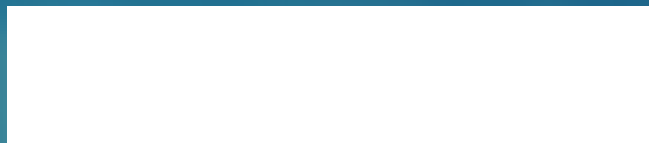


State Law Resource

California Campaign Finance
and Ballot Measure Guide



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Alliance for Justice is a national association of over 120 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society. Since 1979, AFJ has been the leader in advocating for a fair and independent justice system, preserving access to the courts, and empowering others to stand up and fight for their causes. The two pillars of Alliance for Justice are our Justice Program, focusing on ensuring our nation's courts protect our critical constitutional rights and legal protections, and our Bolder Advocacy Program, focusing on building advocacy capacity among nonprofits and the foundations that fund them.

State Law Resources

California Campaign Finance and Ballot Measure Guide

This guide summarizes the laws and regulations governing campaign finance in California. In California, “campaign finance” includes both ballot measures and candidates at both the local and state level. This guide is not intended to provide legal advice or to serve as a substitute for legal advice. For free legal and technical advice on compliance with California campaign finance rules, contact the California Fair Political Practices Commission (FPPC). The FPPC provides free informal advice via telephone and email, which does not provide legal immunity; requesters may also request a free formal advice letter, which provides limited immunity from prosecution by the FPPC Enforcement Division. For more information, please visit fppc.ca.gov.

In some jurisdictions (such as San Francisco and Los Angeles), city and/or county regulations may also apply to campaign activities, including local contribution limits. Please check with local authorities or an attorney before starting any campaign activity in your city or county.

Starting in 2017, the California State Legislature passed the California DISCLOSE Act and related bills, like the Social Media DISCLOSE Act. These bills made significant changes to California’s campaign advertising disclaimer rules and disclosure rules. These changes, as well as other recent amendments to state law, are reflected in this guide.

Overview

California’s Political Reform Act of 1974 (the PRA) regulates all ballot measure and candidate activity at the state and local levels in California. The PRA sets contribution limits for all state and local candidates. However, as of the date of this publication, it does not currently limit contributions to statewide ballot measures, local ballot measures, or local candidates. However, effective January 1, 2021, state law will include a default limit on contributions to local candidates, where the city or county has not adopted its own limits.

The PRA also requires people and groups who raise or spend over a certain amount of money on state and/or local elections to register and periodically report their activities to elections officials. Furthermore, certain communications about ballot measures and candidates at both the state and local level must contain disclaimers, so that voters know who paid for advertisements seeking to influence their votes.

A nonpartisan state agency called the Fair Political Practices Commission (FPPC) enforces the PRA and issues regulations, advisory opinions, and campaign manuals that explain and clarify the law as it applies to specific activities.

Key Concepts

BALLOT MEASURE

The PRA defines a **measure** as a proposition that is submitted, or intended to be submitted, to a popular vote at a state or local election. There are four main types of ballot measures:

1. **Ballot initiatives** allow voters to propose and directly enact laws or amend the California State Constitution.
2. **Bond measures** let voters decide whether a governmental entity can borrow money to finance government programs.
3. **Referenda** permit voters to approve or vote to repeal a law enacted by the legislature.
4. **Recalls** let voters decide whether to remove a public official from office before the end of the official's term. Note that federal tax law prohibits 501(c)(3)s from influencing the outcome of a candidate election, so 501(c)(3)s may not support or oppose a recall measure.

HOW/WHEN DOES SOMETHING QUALIFY AS A MEASURE?

How and when a measure qualifies for the ballot depends on the type of measure and the jurisdiction. Generally speaking, a proposition becomes a measure when proponents begin to circulate signature petitions to qualify the proposal for the ballot, or when lawmakers¹ vote to place a measure on the ballot.

For more information about how to qualify a measure for the ballot, please consult with your local election officials (for local measures) or the California Secretary of State's office (for statewide ballot measures). Groups that support or oppose ballot measures may need to track and report their activity, whether the proposition qualifies for the ballot or not.

For more information, please see Bolder Advocacy's fact sheet: [Initiating Policy Change: Circulating Ballot Initiatives in California](#).

WHO IS A "CANDIDATE"?

Unlike IRS rules, which broadly define "**candidate**" to include even prospective candidates, a candidate under the PRA is more narrowly defined as:

An individual who is listed on the ballot, or who has qualified via write-in votes, for election to (or nomination for) any elective office;

1. An individual who receives or spends money in order to be elected (or nominated) for public office, regardless of whether he/she has officially declared him/herself a candidate at the time, and regardless of whether it is known what office he/she is running for; or
2. An elected official *already in office* (referred to by the PRA as an **officeholder**) who is the subject of a **recall election**.

Please note that for purposes of the PRA, a candidate remains a candidate until all their open

¹ "Lawmakers," for these purposes, includes members of state legislatures, as well as city councils and county boards of supervisors.

committees for elective office have been terminated. This means that someone who is not a current officeholder but who maintains a committee for future elective office is a “candidate” for these purposes, even if he or she has not pulled papers to run for that office.

CONTRIBUTIONS AND EXPENDITURES

The PRA aims to promote transparency in campaign fundraising and spending. For this reason, the PRA requires all **contributions** and **expenditures** to be fully and truthfully disclosed.

A contribution is a donation or payment made for political purposes (such as to support or oppose a ballot measure or a candidate) when the donor does not receive something of equal value in return. A contribution can be either monetary (like a check) or in-kind (goods, services, or staff time). Examples of contributions include:

1. A check made out to a ballot measure campaign;
2. A grant earmarked for ballot measure advocacy;
3. Wages paid to nonprofit staff if they work with a ballot measure committee a significant portion of their time; or
4. Pizza and office space donated to a campaign.

See [Registration and Reporting Mechanics](#) for more about reporting contributions.

In contrast, an expenditure is when a person or organization makes a payment for political purposes and receives something of equal value in return, such as:

1. Stipends for ballot measure signature gatherers;
2. A newspaper advertisement endorsing a ballot measure;
3. Payment to an outside campaign consultant; or
4. The cost of pizza purchased by a campaign for its own volunteers

See [Registration and Reporting Mechanics](#) for more about reporting expenditures.

INDEPENDENT EXPENDITURES

An **independent expenditure** (often abbreviated to “IE”) occurs when a person or group spends money on a communication that **expressly advocates** the passage or defeat of a ballot measure, or the election or defeat of a candidate, and the communication is *not coordinated* with the ballot measure campaign or the candidate. Put differently, an IE occurs when a person or group acting on their own spends money on ads for or against a measure or candidate.

Please see [Key Concepts](#) for more about becoming an independent expenditure committee and reporting independent expenditures.

COMMITTEES

Depending on your nonprofit's activities, your activities could qualify your nonprofit as a "committee" under California law. That means your nonprofit would have filing and reporting obligations. If you engage in certain activities, you could become a committee and not even know it.

The PRA's campaign finance rules apply only to **committees**. Both ballot measure and candidate committees must register and file periodic reports with state and/or local election officials.

