

REVISED LEGISLATIVE DIGEST
(Substituted, 11/14/2017)

[Campaign and Governmental Conduct Code - Campaign Finance Amendments]

Ordinance amending the Campaign and Governmental Conduct Code to 1) clarify that campaigns must disclose expenditures on social media; 2) require committees that make independent expenditures to disclose the original sources of their funds; 3) require candidates to attest to the lack of any coordination with other committees; 4) require that the Voter Information Pamphlet note which candidates have agreed to voluntary spending limits; 5) require the Ethics Commission to complete audits of candidate committees within 24 months; 6) modify disclaimer requirements; 7) specify filing requirements for social media advertisements; and 8) prior to each municipal election, require the Ethics Commission to distribute a pamphlet to San Francisco voters regarding third-party spending.

Existing Law

1. Reporting requirements

The City's Campaign Finance Reform Ordinance ("CFRO"), Article I, Chapter 1 of the Campaign and Governmental Conduct Code generally incorporates the Political Reform Act's provisions regarding the reporting of expenditures and independent expenditures. See CFRO § 1.106. CFRO does not have any specific provisions regarding the reporting of expenditures on social media, or the original sources of contributions to committees that make independent expenditures.

2. Independent Expenditures; Coordination

Consistent with state law, local law specifies that if an expenditure is made at the behest of a candidate, the expenditure constitutes a contribution to the candidate it benefits. CFRO § 1.115. Local law does not require candidates to make any explicit representations or statements regarding this potential "coordination" with committees making expenditures on their behalf.

3. Voluntary Expenditure Ceilings

Candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District ("School Board") or the Governing Board of the San Francisco Community College District ("City College Board") may accept voluntary spending limits, also known as "voluntary expenditure ceilings." CFRO § 1.128(a). The voluntary spending limit for candidates for Assessor, City Attorney, District

Attorney, Public Defender, Sheriff, and Treasurer is \$243,000. CFRO § 1.130(a). The voluntary spending limit for candidates for the School Board and City College Board is \$104,000. CFRO § 1.130(b). The Ethics Commission may “lift” these voluntary expenditures ceilings in specified circumstances. See CFRO § 1.134.

Candidates for the Board of Supervisors and Mayor cannot currently accept these voluntary spending limits. But these candidates are eligible to participate in the City’s separate public financing program.

4. Audits

The Ethics Commission must conduct audits of publicly-financed candidates and has the discretion to conduct additional audits of targeted or randomly selected committees. CFRO § 1.150(a). Current law does not establish any deadline for the completion of these audits.

5. Disclaimers for Election-Related Communications (e.g., “Paid for by …”)

State and local law currently requires persons distributing certain election-related communications to include basic information about their funding. Existing law:

- a. requires 12-point type for all disclaimers on mass mailers and smaller print advertisements;
- b. requires independent expenditure and ballot measure committees to report their two top funders who have contributed at least \$20,000; and
- c. allows disclaimers required for audio and video advertisements to be included at either the beginning or the end of those advertisements.

CFRO §§ 1.161, 1.162; 2 C.C.R. § 18450.4(b)(3).

6. Filing Requirements

Independent expenditure committees, candidates, and persons who pay for electioneering communications or member communications must generally file copies of their advertisements and communications with the Ethics Commission. CFRO §§ 1.161-1.163. These filing requirements apply to written communications, as well as audio and video, but there are no specific requirements that apply to social media advertisements.

7. Public Information Regarding Third-Party Spending

Existing law does not require the Ethics Commission to distribute any pamphlets or publications regarding third-party spending in local elections. But the Ethics Commission

does provide extensive information regarding third-party spending for each election on its website.

Amendments to Current Law

1. Reporting requirements

The proposed ordinance would specify that committees must, consistent with the Political Reform Act, report expenditures on social media. The proposed ordinance would also require that independent expenditure committees report the original source of funds for contributions they receive.

2. Independent Expenditures; Coordination

The proposed ordinance would require candidates to file statements with the Ethics Commission attesting, under penalty of perjury, that their candidate committees have not failed to report any expenditure made by another committee that would constitute a contribution to their candidate committees. In other words, candidates would be required to attest that they have not engaged in any “coordination” with committees making independent expenditures.

3. Voluntary Expenditure Ceilings

The proposed ordinance would require the Director of Elections to include a notation in the Voter Information Pamphlet for each candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, School Board, and City College Board indicating whether the candidate has accepted the applicable voluntary expenditure ceiling. The proposal would also require the Director of Elections, in consultation with the Executive Director of the Ethics Commission, to also include a notation in the Voter Information Pamphlet explaining that candidates for the Board of Supervisors and Mayor are not eligible to accept voluntary expenditure ceilings.

4. Audits

The proposed ordinance would not alter the current requirement that the Ethics Commission audit every publicly-financed candidate or the Ethics Commission’s discretion to conduct additional audits. But it would require the Ethics Commission to complete any audits of candidate committees, including any audit-related penalties or enforcement actions, within 24 months of the filing of their first post-election campaign disclosure report.

5. Disclaimers for Election-Related Communications (e.g., “Paid for by ...”)

The proposed would amend CFRO Sections 1.161 and 1.162 to require:

- a. 14-point type for disclaimers on mass mailers and smaller print advertisements;
- b. independent expenditure and ballot measure committees to report their four top funders who have contributed at least \$20,000;
- c. disclaimers to be included at the beginning of audio advertisements; and
- d. disclaimers to be spoken at the beginning of video advertisements and appear in writing included during the entirety of such advertisements.

6. Filing Requirements

The proposed ordinance would require candidates to file copies of social advertisements with the Ethics Commission. It would similarly require electioneering communications and member communications distributed through social media to be filed with the Ethics Commission.

7. Public Information Regarding Third-Party Spending

The proposed ordinance would require the Director of Elections to include in the Voter Information Pamphlet a reference to the Ethics Commission webpages regarding third-party spending. The proposal would also require the Ethics Commission, prior to each municipal election, to mail to each registered San Francisco voter a pamphlet regarding the independent expenditures made in support of or opposition to candidates or ballot measures appearing on the ballot.

Background Information

Under Campaign and Governmental Conduct Code section 1.103, the Board of Supervisors may amend the campaign finance provisions of the Code if:

- (a) The amendment furthers the purposes of this Chapter;
- (b) The Ethics Commission approves the proposed amendment in advance by at least a four-fifths vote of all its members;
- (c) The proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and
- (d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.