has "accepted" or "received" a contribution for purposes of contribution limits or source prohibitions. Accordingly, nothing in this section imposes any liability on a candidate whose campaign materials were duplicated, reproduced, or republished.
- (c) The provisions of this section apply to a committee's advertisement that uses materials created, prepared, or obtained by the candidate or the candidate's controlled committee for campaign purposes, including, but not limited to, mailers; flyers; pamphlets; door hangers; walking cards; posters; yard signs; billboards; banners and large signs; business cards; campaign buttons; bumper stickers; newspaper, magazine, television, radio, and Internet advertisements; photographs; audio recordings; and videos, regardless of whether such materials were accessible to members of the public on the Internet or through other means not requiring coordination with the candidate or the candidate's controlled committee.

- (d) The provisions of this section do not apply to:
- (1) any written words, phrases, or sentences contained in a *candidate's* campaign materials;
 - (2) any statements made by a *candidate* while delivering a speech or speaking at a debate, forum, or similar public event in an advertisement that does not use an audio or video recording made by the *candidate* or the *candidate's controlled committee*;
 - (3) the duplication of three or fewer photographs of the *candidate*;
 - (4) an advertisement that clearly advocates the defeat of the *candidate*;
 - (5) *member communications*; or,
 - (6) instances in which a *payment* was “made at the behest” of a *candidate*, as that term is defined in title 2, section 18225.7 of the California Code of Regulations. Such a *payment* is a *contribution* regardless of whether any campaign materials were duplicated, reproduced, or republished.
- (e) Nothing in this section imposes on any *candidate* or *committee* any filing obligations in addition to those set forth in California Government Code sections 81000 *et seq.* and title 2 of the California Code of Regulations.

§27.2959 Extensions of Vendor Credit – Primarily Formed Recipient Committees

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

sections 27.2970, 27.2971, 27.2972, or 27.2974, and any television or radio advertisement that requires a “paid for by” or similar funding disclosure pursuant to state or federal campaign law;

- (2) “a contribution to the committee” refers to a potential contribution by any person who would be contributing to the committee for the first time as well as by any person who has already contributed to the committee;
- (3) “advertising debt liability” means the full costs of the campaign advertisement being considered by the committee plus the remaining balance owed for all other campaign advertisements purchased by the committee on credit; and,
- (4) the costs of a campaign advertisement do not include costs owed solely to a vendor who is paid at regular intervals for providing consulting services to the committee over and above those associated with campaign advertisements.

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

- (a) A *City Official or candidate* who raises professional expense funds shall deposit the funds in, and expend the funds from, a professional expense checking account that is separate from any other bank account held by the *City Official or candidate*. The checking account shall be established at ~~an office of~~ a bank or other financial institution ~~providing checking account services located in the City of San Diego~~ with an office or branch in the state of California.
- (b) – (d) [No change in text.]

§27.2971 Telephone Communications

- (a) It is unlawful for any *candidate or committee* to engage or hire others to engage in *mass telephone communications* unless the communications include a statement that the communications are “paid for by,” “authorized by,” or are otherwise being made “on behalf of” immediately followed by the name of each *candidate or committee* that is paying for any of the resources used for the communications or that is otherwise authorizing the communication. For purposes of this subsection, “resources” include the purchase of a contact list, the development of a script, overhead expenses, and telephone charges. The type of disclosure required by this section shall be determined as follows:
 - (1) A call is “paid for by” a *candidate or committee* when the *candidate or committee* pays directly for the call or pays another *person* to make the call on its behalf.
 - (2) A call is “authorized by” a *candidate or committee* if a *person* pays for the call at the behest of the *candidate or committee* and that *payment* is a *contribution* to the *candidate or committee*.

(3) Notwithstanding subsections (a)(1) and (a)(2), a call is made “on behalf of” a *candidate* or *committee* when it is made by a volunteer at the direction of the *candidate* or *committee*.

(b) – (e) [No change in text.]

(f) The disclosure requirements set forth in this section shall not apply to a *candidate* personally engaging in a live telephone communication or to a member communication by an organization that is not a political party.

§27.2980 Disclosure of Electioneering Communications

(a) Every *electioneering communication* in printed form shall include the words “paid for by” immediately followed by the name, street address, and city of the *person* who paid for the communication in a typeface that is easily legible, contrasts with the background, and is no less than 12 points in size.

(b) Every *electioneering communication* in spoken form shall include the words “paid for by” immediately followed by the name of the *person* who paid for the communication in a manner that is clearly audible and at the same general volume and speed as the rest of the communication.

(c) – (e) [No change in text.]

(f) The communications subject to the provisions of this section do not include:

(1) news stories and editorials by broadcast outlets or regularly published newspapers, periodicals, or magazines of general circulation;

~~(2) communications that are considered expenditures or independent expenditures under this Division;~~

~~(3)(2)~~ (2) *member communications*, except those made by a political party;

~~(4)(3)~~ (3) communications made in the form of a slate mailer;

~~(5)(4)~~ (4) communications paid for by a governmental entity;

~~(6)(5)~~ (5) communications that occur during a *candidate* debate or forum;

~~(7)(6)~~ (6) communications made solely to promote a *candidate* debate or forum made by or on behalf of the *person* sponsoring the debate or forum, provided that such communications do not otherwise discuss the positions or experience of a *candidate*; ~~or~~

~~(8)(7)~~ (7) communications in which a *candidate*’s name is required by law to appear and the *candidate* is not singled out in the manner of display; ~~or~~

(8) printed materials in quantities of 200 or less distributed within a single calendar month; or,

(9) live or recorded telephone calls made to less than 500 individuals or households.

(g) [No change in text.]

(h) The obligation to file an “Electioneering Communication Disclosure Report” under subsection (c) shall not apply to any entity that is a committee ~~whose primary filing officer is not the City Clerk.~~