Generally, a committee is a person, group of people, or organization that raises or spends more than a certain amount of money to support or oppose one or more ballot measures or candidates. The term "committee" may apply to either:

1. A *separate entity* formed for the purpose of supporting/opposing ballot measures or candidates; or
2. A *status* that applies to a person/group/organization, based on their campaign activities.

Generally, a person, group, or organization can become ("qualify as") a committee in three main ways:

1. **Recipient Committee:** Receiving contributions of \$2,000 or more in a calendar year for supporting or opposing ballot measures or candidates. (See [Contribution Limits and Source Restrictions](#) for more about earmarked contributions and Section II for more about who qualifies as a recipient committee);
2. **Independent Expenditure Committee:** Making independent expenditures of \$1,000 or more per calendar year on candidates or ballot measures. If a group spends only \$999 in a calendar year independently, expressly urging the passage or defeat of a measure or the election or defeat of a candidate, it does not qualify as an independent expenditure committee. (See [Key Concepts](#) for more about independent expenditure committees);
3. **Major Donor Committee:** Making contributions of \$10,000 or more per calendar year to a ballot measure, candidate, or other type of committee, like a political party. (Major donors do not receive contributions from others).

Multipurpose organizations (MPOs), including donor-funded nonprofit organizations, may also qualify as a committee based on additional thresholds discussed below.

Individuals and groups who do not receive or spend past these thresholds will not qualify as a committee and do not have registration and reporting obligations under the PRA.

As discussed in later sections, there are several different subtypes of recipient committees, depending on the kind of campaign activities in which you engage.

MULTIPURPOSE ORGANIZATIONS (MPOs)

Nonprofit organizations, such as 501(c)(3)s, 501(c)(4)s, or labor unions typically receive donations or payments for a variety of purposes—membership dues, donations to help provide services, grants to support an organization’s general advocacy around a cause, etc. Often the organizations’ supporters don’t offer these payments specifically with the understanding that organizations will use them to support or oppose a ballot measure. Still, organizations may sometimes decide to use those funds to support or oppose ballot measures. With the goal of showing who supports the organizations that engage in substantial campaign activity, the PRA expanded to include special rules about when and how MPOs qualify as committees.

MPOs may qualify as one of the three types of committees outlined in the Committees Section above. In addition, an MPO may qualify as a recipient committee if the organization spends more than \$50,000 in any 12 month period (i.e. rolling 12 months), or more than \$100,000 in four calendar years, on contributions and expenditures for the purpose of influencing elections in California.

Once an MPO reaches a recipient committee threshold, the organization must register and file campaign reports disclosing all their expenditures to influence California elections and disclosing their donors. How donors are disclosed depends on how the MPO conducts its fundraising. If funds are raised for the purpose of influencing California ballot measure votes or candidate elections, those donors are disclosed first and itemized at the usual \$100 threshold. If the MPO does *not* raise or receive funds to influence California ballot measure votes or candidate elections, and it only triggers recipient committee status because it spends above the thresholds discussed above, then its top donors are identified using a last in, first out (LIFO) accounting method. Donors who give \$1,000 or more must be disclosed, even if those donors didn’t give funds for the purpose of influencing California ballot measure votes or candidate elections. There are special rules about skipping donors who earmark their funds for other non-political purposes, donors who restrict use of their funds from being used for political purposes, and certain types of grants from private foundations (which cannot directly participate in ballot measure or candidate elections).

An MPO that will qualify as a recipient committee is encouraged to use the materials linked below from the FPPC, the free advice available from the FPPC Technical Assistance Division, or outside counsel in order to comply with these complex rules.

An MPO that exceeds one or both of these thresholds may nevertheless continue to file as a major donor and is not required to register as a recipient committee and disclose donors if the organization uses non-donor funds for all of its political activity in California. Nondonor funds are investment income, including capital gains, or income earned from providing goods, services, or facilities, whether related or unrelated to the multipurpose organization’s program, sale of assets, or other receipts that are not donations.

Federal and out of state committees are special types of MPOs which trigger recipient committee status when they spend \$2,000 or more in a calendar year to influence California elections. These entities have special reduced registration and reporting rules which apply. See the FPPC materials linked below for more guidance on registration and disclosure for this type of MPO.

Generally, an MPO will qualify as a recipient committee in one of the following ways:

1. Using any donor funds, spend more than \$50,000 in 12 months or \$100,000 in four years for supporting/opposing ballot measures or candidates. This is known as a **Calendar Year Filer**;
2. Accept \$2,000 or more in donations that are either earmarked for supporting/opposing ballot measures or candidates, or subject to an agreement or understanding that the

money will be used for this purpose; or

3. Use \$2,000 or more in existing funds, after reaching an agreement with the donor(s) that these funds can be used for supporting/opposing ballot measures or candidates.

Note: A business entity or individual can never be a Multipurpose Organization because they are explicitly excluded from the definition of MPO.

For more information on the definitions and disclosure rules for MPOs, please see the following materials produced by the FPPC:

[FPPC Fact Sheet, “Multipurpose Organizations Reporting Political Spending”](#)

[FPPC Ballot Measure Manual, Chapter 15 \(Multipurpose Organizations\)](#)

MORE ABOUT INDEPENDENT EXPENDITURE COMMITTEES

Independent Expenditures

An **independent expenditure** is an expenditure for a communication that:

1. **Expressly advocates** the election or defeat of a **clearly identified** candidate or the qualification, passage, or defeat of a clearly identified ballot measure or candidate; **and**
2. Is **not coordinated** with or “made at the behest of” the ballot measure committee or a candidate.

A communication is considered to “clearly identify” a candidate or measure if it features the candidate’s name, photo, or status as a candidate, or uses the measure’s name, popular title, or official name.

A communication contains “express advocacy” under two circumstances, depending on the timing of the communication. Outside the **60-day window** before an election, a communication will be considered express advocacy only if it contains the so-called **magic words**, such as “vote for,” “elect,” “cast your ballot for/against,” “defeat,” “pass,” etc. Within the 60-day window, however, a broader range of communications are considered express advocacy. The “magic words” still count within this window, but so do communications that “taken as a whole, **unambiguously urge** a particular result in an election.” For example, “Juan Mehta is the one for California” or “Proposition Y is great for the Central Valley.” Whether a particular communication unambiguously urges a particular result depends on the specific facts of the communication, but under FPPC rules, a message will be considered to unambiguously urge if it is “susceptible [to] no reasonable interpretation other than as an appeal to vote for or against a specific candidate or ballot measure.”

Independent expenditure committees have unique reporting and disclosure requirements, and they must also comply with FPPC **advertisement disclosure rules**. For more information, please see:

[FPPC Independent Expenditure Committee Manual](#)

Coordinated Communications (In-Kind Contributions)

When a person or group coordinates their communication with a ballot measure or candidate committee, any payments made for those communications are reportable as in-kind contributions to the ballot measure or candidate committee. When a committee makes payments for a communication that is a contribution, both the committee and the ballot measure or candidate

committee receiving the benefit of the communication must report the contribution on a campaign statement.

