

## **Ballot Measure Activities Exempt from California Disclosure Laws**

Nonprofit organizations active in state or local California ballot measure campaigns must comply both with federal tax law and California ballot measure disclosure laws. Federal tax law permits public charities to engage in a limited amount of ballot measure advocacy. For more information on these limits, please visit [www.bolderadvocacy.org](http://www.bolderadvocacy.org).

Under California law, organizations engaging in certain activities to support or oppose a ballot measure may need to disclose their expenditures in support of or opposition to the ballot measure, as well as the names of donors whose contributions were used to support the organization's ballot measure activities. However, the following activities are exempt from California's disclosure laws and can be done by an organization without fear of triggering any [special disclosure reports](#).

### **Volunteer Personal Services vs. Paid Staff Time**

An individual (including individual employees of a nonprofit organization) may donate his or her personal or professional services to a ballot measure campaign without this being considered a "reportable" expenditure. Additionally, employees of an organization can provide personal or professional services to the campaign while "on the clock" (e.g., during that person's normal working hours), attend meetings in their capacity as an employee of the nonprofit organization, or work on the campaign at the direction of a supervisor of the organization, without this person's time being considered a reportable contribution from the organization, **if the employee spends 10% or less of his or her compensated time in a calendar month working on the campaign**. Put another way, each employee of your organization can spend 10% or less of his or her compensated time in a calendar month on a ballot measure campaign without the organization needing to disclose the expenditure on employee compensation.

Note that federal tax law does not have any similar 10% exception, so all time spent working on the ballot measure campaign must be counted against the organization's direct lobbying limit, even though this time will not trigger disclosure under California law.

### **Performing Contractual Work for a Campaign**

An organization may provide services, such as canvassing or phone banking, on a contractual basis for a ballot measure campaign. Generally, services provided on a fee-for-service basis with a campaign would not be considered a contribution to the campaign if the organization charges the fair market value for the goods or services provided. The organization should enter into a written fee-for-services agreement to ensure its activities are exempt from the campaign disclosure laws.

Note that under federal tax law, even if a 501(c)(3) is being paid by an outside entity to engage in ballot measure advocacy, such expenditures or activities would likely count toward its annual lobbying limit.

### **In-Office Fundraisers**

An organization may host a fundraising event in its office for another organization that is running a ballot measure campaign without needing to report the costs of the event, as long as the total cost of

the event is \$500 or less and none of the money raised at the event is paid into the hosting organization's general treasury. For example, Organization A could spend \$495 on food, beverages, invitations, and music for an event to benefit the Yes on B ballot measure campaign and the costs associated with this event will not trigger any campaign disclosure for Organization A. To qualify for this exception, the event must be held in Organization A's offices (as opposed to a restaurant or other rental facility) and Organization A must pay for the food, beverages, or anything else of value to the event and cannot look to other organizations to subsidize the event.

Note that the entire cost of this event would be considered direct lobbying under federal tax law.

## **Member Communications**

Payments made by an organization for communications to its members or employees (or their families) that include a message of support or opposition to a ballot measure campaign are not considered contributions or independent expenditures. To qualify as a "member" under California law, the recipient must either have the right to vote on certain corporate decisions (e.g., to elect at least one officer or director or vote to dissolve the corporation) or be designated as a "member" in the organization's Articles or Bylaws and either have a right to vote on changes to the organization's Articles and Bylaws or pay membership dues. Annual affirmation of membership status is not required.

Note that the membership rules under federal tax law are different. Consult with our fact sheet [Communicating with Your Members: Tracking and Treating Grassroots Communications with Members](#) for more information.

## **Newsletters**

An organization may make statements in support or opposition to state or local ballot measures in its regularly-published newsletter without needing to disclose the expenditures, if the organization sends the newsletter only to its members, employees, and "other affiliated individuals" (i.e., people who have requested to be added to the organization's mailing list or to receive updates from the organization). Any additional costs for expanding the circulation of the newsletter, for altering the size, style, or format, or for changes in publication schedule, such as a special edition(s), are considered contributions or independent expenditures.

Note that a portion of the cost of this newsletter will likely be considered lobbying under federal tax law.

## **Public Education Campaigns**

The organization may host a debate on a ballot measure or distribute impartial analysis of a ballot measure and if it does not express a view about the measure, it will not need to disclose its expenditures on this event so long as the organization acts independently of any ballot measure campaigns (i.e., does not serve on a steering committee for the ballot measure campaign). If, however, the organization coordinates its activities with any coalitions working to support or oppose a measure, these costs will not likely qualify for this exception.

Note that such communications also would not count as lobbying under federal tax law.

## **Not urging action on the measure**

The organization may spend money to communicate its endorsement of or opposition to a ballot measure without expressly urging voters to take action on the measure. However, because the [definition of “expressly urging”](#) is quite broad, the organization should consult with an attorney to confirm that the communication falls within this exception. Additionally, organizations must not coordinate with any ballot measure campaign on the communication – e.g., by republishing the ballot measure campaign’s literature or by learning information about the campaign’s needs or strategies.

Note that such communications would likely count as lobbying under federal tax law because the organization is still expressing a view on the ballot measure.

## **Contributions or Independent Expenditures totaling less than \$1,000 per calendar year**

If the organization’s total contributions or independent expenditures (not including the activities listed above) do not exceed \$999 in a calendar year, the organization will not trigger any campaign disclosure reports. Additionally, the organization can raise up to \$999 to support or oppose ballot measures without triggering campaign disclosure reports.

Once the organization raises and/or spends in excess of \$999, it could trigger [campaign disclosure](#) reports. Consult with our fact sheet [Supporting or Opposing Ballot Measures in California: What You Need to Disclose](#) for more information on whether your organization will need to file campaign disclosure reports.

---

The information contained in this fact sheet and any attachments is being provided for informational purposes only and not as part of an attorney-client relationship. The information is not a substitute for expert legal, tax, or other professional advice tailored to your specific circumstances, and may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code. Alliance for Justice publishes plain-language guides on nonprofit advocacy topics, offers educational workshops on the laws governing the advocacy of nonprofits, and provides technical assistance for nonprofits engaging in advocacy. For additional information, please feel free to contact Alliance for Justice at 866-NPLOBBY.

[www.bolderadvocacy.org](http://www.bolderadvocacy.org) | [www.allianceforjustice.org](http://www.allianceforjustice.org)