



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

BENEDICT Y. HUR
CHAIRPERSON

PAUL A. RENNE
VICE-CHAIRPERSON

BRETT ANDREWS
COMMISSIONER

BEVERLY HAYON
COMMISSIONER

PETER KEANE
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: January 16, 2015
To: Members, Ethics Commission
From: John St. Croix, Executive Director
By: Jesse Mainardi, Deputy Executive Director
Re: Proposed Amendments to the Campaign Finance Reform Ordinance

Proposed Commission Action and Staff Recommendation

Staff recommends that the Commission approve the amendments to the City's Campaign Finance Reform Ordinance ("CFRO"), found at San Francisco Campaign and Governmental Conduct Code section 1.100 et seq., which are set forth below.

Background and Reasons for Proposed Legislative Action

This memorandum summarizes the legislative amendments proposed by staff to update, streamline, and otherwise improve CFRO. The proposed amendments are generally limited to three discrete areas:

- (1) Contribution limits struck down, or likely to be struck down, by the courts;
- (2) Certain reporting requirements for individuals, businesses, and non-candidate committees engaged in campaign activity ("third-party disclosures"); and
- (3) Disclaimer requirements for campaign communications.

The proposed amendments will bring CFRO up-to-date with recent legal developments, particularly state law changes that took effect in early 2013 requiring 24-hour reporting of all independent expenditures made within the 90 days prior to an election. The amendments are also offered to simplify and improve CFRO's reporting and disclaimer requirements.¹

Amendments approved by four members of the Ethics Commission will be forwarded to the Board of Supervisors for consideration. The Board of Supervisors may not consider the amendments until thirty days after approval by the Commission.

¹See generally Cass R. Sunstein, *Simpler: The Future of Government* (2014) (explaining benefits of assessing and simplifying regulations through retrospective "look backs").

Amendments will become law only if they are approved by at least two-thirds of the members of the Board. (Camp. & Govt. Conduct Code section 1.103.)² In this regard, it is staff's intent that, if enacted, the proposed changes will be in effect for the November 2015 election.

A discussion of the main changes for each of the three categories of amendments follows, and includes both an explanation of, and a justification for, the proposed changes. Also, a copy of all proposed amendments is attached as Appendix A. The relevant page and line numbers on the attachment are specified for easy reference to the actual statutory language.

Finally, the proposed amendments were informed by public input provided at two interested person meetings and through communications by staff directly with members of the public and the regulated community. A summary of the comments at the two interested person meetings is attached as Appendix B as the result of a request of an attendee at the second meeting. The summary includes staff's assessments of these comments.

Legislative Proposals

1. Repeal of Two Contribution Limitations.

The first set of amendments concerns two CFRO provisions limiting contributions in City elections. Staff proposes the repeal of these provisions given recent case law.

The first provision is Section 1.114(a)(2), which imposes an aggregate limit on contributions to City candidates in a given City election.³ In *McCutcheon v. Federal Election Commission*, 572 U.S. ___, No. 12-536 (S.Ct. Apr. 2, 2014), the United States Supreme Court struck down as unconstitutional a similar federal law limiting how much an individual could contribute to federal candidates, parties and PACs in a two-year election cycle.

At its meeting on May 28, 2014, the Commission adopted a resolution stating that it will not enforce the aggregate limit in Section 1.114(a)(2) against contributors in City elections given the *McCutcheon* decision. The Commission also directed the staff to include a provision repealing Section 1.114(a)(2) in a planned future package of CFRO amendments.

The second provision at issue is Section 1.114(c), which imposes limits on contributions to certain committees not controlled by a City candidate or officeholder.⁴ On September 20, 2007, Judge Jeffrey White of the United States District Court for the Northern District of

² Unless otherwise stated, all future statutory references are to the Campaign and Governmental Conduct Code.

³ Section 1.114(a)(2) provides that "[n]o person shall make any contribution which will cause the total amount contributed by such person to all candidate committees in an election to exceed \$500 multiplied by the number of city elective offices to be voted on at that election."

⁴ Section 1.114(c) provides as follows: "(1) Per Committee Limit. No person shall make, and no committee treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person to the committee to exceed \$500 per calendar year.

(2) Overall Limit. No person shall make, and no committee treasurer shall solicit or accept, any contribution which will cause the total amount contributed by such person to all committees to exceed \$3,000 per calendar year.

(3) Definitions. For purposes of this Subsection, "committee" shall mean any committee making expenditures to support or oppose a candidate, but shall not include candidate committees."