For purposes of the PRA, **coordination** (or “**made at the behest of**”) means “made at the request, suggestion, or direction of” a ballot measure or candidate committee that benefits from the expenditure, or “in cooperation or consultation with” the ballot measure or candidate committee. A payment is also considered coordinated if the candidate or committee (or their agents) participates in, or agrees to, decisions about the content, timing, intended audience, distribution, or frequency of the communication. If the organization is coordinating with a ballot measure or candidate committee, it is not acting independently.

Furthermore, there is a rebuttable presumption² that an expenditure is coordinated if it:

1. Is based on information about the benefitting ballot measure/candidate **committee's needs** (e.g. shared polling data or messaging strategy) or
2. Is made by or through an **agent of the ballot measure or candidate committee** that benefits from the expenditure.

Working Together with the Main Ballot Measure Campaign or a Candidate

Instead of running or housing the main ballot measure campaign, some nonprofits choose to work side by side with the main campaign, offering monetary and in-kind support. Likewise, some organization choose to raise or spend funds to support/oppose candidates, even though they are not candidate-controlled committees. For example, a certain 501(c)(3) is not part of the steering committee for a ballot measure campaign. The 501(c)(3) wants to help pass the ballot measure. The ballot measure campaign gives 200 pro-ballot measure flyers to the 501(c)(3). The 501(c)(3) distributes the flyers in the community. The 501(c)(3) has coordinated with the ballot measure campaign.

If the person/group has *not qualified as a recipient committee*, it is possible that the supporting person/group could qualify as a **major donor committee**. A major donor committee is a person or group who makes contributions of \$10,000 per year to one or more candidate or ballot measure committees.

CAMPAIGN TREASURER

As soon as a person, business, or organization meets the threshold of a recipient committee, the PRA requires every committee to appoint a **treasurer**. A treasurer is responsible for ensuring that the committee's campaign statements are accurate, timely, and truthful. Treasurers sign all campaign disclosure statements under penalty of perjury, and they are liable for the committee's PRA violations related to reporting, limits, disclaimers, etc. (See [Enforcement and Penalties](#) for more information on enforcement of the PRA). Therefore, every treasurer should understand the basics of California campaign finance disclosure, and no one should accept the position of campaign treasurer as an honorary or symbolic role. In fact, it is a best practice to consult an experienced campaign treasurer, political reporting specialist, or political compliance attorney before undertaking any campaign activity.

For more information, please see the FPPC's webpage, [Basic Recordkeeping Rules for Treasurers](#).

² A rebuttable presumption is an assumption that a government authority makes that is assumed to be true unless someone can prove otherwise.

Activities Your Organization Can Engage in That Won't Trigger Disclosure

There are several election-related activities that do not trigger registration or reporting under California law:

MINIMAL PAID STAFF TIME

Each employee of an organization can spend up to 10% of their paid time in a calendar month (“on the clock”) working on campaign activities, without this time counting as a reportable contribution or expenditure. Note that the threshold is 10% per employee per month, not 10% of the organization’s combined staff time. This threshold includes all campaign activities during a calendar month; it is not a 10% threshold per campaign.

ENDORISING MEASURES OR CANDIDATES

Simply endorsing a ballot measure or candidate is not necessarily a reportable activity. For example, an organization may announce its endorsement of a measure at one of its regularly scheduled meetings, and such an oral announcement alone would not be considered a contribution to the ballot measure committee or an independent expenditure in support of it.

However, endorsements may be considered contributions or expenditures *when a payment is made in connection with the endorsement*. This usually happens when the endorsing organization spends money to publicize its endorsement. If, for instance, close to the election, a 501(c)(4) mails a special flyer to voters *at the request of a candidate*, announcing the (c)(4)’s endorsement of that candidate, the (c)(4) has made an in-kind contribution to the candidate. If the 501(c)(4) mails a special flyer announcing the endorsement without coordinating with the candidate, the (c)(4) has likely made an independent expenditure.

IN-OFFICE FUNDRAISER

Another PRA exception allows organizations to host a fundraiser for a campaign at the organization’s office, without reporting the fundraiser as a contribution or expenditure, provided that no more than \$500 is spent on the entire event, and all the money raised goes directly to the campaign. (The funds cannot go into the hosting organization’s general treasury.) If anyone buys refreshments to serve at the fundraiser, the cost of the refreshments gets counted toward the \$500 limit.

ISSUE ADVOCACY

The PRA regulates various types of political communications. If a communication merely advocates a particular stance on an issue, it is typically considered “issue advocacy.” It is not typically an activity to support or oppose ballot measures or candidates, except in limited circumstances. (See *Electioneering Communications in the [Communications](#) section below.*) However, as discussed below, when such a communication about an issue “expressly advocates” support of or opposition to a ballot measure or candidate, it is subject to regulation.

Such communications may qualify as lobbying for state disclosure law purposes and be reportable as lobbying activity not campaign activity. See [Shaping the Future: A Compliance Guide for](#)

[Nonprofits Influencing Public Policy in California.](#)

Please note: as of the date of publication, there is pending legislation which may make these types of communications subject to disclosure or at least may require disclaimers .

MEMBER COMMUNICATIONS

Payments for communications made to an organization's **members** are *not* contributions or independent expenditures. This applies only to communications that are directed *solely* to an organization's members, employees, shareholders and families of members, employees or shareholders, and are not otherwise publicly advertised. There is no limit on the amount that an organization may spend to communicate with members or on the type of communication that can be used (e.g., mail, phone calls, door-to-door canvassing), as long as the communication is not distributed to the general public.

For the purposes of 501(c) member communications, "member" is defined as any person who:

1. Pursuant to the organization's articles or bylaws, has the right to vote directly or indirectly:
 - a. for officers and/or directors;
 - b. to dispose of all or substantially all of the organization's assets; or
 - c. on the merger or dissolution of the organization;
2. Or is designated in the articles or bylaws as a member and
 - a. Has the right to vote on changes to those articles or bylaws or
 - b. Pays or has paid membership dues.

A member of a local union, meanwhile, is considered a member of any national or international union of which the local union is a part, and a member of any federation with which the local, national, or international union is affiliated.

However, note that a person is not a "member" of an organization just because the person is on the organization's mailing or email list. Also, if an organization sponsors a committee and uses committee funds to pay for communications with its members, those payments must be disclosed on the sponsored committee's campaign statements.

Please note that the California definition of "member" is narrower than the IRS definition of "member." Please see [Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities](#) for more information.

CANDIDATE APPEARANCES AT REGULARLY SCHEDULED MEETINGS

The PRA permits "bona fide service, social, business, trade, union, or professional organizations or groups" to host candidates at the organization's regular meetings without reporting the expenses associated with such meetings as expenditures or contributions, as long as the expenses are for "reasonable overhead expenses associated with a regularly-scheduled meeting," and "the organization pays no additional costs in connection with the speaker's attendance."

501(c)(3) organizations must also heed IRS rules regarding candidate appearances. For more information, please see Bolder Advocacy's fact sheet, [Hosting Candidates at Charitable Events:](#)



[Ensuring Candidate Appearances Remain Nonpartisan](#), and the longer publication [Rules of the Game](#).

