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SAN FRANCISCO ETHICS COMMISSION

CONTRIBUTOR GUIDE

A Guide to Local Laws

Governing Campaign Contributions

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I. INTRODUCTION

The San Francisco Ethics Commission (the “Commission”) was established by the voters in 1993 to administer and implement the provisions of the Charter and City ordinances relating to campaign finance, lobbying, conflicts of interest, and governmental ethics. One of the Commission’s duties is to educate members of the public about local laws governing campaign contributions.

This guide summarizes the local laws applicable to campaign contributions, including contribution limits, who may make contributions to committees, and required reporting by contributors and committees. This guide is for informational purposes only, and does not have the force or effect of law or regulation.

The discussion of the campaign finance laws in this guide is necessarily general, to provide readers a basic understanding of the laws. Any specific questions regarding these laws or their application should be directed to the Commission staff at (415) 252-3100. You may also visit the Commission’s website at www.sfethics.org. The website includes general information about the Commission, as well as the laws it enforces.

We hope you find this guide helpful and look forward to assisting you in the future.

II. WHAT IS A CONTRIBUTION?

What is a contribution?

A contribution is a monetary or non-monetary payment made to a candidate or committee for which no goods, services, or other consideration of equal value is provided to you in return. CA Gov’t Code § 82015. In San Francisco, a contribution includes a loan of any kind or nature. S.F. Campaign and Governmental Conduct (“C&GC”) Code § 1.104(g).

A contribution includes:

- A payment in the form of money or non-monetary items;
- A loan of any kind or nature;
- Forgiveness of a loan;
- A payment of a loan by a third party;
- An enforceable promise to make a payment for political purposes.

What is a monetary contribution?

A monetary contribution is:

- A check written to a campaign committee;
- Cash given to a campaign committee (may not exceed \$99.99);
- A credit card charge made to a campaign committee;
- A loan made to a campaign committee;
- An enforceable promise to make a payment to a campaign committee.

What is a non-monetary contribution?

A non-monetary contribution or “in-kind” contribution is a good or service provided to a campaign committee.

Typical non-monetary examples include:

- Food, beverages, flowers, and decorations donated to a campaign committee;
- Printing or mailing costs donated by a printer;
- An expenditure made at the behest of a candidate;
- A discount or rebate that is not generally extended to the public;
- The transfer of anything of value to a campaign committee without full consideration provided in return;
- The reproduction, broadcast, or distribution of any material belonging to a candidate.

III. ARE THERE LIMITS ON CONTRIBUTIONS?

Yes. In San Francisco, no person other than a candidate may make, and no campaign treasurer for a candidate committee for City elective office may solicit or accept, any contribution that will cause the total amount contributed by the person to the candidate committee in an election to exceed \$500. In addition, no person may make a contribution that will cause his or her total amount of contributions to all candidate committees in an election to exceed \$500 multiplied by the number of City elective offices to be voted on in that election. There are other limits, as set forth below.

What is a
City elective
office?

A City elective office is one of the following offices:

- Mayor,
- Member of the Board of Supervisors,
- City Attorney,
- District Attorney,
- Treasurer,
- Sheriff,
- Assessor/Recorder,
- Public Defender,
- Member of the Board of Education of the San Francisco Unified School District, or
- Member of the Governing Board of the San Francisco Community College District

How much
may you
contribute to
a candidate
for City
elective
office?

You may contribute up to \$500 to a candidate for City elective office.

Note, however, that the total amount of contributions you may make in an election cannot exceed \$500 multiplied by the number of City elective offices to be voted on in the election. For example, in November 2013, four offices are up for election: Assessor/Recorder, City Attorney, Treasurer, and District 4 of the Board of Supervisors. The total amount you may contribute to all candidates for City elective office in the November 5, 2013 election is 4 x \$500, or \$2,000.

Is there a
limit on
contributions
to a non-
candidate
committee?

No. Local law does not limit the amount of contributions you may make to a non-candidate committee.

May you
make a
contribution
in cash?

Yes, as long as the contribution is *under* \$100.00.

Campaign committees may accept cash contributions of \$99.99 or less. This includes money orders and cashier's checks.

Please note that a campaign committee that receives \$100 in a cash contribution may not make change to the contributor so as to bring the contribution down to under \$100.

May you
make a
contribution
from both
your
personal and
business
funds?

It depends. Your total contributions may not exceed the contribution limits.

For the purposes of the contribution limits, contributions from affiliated entities are aggregated. This means that contributions of an entity (such as a business) whose contributions are directed and controlled by an individual are added to the contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

Example: Larry Smith is the sole proprietor and 100% owner of Smith Company. Larry contributed \$500 from his personal account to Simon Seal, a candidate for Sheriff. Larry received an invitation to Seal's next fundraiser, which includes a five-course dinner cruise around the bay. Tickets to the fundraiser cost \$500. Can Larry use funds from Smith Company's business account to pay for the ticket to the fundraiser?