California enjoined enforcement of this section and, in accordance with the District Court’s order, the City currently is not enforcing the contribution limits set forth in that section.

Since the District Court’s ruling, additional federal case law has called Section 1.114(c)’s limits into question. Both the Ninth Circuit and the D.C. Circuit Court of Appeals have ruled that limits on contributions to independent PACs violate the First Amendment because the government has no anti-corruption interest in limiting such contributions. (*See Long Beach Area Chamber of Commerce v. City of Long Beach* (9th Cir. 2010) 603 F.3d 684, 699; *Speechnow.org v. Fed. Election Comm’n* (D.C. Cir. 2010) 599 F.3d 686, 689.)

Given the case law described above, staff recommends the Commission approve the repeal of CFRO Sections 1.114(a)(2) and 1.114(c).

See page 10, line 1 through page 11, line 2 of the attached draft amendments.

Decision Point 1: Shall the Commission approve the proposed repeal of CFRO Sections 1.114(a)(2) and 1.114(c), as set forth above?

2. Consolidating, Streamlining, and Enhancing Third-Party Disclosure.

a. Background for Third-Party Disclosure Requirements.

The second set of amendments concerns reporting requirements for third parties (i.e., non-candidates) – including political committees, individuals, corporations, trade associations, unions, etc. – engaged in campaign activity in City candidate elections. By way of background, third parties that wish to weigh in on City elections may do so in a variety of ways. Some methods may not involve the expenditure of funds (e.g., a simple endorsement) and thus do not trigger state or local reporting requirements.

However, third parties that spend money on communications intended to influence a City candidate election are generally subject to a number of state and local reporting rules designed to disclose the true funders of those communications.⁵ A variety of media may be used for these reportable communications (e.g., mass mailings, billboards, TV and radio ads, email, etc.), which are nevertheless generally divided into four sometimes overlapping categories under CFRO:

Independent Expenditures: Communications that “expressly advocate” the election or defeat of a candidate (e.g., “Vote for Candidate X” or “Don’t vote for Candidate Y”).

Electioneering Communications: Communications that clearly identify a candidate within 90 days of an election and are distributed to 500 or more people, but do not contain express advocacy (e.g., a candidate’s name or appearance on a ballot measure ad).

⁵ Pursuant to governing case law, a third-party can raise and spend as much as it wants on communications intended to influence a candidate election so long as those communications are not coordinated with the candidate. (*See Citizens United v. Fed. Election Common* (2010) 558 U.S. 310; *Long Beach Area Chamber of Commerce, supra.*)

Member Communications: Communications to members, employees, or shareholders of an organizations (or their family members) expressly advocating the election or defeat of a candidate.⁶

Persuasion Polls Telephone surveys referencing a candidate which are made no more than 60 days before an election through at least 1,000 calls, and which meet certain other criteria.

Most campaign finance disclosure schemes – including California state law – generally only regulate independent expenditures. However, City law imposes reporting requirements on all four types of communications. These disclosure requirements serve a number of purposes, including the three compelling governmental purposes identified by the U.S. Supreme Court: informing voters so they may evaluate candidates and ballot measures, preventing corruption and the appearance of corruption, and aiding in the enforcement of compliance with campaign finance laws. (*See Buckley v. Valeo* (1974) 424 US 1, 66-68.)

City disclosure requirements also help to determine whether to lift or adjust the City's Voluntary Expenditure Ceiling (“VEC”) or Individual Expenditure Ceiling (“IEC”) in a particular race, as described below. IECs are a critical mechanism in the City’s public financing program. More specifically, when reported independent expenditures, electioneering communications, and member communications indicate that particular thresholds of spending that supports or opposes a candidate have been reached, the Commission will lift or adjust the IEC and provide a candidate participating in the City’s public financing program with greater access to public funds.

b. Summary of Current Third-Party Disclosure Requirements.

CFRO imposes a number of reporting requirements on third parties that disseminate candidate-related communications prior to an election. These include the obligation to file disclosure reports for:

- *Mass mailings* – over 200 pieces of mail advocating for or against a candidate (Section 1.161(b));
- *Electioneering communications* – communications that clearly identify a candidate within 90 days of a City election and are distributed to 500 or more people (Section 1.161.5(b));
- *Persuasion polls* – telephone surveys referencing a candidate which are made through at least 1,000 calls, of which at least one is within 60 days of a City election, and which meet certain other criteria (Section 1.160.5); and

⁶ Pursuant to state law, these communications generally do not constitute reportable contributions or expenditures, but are reportable if made by a political party committee. (Cal. Govt. Code § 85312.)