RECEIVING CONTRIBUTIONS TOTALING LESS THAN \$2,000 (FROM ALL SOURCES COMBINED)

Under the PRA, a person or group becomes a recipient committee when they accept \$2,000 or more in contributions from all sources combined in a calendar year. This threshold includes both monetary and in-kind contributions. If an organization is working in coordination with the main ballot measure committee and solicits and receives only \$1,999 in a year in support of/against a ballot measure, the group would not need to register or file campaign statements. (See [Key Concepts](#) for more about the definition of recipient committees and Registration and Reporting Mechanics about reporting for recipient committees.)

CONTRACT WORK (I.E. BEING A CAMPAIGN VENDOR)

Performing work under contract for a campaign--such as canvassing or phone banking--does not count as a reportable contribution, as long as the organization is paid fair market value for the services rendered. Indeed, in such a situation, the organization is merely acting as a vendor to the campaign. It is a best practice to document fee for service work for campaigns in writing.

DEBATES

The PRA also permits nonpartisan organizations to make payments for debates or forums featuring a ballot measure proponent or candidate, without incurring a reportable expense, as long as:

1. The proponent of a ballot measure and at least one opponent or their representatives are invited to participate; or
2. If involving candidates, at least two opposing candidates are invited to participate; or
3. If sponsored by a political party, the majority of that party's candidates were invited to participate.

Note that 501(c)(3)s must remain nonpartisan and must also abide by IRS rules for hosting candidates debates and forums. For more information, please see Bolder Advocacy's fact sheet, [Hosting Candidate Debates: Public Charities Can Educate the Community Through Candidate Debates](#).

NOT URGING ACTION ON THE MEASURE OR CANDIDATE

If an organization is not coordinating with a ballot measure or candidate committee, they may not need to report expenditures for just publishing neutral statements about a measure or candidate election. A neutral statement does not urge voters to vote for or against a measure or candidate.

Organizations that do not coordinate with a ballot measure committee should pay attention to what messages and what they publish and when. (See [Key Concepts](#) for more information about Independent Expenditure Committees.) Communications that are disseminated more than 60 days before an election may not need to be reported if they do not use express words of advocacy. However, communications disseminated within 60 days of an election are more likely to qualify as reportable campaign activity.

For more information, please see Bolder Advocacy's fact sheet, "[Ballot Measure Activities Exempt from California Disclosure Laws.](#)"

VOLUNTEER PERSONAL SERVICES

The PRA permits individuals (including individual nonprofit employees) to volunteer in a personal capacity for a ballot measure or candidate campaign. In this scenario, their donated time would not be reportable. In order for the exception to apply, the employee's activity must be truly personal and voluntary. The employee cannot be relieved from work duties in order to be able to volunteer. The employee cannot be directed by the employer to volunteer or compensated by the employer in any way to volunteer. Employees should make sure their volunteer activities occur outside the organization's office space, and outside of normal working hours (during vacation or other personal time).

Please contact Bolder Advocacy if you have questions about nonprofit employees volunteering for a ballot measure campaign effort.

UNCOMPENSATED INTERNET ACTIVITY

Under the so-called "uncompensated internet activity" safe harbor, if an individual who is not compensated by a candidate or committee sends communications for or against a candidate/measure over the Internet (e.g. e-mails, Facebook messages, blog/website posts, and hyperlinks), these activities are not considered reportable contributions or expenditures.

However, this safe harbor does not exempt paid blogging on behalf of a committee or candidate, which must be reported as an expenditure or contribution. Similarly, if a blogger receives a majority of advertisement revenue from one committee or candidate, the blogger will not be considered "uncompensated," and therefore the safe harbor will not apply.

Contribution Limits and Source Restrictions

CONTRIBUTION LIMITS

Please consult the [FPPC's](#) website for up-to-date state contribution limits for 2019-2020, and review local jurisdiction laws regarding city and county contribution limits. The FPPC's website also contains a list of local campaign finance ordinances for research purposes. You may also need to confer with local election officials or a political compliance attorney to understand the more complex local limits.

BALLOT MEASURES

There are *no limits* on how much a person or entity may contribute to a state measure committee in California, including one controlled by a state candidate. There are limited exceptions to this rule where a committee controlled by a candidate pays for advertisements featuring that candidate.

POST-ELECTION CONTRIBUTIONS

Candidate committees are allowed to fundraise after the election *as long as they only fundraise to pay for outstanding debts* from the election. The candidate committee's debts for the primary and general elections are calculated separately. Even when candidates are raising money to pay off

debt, contribution limits still apply. Local ordinances may impose additional or different restrictions on post-election fundraising for local candidates.

Ballot measure committees are not subject to timing restrictions on fundraising because they are not subject to contribution limits. However, both the PRA and the Elections Code contain restrictions about how those funds may be used after the election.

For more information about how committees may use campaign funds after the election, please see the section "[After the Election.](#)"

CONTRIBUTIONS NOT SUBJECT TO LIMITS

California law currently does not limit contributions to the following activities:

1. **Ballot Measures, including recalls:** As a matter of Constitutional law there are no limitations on contributions to ballot measure committees except in very limited circumstances (discussed above).
2. **Independent Expenditures:** As a matter of Constitutional law there are no limitations on contributions to independent expenditure campaigns in California.
3. **Non-Candidate Support Accounts:** Political parties and other committees in California can raise funds that are not used to directly contribute to state candidates. Those funds are not subject to contribution limits. These accounts can be used to pay for independent expenditures, administrative expenses, contributions to local candidates, etc. The funds may not be used to make monetary or in-kind contributions to state candidates.
4. **Legal defense fund:** Contributions raised for a legal defense fund are not subject to contribution limits, so long as the money raised is reasonably related to covering attorney's fees and other legal costs related to the legal matter for which the fund is created.
5. **Recall defense:** As of 2017, contribution limits no longer apply to a committee created by an officeholder who is the target of a recall; funds raised by such a committee can be used to oppose both the qualification of the recall measure and, if the recall petition qualifies, the recall election.

RESTRICTIONS BASED ON THE SOURCE OF THE CONTRIBUTION

No Restrictions on Corporate Contributions

Unlike federal election law, the PRA does not prohibit **corporate contributions** to candidates. The PRA also permits corporate entities, including nonprofits, to contribute to ballot measure committees. Note, however, that *IRS rules still prohibit 501(c)(3)s from supporting or opposing candidates for public office.* By contrast, under IRS rules 501(c)(4)s, (c)(5)s (labor unions), and (c)(6)s (trade associations) are permitted to contribute to both ballot measure and state and local candidates.

Please also note that some local jurisdictions do impose such restrictions which are sometimes broader than federal law. For example, both the City and County of San Diego prohibit contributions to candidates from corporations and other non-individuals, including committees. Only individuals can contribute to candidates in these jurisdictions.