Answer: No. Because Larry already donated the maximum amount to Seal from his personal account, neither Larry nor any entity of which he is the majority-owner may contribute any additional money to Seal. Accordingly, because Larry is the sole proprietor and 100% owner of Smith Company, and Smith Company does not act independently in making contribution decisions, neither he nor Smith Company may purchase the ticket to Seal's fundraiser.

May your child make a contribution?

It depends.

A contribution made by children under the age of 18 is presumed to be a contribution from the child's parent or guardian, and is counted toward the \$500 limit of the parent or guardian.

May you make a contribution from a joint checking account?

Yes.

If you make a contribution with a check that has the names of more than one person printed on it, the contribution will be attributed to the person whose name is printed on the check and who also signed the check.

May you make a loan to a campaign committee?

Loans (other than a candidate's personal loans) are contributions and are subject to the same limits and disclosure requirements as other types of contributions.

May you
make a
contribution
if you are a
contractor
with the
City?

City law bans persons who are seeking or recently entered into government contracts from making contributions to certain candidates for City elective office. The ban applies when:

- (1) the City, a state agency on whose board an appointee of a City elective officer serves, the Unified School District, or the Community College District is a party to the contract,
- (2) the contract or series of contracts in the same fiscal year has a total anticipated or actual value of \$50,000 or more in a fiscal year, and
- (3) the City elective officer, a board on which that officer serves, or the board of a state agency on which the officer's appointee serves must approve that contract or series of contracts.

The ban applies to:

- any party or prospective party to the contract,
- the contracting party's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer,
- any person with an ownership interest of more than 20 percent in the contracting party,
- any subcontractor listed in the contract, and
- any committee that is sponsored or controlled by the contracting party.

Contractors and their affiliates may not make contributions from the start of negotiations on the contract until negotiations are terminated or six months after the contract is approved. The ban applies not only to City elective officers who must approve the contract but also to candidates for those offices.

May a corporation make a campaign contribution?

Corporations, whether for profit or not, may not make contributions to candidates for City elective office.

However, a corporation may establish, administer and solicit contributions to a separate segregated fund to be used for political purposes by the corporation; such a fund must comply with the requirements of federal law.

A corporation may make contributions to non-candidate committees.

A Limited Liability Company may make a contribution to a candidate committee if it is taxed as a partnership. Otherwise, the LLC is treated as a corporation and is subject to the ban on contributions by corporations to candidates.

IV. WHAT INFORMATION MUST YOU PROVIDE AS A CONTRIBUTOR?

What information must you provide as a contributor to a campaign committee?

If you contribute \$25 or more, you must provide the following information to the committee:

- Your name, and
- Your street address.

If the cumulative amount of your contribution is \$100 or more, you must provide the following information to the committee:

- Your name,
- Your street address,
- Your occupation, and
- Employer information. (If you are self-employed, you must provide the name of your business.)

V. WHAT OTHER IMPORTANT INFORMATION SHOULD YOU KNOW?

What else must you know when making a contribution?

- It is important that you make contributions only in your name. Contributors may not make contributions in someone else's name or reimburse another individual for a contribution that they have made. If you are asked to make a contribution in someone else's name or to be reimbursed for a contribution, please contact the Ethics Commission.
- If your contributions to candidates or ballot measures or other types of committees total \$10,000 or more in a calendar year, you must file a Major Donor Committee Campaign Statement (Form 461). The deadline and location for filing this statement will depend upon the timing and type of contribution(s) you have made. Once you become a major donor, you must file a late contribution report within 24 hours if you make contributions totaling \$1,000 or more to a single candidate or committee during the last 90 days before the election.

VI. ARE YOU SUBJECT TO PENALTIES IF YOU VIOLATE A CAMPAIGN FINANCE RULES?

What happens if you violate the law?

If you knowingly or negligently violate a provision of the San Francisco Campaign Finance and Governmental Conduct Code, you may be subject to an administrative enforcement action and monetary penalties up to \$5,000 per violation or three times the amount which you failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater.

VII. WHAT IF YOU HAVE ADDITIONAL QUESTIONS?

How can you
obtain
additional
information?

As noted, this guide is intended to answer the most frequently asked questions about laws applicable to campaign contributions under local law.

Please do not hesitate to contact the Ethics Commission for advice or information. We can help you avoid mistakes and prevent violations of the law. We can be reached at (415) 252-3100 on Monday-Friday 8 AM – 5 PM except during City holidays, or at ethics.commission@sfgov.org when you need assistance or direction. You can also visit our web site at www.sfethics.org for a host of information.

You may also contact the California Secretary of State at (916) 653-6814, the San Francisco Department of Elections at (415) 554-4375, or the California Fair Political Practices Commission at (866) 275-3772.

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