- “\$5,000 reports” – independent expenditures, electioneering communications, and member communications for or against candidates in races where there is at least one publicly financed candidate (which is available in Board and Mayor races) or where at least one candidate has accepted a voluntary expenditure ceiling (which is available in races for all other local offices). (Sections 1.134; 1.152(a)(3), (b)(3).)⁷

Notably, the above filing requirements are *in addition to* those mandated by the state’s Political Reform Act (the “Act”), California Government Code section 81000 et seq., which is incorporated into CFRO by Section 1.106. For example, the Act requires committees active in an election to file semi-annual reports on July 31 and January 31 of each year, as well as pre-election reports due twice within the month prior to the election.

Importantly, the Act also imposes a 24-hour reporting requirement for persons making independent expenditures of \$1,000 or more which support or oppose a City candidate during the 90 days prior to an election. Persons making such independent expenditures must file an FPPC Form 496 with the Ethics Commission. Within 10 days, they must also file a Form 462 with the FPPC verifying that the independent expenditure was not coordinated with a candidate.

Finally, CFRO requires any general purpose San Francisco committee (including Major Donors and Independent Expenditure committees)⁸ to file a pre-election report if it makes any expenditure of \$500 or more during the pre-election reporting period. State law has a similar requirement, but requires \$500 to be spent on contributions or independent expenditures. Under the CFRO rule, a general purpose San Francisco committee must file a pre-election report even if it only pays \$500 in compliance costs during a pre-election period in an even year, even though such costs are not directly related to the upcoming election.

A chart summarizing the above reporting requirements is attached as Appendix C.

c. Assessment of current CFRO third-party reporting regime.

Staff has reviewed CFRO’s third-party reporting requirements in light of its experience and recent factual and legal developments in order to determine whether and how they might be changed to accomplish more efficient and effective regulation of third-party campaign activity.⁹ This review has revealed that CFRO’s third-party reporting requirements may be simplified, particularly when considered in the context of state law requirements. Indeed, the Ethics Commission’s Third Party Disclosure Form (attached as Appendix D) is now 11 pages long.

⁷ Certain communications may trigger more than one reporting requirement (e.g., mass mailing and \$5,000 reports), in which case the filer must generally comply with the requirements with the earlier filing deadline.

⁸ A Major Donor committee is an individual or entity which makes contributions totaling \$10,000 or more in a calendar year in connection with state or local elections in California. An Independent Expenditure committee is an individual or entity which makes independent expenditures totaling \$1,000 or more in a calendar year in connection with state or local elections in California. (Cal. Govt. Code § 82013(b),(c).)

⁹ “[R]etrospective analysis can help show what actually works and what does not. . . . it can promote the repeal or streamlining of less effective rules and the strengthening or expansion of those that turn out to do more good than harm.” (Sunstein, *supra*, at pg. 179.)

By way of example, a PAC sending a single mass mailer about a candidate costing \$1,000 or more must determine whether and when it must comply with two different CFRO requirements (i.e., the mass mailing and \$5,000 reports) *in addition to* the 24 hour reporting requirement (Form 496), a non-coordination verification requirement (Form 462), and two pre-election report requirements (Forms 460 and 465) under state law. Similarly, a ballot measure committee must determine whether a candidate endorsement on its mass mailer triggers an electioneering communications report or a “\$5,000 report” under CFRO, or both.

Complexity of this nature imposes a variety of *costs*. First, third-parties wishing to participate in elections incur compliance costs, either in time or expense. These costs “impose disproportionate burdens on the [less wealthy and less sophisticated] by raising prices and necessitating the services of lawyers and other professionals trained in the management of complexity.” (Peter H. Schuck, *Why Government Fails So Often (And How It Can Do Better)* (2014), pg. 290.) Second, the myriad of overlapping filings can produce confusion on the part of the members of the public who wish to access and understand these filings.¹⁰ Third, staff spends considerable time reviewing the third-party disclosure requirements to ensure consistent and accurate enforcement and advice to the public.

As to *benefits*, CFRO’s third-party reports undoubtedly provide important information to the public regarding the campaign activity of third-party filers. However, the marginal benefit of each additional requirement is reduced by the often overlapping nature of CFRO’s third-party reporting regime. Most notably, the mass mailing, persuasion poll and \$5,000 reporting requirement for independent expenditures overlap with other reporting requirements given that, as of January 1, 2013, state law has required all independent expenditures of \$1,000 and more made within 90 days of an election to be reported with the Ethics Commission within 24 hours. CFRO’s electioneering communications and \$5,000 reporting requirements also overlap.