Anonymous Contributions and Cash Contributions

The PRA prohibits anonymous campaign contributions of \$25 or more. Committees that receive a contribution of \$25 or more from a single source in a calendar year must keep the contributor's name and address in the committee's records. In addition, that source must be disclosed on the committee's campaign statement if total contributions from that source reach \$100 or more during the calendar year. If a committee receives \$100 or more as an anonymous contribution (i.e. \$100 in cash or in-kind contributions), the committee must send it to the Secretary of State to be deposited in the State General Fund.

The PRA also prohibits committees from accepting cash contributions of \$100 or more.

If a committee receives over \$100 in cash from a single source, the committee must return it to the contributor by the end of the reporting period--assuming the cash contribution has not already been deposited or spent. If a committee inadvertently deposits a cash contribution of \$100 or more into its bank account, the cash contribution must be returned to the donor within 72 hours of receipt. In addition, FPPC recordkeeping rules require daily logs of cash receipts, and FTB auditors review these records very closely. For all these reasons, it is a best practice to refuse cash donations of any amount for political activities.

Intermediaries and Earmarked Contributions

Ballot measure committees must show not just who has given them money, but also need to show the original source of their funding. Failure to disclose the true source of a ballot measure contribution is considered campaign "money laundering," which is violation of the PRA. For more information on how these rules impact nonprofit organizations, please see "Multipurpose Organizations" in [Key Concepts](#).

The PRA prohibits any person from making a contribution on behalf of another person or acting as an intermediary for another person, unless the intermediary also gives identifying information about themselves and about the true sources of the contribution along with the contribution. The recipient of the contribution must report both the intermediary and the original source of the contribution.

Under the 2017 California DISCLOSE Act, if a donor makes a contribution to a committee that is earmarked for a donation to a separate specifically identified committee, candidate or ballot measure there are additional reporting rules for all parties involved in the transaction. The applicable disclosure rules depend on the type of earmarking and how the funds are ultimately used. Donors making and organizations accepting earmarked contributions should review these rules carefully and seek advice from the FPPC or political compliance counsel.

Foreign Nationals/Foreign Principals

Federal Election Law

Federal election law broadly prohibits **foreign nationals** from intervening in US candidate elections. For purposes of the prohibition, the term "foreign national" refers to:

1. An individual who is not a citizen or legal permanent resident of the United States; or
2. A **foreign principal**, defined as a foreign government, political party, partnership, association, or corporation.

“Green card” holders who are legally admitted for permanent residence to the United States are *not* considered foreign nationals, so they may lawfully make campaign contributions in US elections.

Foreign nationals may not make, and campaigns may not solicit or accept from a foreign national, any contribution, donation, or expenditure in connection with a US election. This broad prohibition applies to candidate elections at the federal, state, and local levels.

Foreign National Involvement in California Ballot Measure Elections

It is clear that the federal prohibition on contributions from foreign nationals applies to candidate elections at every level of government. However, it is unclear whether the prohibition applies to *ballot measure elections* at the state and local level. The Federal Election Commission (FEC) has deadlocked on the issue since 2015 and has not ruled on it since.

California law does not answer the question of whether individual foreign nationals may contribute to ballot measure elections in California. However, the PRA unambiguously prohibits both ballot measure and candidate committees from soliciting or accepting contributions from **foreign principals**. The PRA defines a “foreign principal” differently than the FEC defines “foreign national.” The PRA defines a “foreign principal” as:

1. A foreign organization, including a partnership, association, or corporation;
2. A US subsidiary of a foreign corporation, if the decision to contribute or expend funds is made by an officer, director, or manager of the foreign corporation who is not a US citizen or permanent resident;
3. A foreign political party; or
4. An individual who is outside of the US (unless the individual is a US citizen).

Under this definition, it appears that someone who is in the United States and who is not a US citizen or legal permanent resident may still be able to contribute to a local or state ballot measure under California law. In other words, it seems that California law may allow an undocumented or under-documented immigrant living in the United States to contribute to a ballot measure campaign.

Registration and Reporting Requirements

REMINDERS ABOUT IRS RULES

Supporting or Opposing Ballot Measures or Candidates

While federal tax law prohibits 501(c)(3)s from supporting or opposing *candidates* for public office, 501(c)(3) public charities may support and oppose ballot measures. IRS rules permit other 501(c) nonprofits (including 501(c)(4) “social welfare organizations,” 501(c)(5) labor unions, and 501(c)(6) trade associations) to support both ballot measures and candidates.

Note that, while federal tax law treats activities to support or oppose ballot measures as lobbying, California law regulates this activity as *campaign finance activity*.

For more information about the IRS rules that govern 501(c)(3) lobbying, including ballot measure advocacy, please see Bolder Advocacy’s in-depth publication, [Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities](#).

REGISTRATION THRESHOLDS

Activities that May Trigger Registration/Reporting Requirements

Not every person or group of people that supports or opposes a ballot measures or candidates in California must register and report their activities. Only those that qualify as a “committee” as defined in Section II have reporting obligations. Independent expenditure committees that are not also recipient committees and major donors only file reports, they are not required to register.

Only recipient committees are required to officially register. As a reminder, recipient committees are persons that receive \$2,000 or more during a calendar year for the purpose of influencing California elections (either directly or due to earmarks) or MPOs that spend more than \$50,000 in 12 months or more than \$100,000 in four calendar years for that purpose.

As a general rule, spending or accepting money or resources, such as staff time, to influence a candidate or ballot measure election will count towards the various registration and reporting thresholds. There are some activities that do not qualify as contributions or expenditures, and therefore do not count towards these thresholds. See [Activities your Organization Can Engage in that Won’t Trigger Disclosure](#) for a discussion of activities that can be carried out without triggering registration or reporting obligations.

TYPES OF RECIPIENT COMMITTEES

There are multiple types of recipient committees, some of which have slightly different naming and reporting requirements. Below is a brief overview of some common types of recipient committees and their distinguishing characteristics. Please note, some of these categories are not mutually exclusive. For example, you can have a primarily formed ballot measure committee that is also a sponsored committee.

Primarily Formed Committee

A committee that:

1. Was created for the purpose of running the *principal campaign* for or against one or more measures or candidates appearing on the same ballot;
2. Has the *primary purpose or activity* of supporting or opposing one or more measures or candidates appearing on the same ballot; or
3. Makes more than 70% of its total contributions and expenditures (calculated pursuant to a specific FPPC regulation) to support or oppose one or more measures or candidates appearing on the same ballot.

There are special rules about new committees that open close to elections, sponsors of existing primarily formed committees, and overall thresholds which impact whether a committee is primarily formed. Those rules are beyond the scope of this guide. Please use the links to FPPC materials below for more information on calculating committee status.

Often, a nonprofit will become involved in a ballot measure campaign related to a specific local measure or measures. That activity alone may qualify the committee as “primarily formed” for the duration of that campaign. If the committee stays registered past the election and engages in multiple elections, it may qualify as general purpose committee in the future.

