

Supporting or Opposing Ballot Measures in California: What You Need to Disclose?

Nonprofit organizations that support or oppose state and local ballot measure activities in California may have reporting obligations under the California Political Reform Act (CPRA) and its implementing regulations. In 2014, Governor Jerry Brown signed a law (SB 27) that changes the rules for some nonprofits that influence ballot measures.¹ The changes mean that more nonprofits may be able to get involved in ballot measure advocacy in California without having to comply with fairly complex reporting and disclosure of certain donors.

The **Fair Political Practices Commission (FPPC)** is the state agency charged with implementing and enforcing the CPRA.² The FPPC adopts regulations, investigates and prosecutes violations, issues advisory opinions and educates the public about the CPRA's reporting requirements.

Reporting Ballot Measure Activities

Not every organization that supports or opposes ballot measures in California has an obligation to report under state law. Organizations that raise or spend certain amounts of money on specific activities will qualify as a "committee" under state law, and the CPRA requires only those that qualify as committees to report expenditures they make and/or contributions they receive, depending on the type of committee. The term "committee" is defined broadly to encompass any person, group, organization or other entity that raises money for or spends money on activities covered by the CPRA. An existing nonprofit can become a committee by virtue of its actions, or it can create a separate bank account, which becomes the committee. If an organization does not qualify as a committee, it does not have a reporting obligation.

In the context of ballot measures, there are four types of committees:

- A **Recipient Committee** is a type of committee that requires registration and disclosure of expenditures, as well as disclosure of certain donors to the committee. Typically, nonprofits that get involved during a single election season qualify as a specific type of Recipient Committee called a "Primarily Formed Ballot Measure Committee."³
 - Most commonly, a Recipient Committee is any committee that **receives payments of \$1,000 or more** in a calendar year for the purpose of influencing or attempting to influence the qualification or passage of a ballot measure. Specifically soliciting funds or accepting earmarked funds for the ballot measure activity will be considered receiving payment. If the entity raises earmarked ballot measure contributions of \$1,000 or more, it cannot qualify as any of the other committees listed below.

¹ SB 27 applies to entities seeking to influence candidate elections, including out-of-state PACs and PACs registered with the FEC, as well as ballot measures. In this fact sheet, we focus on the implications for ballot measure advocacy only. Click here for our [fact sheet](#) discussing how 501(c)(4)s, unions and trade associations can support and oppose California candidates.

² The CPRA also regulates lobbying on state legislation and regulations. For more information on the possible reporting requirements for state-level lobbying in California, see AFJ's publication [Shaping the Future](#).

³ To learn more about other types of Recipient Committees, see AFJ's [Campaign Finance and Ballot Measure Guide](#).

- A nonprofit that does not raise earmarked donations, but spends money it receives from donors, including general support grants, member dues, gifts, bequests, and other similar non-earmarked donor funds, may qualify as a **Calendar Year Recipient Committee**. A nonprofit will qualify in this category if it spends **more than \$50,000** of non-earmarked donor funds over 12 months, or **more than \$100,000** of non-earmarked donor funds in four consecutive calendar years, supporting or opposing ballot measures. In order to qualify for this higher threshold, the nonprofit may ***not*** raise money specifically to influence a ballot measure. If a nonprofit solicits or receives earmarked funds to support or oppose a measure, rather than using existing donor funds, the nonprofit will become a standard Recipient Committee once it raises \$1,000 in a year. Calendar Year Recipient Committees are treated as committees only for a calendar year. If the committee wishes to stay open after the current calendar year, the entity must take affirmative steps to become a standard Recipient Committee. Even if it has not yet spent enough to qualify as a Calendar Year Recipient Committee, a nonprofit may still trigger reporting as a Major Donor Committee, Independent Expenditure Committee, or Event-Based Filer, discussed below.
- A **Major Donor Committee** is any committee that **contributes \$10,000 or more** in a calendar year to a Recipient Committee, including by making in-kind contributions, but that does not receive payments for the purpose of influencing or attempting to influence the qualification or passage of a ballot measure. A Major Donor Committee either spends funds that were not raised from donors (e.g., investment income, capital gains, income from providing goods or services) or does not spend enough of its non-earmarked donor funds to qualify as a Calendar Year Recipient Committee. As noted above, it is possible for an entity to be required to file as a Major Donor Committee for a period of time before later being required to file as a Calendar Year Recipient Committee once it meets those higher thresholds.
- An **Independent Expenditure Committee** is any committee that **spends \$1,000 or more** in a calendar year on communications, not made to or at the request or suggestion of a Recipient Committee, that “expressly advocate” for or against a “clearly identified” ballot measure. An Independent Expenditure Committee either spends funds that were not raised from donors or does not spend enough to qualify as a Calendar Year Recipient Committee. As noted above, it is possible for an entity to be required to file as an Independent Expenditure Committee for a period of time before being later required to file as a Calendar Year Recipient Committee.
- An **Event-Based Filer** is a nonprofit organization that only occasionally makes **independent expenditures to support or oppose ballot measures**. These nonprofits may qualify for simplified reporting, called “[event based reporting](#)” if they use existing funds, but not if they solicit contributions earmarked for their ballot measure activities, and spend within the thresholds. An Event-Based Filer must report information on the donors whose funds were used to pay for the independent expenditure (similar to the information a Calendar Year Recipient Committee must provide about its donors), but it files simplified campaign reports.

The CPRA establishes reporting requirements for [each type of committee](#).

Impact of Ballot Measure Reporting on a Nonprofit’s Donors

Becoming a Recipient Committee or Calendar Year Recipient Committee has four major implications for an organization’s donors:

1. The Recipient Committee must publicly disclose donors who contributed earmarked donations or, in the case of Calendar Year Recipient Committees, whose funds were used to support the organization's ballot measure activities.
2. Some of the committee's donors may themselves be required to register with the Secretary of State as a Major Donor or Recipient Committee. If the donor is a nonprofit organization, in some circumstances the receiving nonprofit must notify the contributing nonprofit of the reporting obligation under the CPRA, and the donor must also register as a Recipient Committee or Calendar Year Recipient Committee and file within a certain time period after receiving the notice, depending on proximity to the election.
3. A donor contributing \$50,000 or more to a Recipient Committee that supports or opposes ballot measures must be disclosed in campaign advertisements *if* it is one of the top two donors to the campaign. This disclosure will simply state the donor provided major funding for the Recipient Committee.
4. If the donor is one of the top 10 contributors to a state ballot measure committee that raises \$1,000,000 or more for an election, the FPPC will list the donor as a "Top 10 Contributor" on its website.

Tax Law May Impact Organization's Planned Activities

The CPRA's primary purpose is to inform the public about political expenditures. **The CPRA does not seek to limit nonprofit participation in public policy, and does not restrict the lobbying activities of nonprofits.** 501(c)(3) public charities have annual limits on how much they can spend on lobbying, including supporting or opposing ballot measures. These limits come from federal tax law. For more information, see AFJ's [lobbying resources](#) for nonprofits.

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