Primarily formed committees have unique requirements. Some key differences compared to other committees include:

1. Committee name:
 - a. If supporting a measure or measures, the committee must include the letter or number of the measure and whether the committee supports or opposes the measure.
 - b. If supporting or opposing a candidate, the committee must include the candidate's last name, office sought, year of election and whether the committee supports or opposes the candidate .and information related to the committee's top contributors;
2. 24-Hour Reports: primarily formed committees have 24 hours to report aggregate contributions of \$1,000 or more received within the 90-day window leading up to an election. Similarly, primarily formed committees must report any contributions of \$5,000 or more received to support or oppose a single *state* ballot measure or candidate within 10 business days any time before the 90-day period.

General Purpose Committee

A committee which is formed or exists primarily to support or oppose more than one candidate or ballot measure. It is not a primarily formed committee because it is not running the principal campaign, it was formed to support or oppose candidates or measures across various elections, or its contributions are more broadly spread over multiple elections. A general purpose committee must determine whether it is a state, county or city committee by calculating the percentage of contributions and expenditures in each jurisdiction on a quarterly basis.

For more information, please see:

[FPPC Ballot Measure Manual Chapter 1.5 \(General Purpose vs. Primarily Formed Ballot Measure Committees\)](#)

[FPPC General Purpose Committee Manual](#)

Sponsored Committee

A committee is considered “**sponsored**” by an entity or organization (such as a nonprofit) if the entity or organization:

1. Provides 80% or more of the committee’s funding;
2. Collects money for the committee using payroll deductions or dues;
3. Provides all or nearly all of the committee’s administrative services; or
4. Sets policies for the committee’s fundraising or spending the committee’s funds.

Sponsored committees have specific naming requirements so that the public can be informed as to who is funding them. Only an organization may sponsor a committee; an individual may not be a committee sponsor.

For more information about sponsored committees, please see: [FPPC General Purpose Ballot Measure Committee \(Chapter 1.7, “Sponsored Committees”\)](#)

Controlled Committee

A committee can also be considered **controlled** by a candidate or by the proponent of a state ballot measure (not a local measure). A ballot measure committee is controlled if the candidate or state measure proponent has “significant influence” over the actions or decisions of the committee. A ballot measure committee that is candidate-controlled or controlled by a state ballot measure proponent has different disclosure requirements in certain cases.

A committee that is “controlled” cannot also be “sponsored.”

For more information about controlled committees, please see:

[Information for State Candidates, Their Controlled Committees, and Primarily Formed Committees for State Candidates \(FPPC Campaign Disclosure Manual 1\)](#)

[Local Candidates, Superior Court Judges, Their Controlled Committees, and Primarily Formed Committees for Local Candidates \(FPPC Campaign Disclosure Manual 2\)](#)

REGISTRATION AND REPORTING MECHANICS

Registration

As discussed above, only recipient committees are required to register. (Remember that some nonprofit organizations that receive donor funds may qualify as recipient committees, because they are Multi-Purpose Organizations, or MPOs.) Independent expenditure committees (that are not also recipient committees) and major donors only file reports when required.

Most campaign committees must register with the Secretary of State within 10 days of qualifying as a committee and pay a **\$50 annual fee** to the Secretary of State shortly thereafter. (Certain local committees will only need to file with their local filing official.) Failure to pay the \$50 annual fee can result in a \$150 penalty. Committees that qualify within 16 days of an election may be required to register within 24 hours. All recipient committees must register using FPPC Form 410, known as the Statement of Organization, when they qualify as a committee. Certain local committees will only need to file with their local filing official.

Local recipient committees will also need to send a copy of their registration to the County Elections Office or City Clerk. (See the FPPC website for more information.) The recipient committee may also be required to apply for electronic filing credentials with the local filing official depending on the requirements of the local jurisdiction. It's a good idea to get to know your local filing officer and obtain guidance about both the filing requirements and deadlines that apply to your committee.

Remember, once a person or entity qualifies as a committee, they become a committee, whether they planned to or not.

Reporting

Independent Expenditure committees (that are not also recipient committees) and Major Donor committees must file semi-annual, quarterly and pre-election statements (when required), on **Form 461**. These types of filers only file statements in calendar years where they meet the relevant threshold. If they don't meet the threshold in a certain year, they don't have to file statements in that year. The threshold starts fresh each calendar year.

Recipient committees file semi-annual, quarterly and pre-election statements (when required) on **Form 460**. Recipient committees are required to file reports until they affirmatively terminate their status with a final **Form 410**.

All filers, regardless of registration status, should file Late Contribution Reports (**Forms 497**) and Late Independent Expenditure Reports on (**Form 496**).

The most commonly required campaign statements include:

Semi-Annual Statements: The first semi-annual statement of the year covers January 1 through June 30 and is due July 31. The second semi-annual statement covers July 1 through December 31 and is due January 31 of the following calendar year. The period the statement covers may change if the committee needs to file additional statements during the year.

Recipient committees must file at least these two statements every calendar year. Independent expenditure committees and Major Donors only file when the relevant threshold has been met.

Quarterly Ballot Measure Statements: Required by primarily formed ballot measure recipient committees all year until the six-month period before the election when voters will vote on the measure. The quarterly statement is not necessary 6 months before the relevant election because the committee needs to file pre-election statements instead. The committee would also need to file a quarterly ballot measure statement after the election, if the committee spends money to influence a different measure.

Odd Year Quarterly Statements: Required by any recipient committee that spends \$10,000 or more to support or oppose state elected officers. The committee would only need to file these statements during odd calendar years.

Preelection Statements: Required two times before an election. The first time covers the period up to 45 days before the election. This statement is due 40 days before the election. The second statement covers the period up to 17 days before the election. This second statement is due 12 days before the election. These statements are required for all recipient committees that are primarily formed to support a ballot measure or candidate on the ballot. General purpose committees are required to file preelection statements if they spend \$500 or more in contributions or independent expenditures to influence an election.

Typically, independent expenditure committees and major donors are not required to file these reports. However, local jurisdictions may impose additional rules that mandate these reports for independent expenditure committees and major donors. Local jurisdictions may also impose an additional third pre-election statement that would be due closer to the election on specified dates.

Late Contribution Reports (LCRs): Any committee making a contribution of \$1,000 or more to support a measure or candidate on the ballot within 90 days of that measure or candidate appearing on the ballot or to a political party within 90 days of a state election must file this report.

Committees primarily formed to support or oppose a measure or candidate on the ballot must file within 24 hours of receiving aggregate contributions of \$1,000 or more from a single source within 90 days before the election.

A committee primarily formed to support or oppose a statewide ballot measure must file an LCR within 10 business days of receiving a contribution of \$5,000 or more on a single day from a single source at any time outside the 90 days before the measure appears on the ballot.

Late Independent Expenditure Reports (LIERs): Any committee making a payment of \$1000 or more for an independent expenditure supporting or opposing a candidate or measure within 90 days of that candidate or measure appearing on the ballot must file within 24 hours.

For more information about what/where/when to file reports, please see:

[FPPC webpage, "Where and When to File Campaign Statements."](#)

[CA Form 460 with Supplemental Instructions for Multipurpose Organizations Including Nonprofits](#)



RECORDKEEPING RULES

The PRA requires all campaigns to keep accurate and organized records of the campaign's receipts and expenditures. Campaign treasurers and principal officers are legally responsible for maintaining these records.

The PRA requires committees to keep detailed records of both the contributions the committee receives and the committee's expenditures. Committees must keep these records, including original bank statements, for a period of four years from the date the campaign statement related to the records was filed. Two kinds of records must be kept for contributions received: **a daily record** of how all the money the committee receives and a **contributor record**, with detailed information about each contributor of \$25 or more. Even though contributions under \$100 can be reported as a lump sum (i.e. not itemized) on a committee's campaign statements, a committee must keep track of the same information for contributions between \$25 and \$99, namely:

- date of contribution;
- amount of contribution;
- full name & street address of contributor; and
- occupation & employer (if the contributor is an individual)

The same information must be collected even if a contribution is between \$25 and \$99 because, if a contributor cumulatively contributes \$100 or more in a calendar year, the source of their contributions must be itemized on the committee's campaign statement. If a committee does not have any of the above information about a contributor of \$100 or more within 60 days of the contribution, the committee must return the contribution. If it is not possible to return a contribution, the committee must give the contribution to the Secretary of State, who will deposit it into the State General Fund.

Similarly, committees must also keep records of daily lump sum totals of expenditures, as well as more detailed records of expenditures of \$25 or more to a single recipient. For all expenditures of \$25 or more, a committee should generally keep track of the following information:

- date of expenditure
- amount of expenditure;
- full name & street address of payee; and
- description of the goods or services received.

Similar to contributions, expenditures under \$100 may be reported as a lump sum (not itemized) on a committee's campaign statements. However, if a committee makes two or more payments under \$100 to one recipient for a single product or service, and the total paid to that recipient during the reporting period totals \$100 or more, the committee must itemize the total amount paid to that recipient during the period.

Please note, new and detailed recordkeeping rules were recently adopted by the FPPC for MPOs. These rules take into account the various types of MPOs and the relevant information for them based on their activities. As of the date this publication was completed, the regulations were still with the Office of Administrative Law so not available for linking in this guide. These regulations should be available on the FPPC's website very soon.

Use of Campaign Funds

State law generally requires expenditures of campaign funds to be **reasonably related** to a **political, legislative, or governmental purpose**. In other words, committees hold campaign contributions in **trust** for these purposes.

Personal use of campaign funds (for expenses such as food, clothing, or shelter for personal, not campaign, purposes) is prohibited. If someone with authority to approve the committee's expenditures receives a **substantial personal benefit** paid with campaign funds, the expenditure must be **directly related** to a political, legislative, or governmental purpose (which is a higher standard than "reasonably related"). A substantial personal benefit is defined as an expenditure of campaign funds that results in a direct personal benefit to a candidate, elected officer, or someone with authority to approve the committee's expenditures that is valued at \$200 or more.

For a comprehensive overview of permissible and prohibited expenditures, including examples and hypotheticals, please see: [FPPC Ballot Measure Manual, Chapter 5](#) ("Use of Campaign Funds").

Communications

ACTIVITIES THAT MAY TRIGGER REGISTRATION/REPORTING REQUIREMENTS

The PRA requires reporting of most payments in connection with political communications and requires "paid for by" disclaimers on ads placed by committees to inform voters who is paying for a communication.

Typically, payments for advertisements will count towards the committee thresholds discussed in Section II. Once one of those thresholds is met, the payor is subject to the disclaimer rules in the PRA as well (see discussion of disclaimers below).

While these payments are generally subject to the reporting thresholds discussed above, there are a few communication specific requirements worth mentioning.

Verification of Independent Expenditure

Any filer making independent expenditures of \$1,000 or more to support or oppose a measure or candidate must file Form 462 to verify under penalty of perjury that the communications are in fact "independent." This form must be submitted to the FPPC within 10 days of reaching the \$1,000 threshold. While submitted by email, the filer must maintain the originally signed document in its records.

"Electioneering Communications"

The PRA does not use the term "electioneering communications." However, this term is commonly used to refer to some regulated communications that **clearly identify a candidate** for elective state office, but do not expressly advocate the candidate's election or defeat.

If the communication costs \$50,000 or more and it is broadcast, mailed, or otherwise published within 45 days of an election, the committee paying for the communication must file a report (Form E-530) within 48 hours of payment (or the promise of payment).

For more information, please see [Instructions to FPPC Form E-530](#).



Please note, as of December 2019, there is pending legislation which may subject these types of communications to campaign disclosure and disclaimer rules in the near future.

Please consult the FPPC's website for more information about applicable requirements.

Slate Mailer Organizations

Organizations that receive payments to produce so-called **slate mailers** must file campaign statements disclosing all payments received and made in connection with such mailers. The PRA defines a "slate mailer" as a **mass mailing** (more than 200 substantially similar pieces of mail sent per calendar month, including email) that supports or opposes **four or more ballot measures or candidates**.

Individuals or organizations who qualify as **slate mailer organizations** must register as such and file campaign statements. A slate mailer organization is an individual or organization that:

1. Is directly or indirectly involved in the production of one or more slate mailers and exercises control over the selection of the measures or candidates the mailers support; and
2. Receives (or is promised) payment of \$500 or more in a calendar year to produce one or more slate mailers.

Importantly, the following entities/individuals can never be a slate mailer organization:

1. A candidate/officeholder or his/her controlled committee; or
2. A primarily formed committee (both for ballot measures and candidates).

Campaign Advertising Disclaimer Rules

The PRA requires campaign mailings and advertisements to include notices about who paid for the ad. These advertisement disclaimer rules apply to mass mailings (including e-mail blasts), paid telephone calls, radio and television ads, billboards, yard signs, and electronic media ads.

In 2017, the California Legislature passed the AB 249, known as the California DISCLOSE Act, which significantly changed disclaimer requirements for most committees. What type of disclaimer an ad must include--down to the font, text size and color, and exact wording--depends on the type of committee paying for the ad and the type of ad. Generally speaking, a "paid for by" disclaimer is required on all communications. Recipient committees of all types are also required to include a top contributor disclaimer, followed by the top three contributors of \$50,000 or more (if any). This is true for recipient committees that raise funds for political purposes and MPOs that are required to disclose donors pursuant to LIFO, discussed above. Independent expenditures supporting or opposing candidates are also required to include a "not authorized by" disclaimer.

Under the current rules, the exact language required and the display of that language depends greatly on the medium of the communication. These rules have been the subject of legislation each session for the past three Legislative Sessions and are currently the subject of a rulemaking at the FPPC scheduled for November 2019. As a result, we recommend that you review the most

up-to-date disclaimer charts available from the FPPC and consult with the FPPC or a political compliance attorney as necessary to comply with disclaimer requirements.

Please visit the FPPC's webpage on ["Campaign Advertising -- Requirements and Restrictions."](#)

After the Election

LEFTOVER FUNDS

The general rule for spending leftover campaign funds is that the expenditure must be reasonably related to a political, legislative, or governmental purpose. Examples of permissible uses of leftover campaign funds include:

1. Return funds to contributors;
2. Donate remaining funds to a government body, such as a school district, or to a bona fide charitable organization;
3. Contribute the funds to another committee;
4. Host a "thank you" luncheon for ballot measure supporters; or
5. Keep the funds for use in a future ballot measure campaign (This may require amending the committee's Statement of Organization and changing its name; see below.)

TERMINATING THE COMMITTEE

A committee stays open until it is affirmatively terminated. However, as long as a committee remains open, it must continue to file campaign statements and pay the \$50 annual fee to the Secretary of State. A committee may choose to stay open after the election for a few reasons, such as:

1. The committee wants to support other ballot measures or candidates in a future election;
2. The committee has outstanding debts; or
3. The committee has leftover funds.

A committee primarily formed to support a ballot measure or a candidate (aka: a primarily formed committee) that remains open after the election to support or oppose other measures or candidates must amend the committee's Statement of Organization (Form 410) and, often, change its name to reflect the change in committee type, since it is no longer primarily formed to support or oppose the same measure or candidate. Please note the committee cannot change from primarily formed status until all campaign debts have been paid.

To avoid further ongoing filing obligations, most primarily formed committees therefore choose to **terminate** after the election. By contrast, general purpose committees, such as "issue committees" or PACs sponsored by a 501(c)(4) or union, usually remain open beyond a single election.

A committee may terminate if:

1. It has filed all required campaign statements and paid its \$50 annual fees;
2. The committee has a \$0 balance on its last campaign statement;
3. It does not anticipate receiving further contributions or making further expenditures;
4. The committee is not expecting a refund of filing fees or ballot statement fees paid from committee funds.

Common Mistakes

Many violations of California campaign finance rules are unintentional. Most PRA violations are subject to strict liability, meaning that intent is not a factor in determining whether a violation occurred, but is only one of many mitigating or aggravating factors the FPPC may consider.

Even innocent mistakes can result in fines in the thousands of dollars. Below are some common mistakes to avoid.

FAILING TO REGISTER AS A COMMITTEE

Some groups begin to engage in campaign activity without considering the thresholds for registering as a committee. Failure to register as a campaign committee and file campaign statements can result in several costly violations. The exact fine amount is determined by the amount of contributions raised or expenditures made, so the longer a group engages in campaign activity without registering as a committee, the steeper the potential fine. Therefore, groups planning to engage in campaign activity in California at the state or local level should first become familiar with the committee registration thresholds before starting those activities.

FAILING TO PAY THE \$50 ANNUAL FEE

Often, a group will correctly register a committee and file timely campaign statements but forget to pay the \$50 annual fee to the California Secretary of State. Or they will file pay the fee once but never pay it again. All recipient committees must pay the \$50 fee annually, in addition to filing timely campaign statements.

FORGETTING TO TERMINATE THE COMMITTEE

After the election results are in, campaigns tend to focus on either celebrating victory or, in the case of defeat, moving on. Often, committees will forget to terminate the committee and stop filing campaign statements, despite having ongoing filing obligations. It is important to remember that, as long as a committee remains open, it must file campaign statements. To terminate, a committee must meet certain requirements, such as not having any leftover funds, and file a final campaign statement indicating its intent to terminate.

IMPROPER OR MISSING ADVERTISING DISCLAIMERS

The PRA requires campaign mailings and advertisements to include notices about who paid for the ad. These advertisement disclaimer rules apply to mass mailings (including e-mail blasts), paid telephone calls, radio and television ads, billboards, yard signs, and electronic media ads. See the

section above on Campaign Advertising Disclaimer Rules.

For detailed information about the specific advertising disclaimer requirements by ad and committee type, please visit the FPPC's Campaign Advertising Disclaimer Requirements [webpage](#).

Enforcement and Penalties

ENFORCEMENT

The FPPC's Enforcement Division analyzes and processes over 1,500 alleged violations of the PRA every year. Investigations stem from complaints and referrals from citizens, other government agencies, and the media. In addition, the Enforcement Division undertakes self-initiated investigations, and conducts both mandatory and discretionary campaign audits.

Common violations that the FPPC regularly enforces include:

1. Laundered campaign contributions;
2. Improper use of campaign funds;
3. False, inadequate, or inaccurate campaign statements;
4. Failure to file campaign statements; and
5. Anonymous campaign contributions, or cash contributions of \$100 or more.

While the PRA authorizes violations to be pursued via civil action or criminal prosecution, the vast majority of enforcement cases are resolved through the administrative enforcement process. Cases are usually resolved through the administrative process in one of four ways:

1. **Closure letter:** if there is insufficient evidence to prosecute or the allegation has been determined to be false.
2. **Advisory Letter:** when there is insufficient evidence to prosecute, but the person or organization being accused may need information about the PRA to ensure future compliance.
3. **Warning Letter:** where the seriousness of the offense and public harm are low, the FPPC writes a letter identifying the violation(s) that occurred, but it does not impose a fine.
4. **Fine:** In the cases of more serious violations, the FPPC performs a full investigation, prosecutes the case, and seeks penalties up to \$5,000 per violation, which must then be approved by the Commissioners. Most cases end through a settlement agreement.

PENALTIES

Violation of the PRA carries a maximum statutory penalty of \$5,000 per violation. A committee's treasurer and principal officer share joint liability for the committee's violations of the PRA. (Both the treasurer and principal officer are both held responsible for the violations.) See Cal. Govt. Code § 83116(c) and Cal. Govt. Code § 91006 for more information on these penalties.

A person with no prior history of violations might qualify for one of the FPPC's "streamlined programs" for non-compliance with major donor or late contribution filing requirements and

generally will be eligible for a lower fine amount.

For more information about the types of cases that qualify for the FPPC's Streamline Program, including the tiers of fines, please see the [FPPC's 2015 Streamline Memo](#).

STATUTE OF LIMITATIONS

Administrative matters must be prosecuted within five years from the date of the violation. See Cal. Govt. Code § 91000.5 for more information.

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

Fair Political Practices Commission

1102 Q Street, Suite 3000
Sacramento, CA 95811
Advice Line: (866) ASK-FPPC or (866) 275-3772
General Contact Line: (916) 322-5660
www.fppc.ca.gov

California Secretary of State

Political Reform Division
1500 11th Street, Room 495
Sacramento, CA 95814
Phone: (916) 653-6224
<https://www.sos.ca.gov/campaign-lobbying/selected-campaign-financing-analyses/>

Kaufman Legal Group prepared an earlier version of the Campaign Finance and Ballot Measure Guide, which was revised by Melissa Mikesell, Esq. and published by the Alliance for Justice. This edition has been revised and updated in 2020 by Alliance for Justice and Lacey Keys, Esq., Olson Remcho LLP, 555 Capitol Mall, Suite 400, Sacramento, CA 95814.

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FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our hotline for one-on-one technical assistance:

Email: advocacy@afj.org
Telephone: 1-866-NPLOBBY (675-6229)



For assistance regarding state law in California, please contact Alliance for Justice or:

Olson Remcho LLP
555 Capitol Mall, Suite 400
Sacramento, CA 95814
916.442.2952 – phone
916.442.1280 – facsimile
www.olsonremcho.com



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