In short, while certain reporting requirements may make sense taken individually, there are reasons to further streamline those requirements when considered in the context of the broader reporting scheme. (*See* Sunstein, *supra*, pg. 179.) As Asha John of Code For America’s SF Brigade has written, “instead of simply clamoring for more [campaign finance] disclosure, we should demand *intelligent and common sense disclosure*.” (Emphasis added.)¹¹

What does “intelligent and common sense disclosure” mean in this context? It means disclosure requirements that meet CFRO’s purposes in the simplest way possible. (*See* Schuck, *supra*, pg. 404; see also Jennifer Heerwig and Katherine Shaw, *Through a Glass, Darkly: The*

¹⁰ For example, a member of Code For America’s SF Brigade, Asha John, who has worked to produce data visualizations of local campaign finance data has expressed in a blog posting her frustrations with overlapping but different campaign finance data sets. (*See* Asha John, “Can Campaign Funding Disclosure Laws Be Counter Productive?” August 21, 2014, <https://medium.com/sf-campaign-finance-data-visualization/can-campaign-funding-disclosure-laws-be-counter-productive-d7bfc790f361>.)

¹¹ Certain prominent political scientists and campaign law scholars have argued for *less*, but better targeted, campaign finance disclosure in certain contexts. (*See, e.g.*, Levitt, Justin, *Confronting the Impact of Citizens United* (September 13, 2010) *Yale Law & Policy Review*, Vol. 29, 2010; La Raja, Ray, *Campaign finance laws that make small donations public may lead to fewer people contributing and to smaller donations*, January 7, 2015, <http://blogs.lse.ac.uk/usappblog/2015/01/07/campaign-finance-laws-that-make-small-donations-public-may-lead-to-fewer-people-contributing-and-to-smaller-donations/>.)

Rhetoric and Reality of Campaign Finance Disclosure (June 18, 2014). Georgetown Law Journal, Vol. 102, p. 1443, 1475.) As stated above, those purposes are: (1) promoting the variety of governmental interests served by disclosure, including disclosure of the true funders of third-party spending, and (2) tracking third-party spending for purposes of the City's Voluntary Expenditure Ceiling and Individual Expenditure Ceiling.

The simplest way of serving these purposes is to rely on an approach that might be called “*state law plus*” – i.e., rely on state law to the greatest extent possible, but supplement that law when necessary. Here, this approach entails making a few basic fixes to remove redundancies, institute a single disclosure threshold, and simplify reporting. In sum, staff proposes the following:

- Rely on the state Form 496 for reporting independent expenditures (including mass mailers) for or against candidates.
- Remove the mass mailing, persuasion poll and \$5,000 reports disclosure requirements.
- Impose a new member communications reporting requirement.
- Standardize the reporting threshold for independent expenditures, electioneering communications, and member communications at \$1,000 per candidate.
- Require Form 496, electioneering communications reports, and member communications reports to all be filed within 24 hours during the 90 days prior to an election.
- Require the filing of copies of all reported independent expenditures, electioneering communications, and member communications.
- Exempt general purpose committees only paying administrative costs (e.g., legal and accounting fees) from the requirement to file pre-election statements.

These changes are summarized in Appendix C and are also described further below.

In short, by simplifying the third-party reporting rules, these fixes will help to “[e]nsure that all individuals and interest groups in our city have a fair opportunity to participate in elective and governmental processes.” (Section 1.100(b)(2).)

d. Proposed legislative amendments for third-party disclosure requirements.

i. Amend Section 1.134. This amendment specifies that the Executive Director will determine whether *a voluntary expenditure ceiling*¹² for an elected office has been lifted by

¹² Candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education, and the Community College Board may accept a voluntary expenditure ceiling which they are then prohibited from exceeding. The ceiling may be lifted based on candidate and third-party spending.

consulting various filed reports, including Forms 496 (for independent expenditures), electioneering communications reports, and member communications reports. Such determinations are currently made by reference to \$5,000 reports filed with the Commission; this amendment eliminates this \$5,000 report disclosure requirement.

See page 14, line 3 through page 15, line 5 of the attached draft amendments.

ii. Amend Section 1.135. Section 1.135 currently requires a San Francisco general purpose committee to file pre-election reports if it makes payments of \$500 or more in the applicable period, *regardless of whether the payments have anything to do with the upcoming election*. Thus, a payment for treasurer services performed earlier in the year or overhead costs will trigger this reporting requirement. With the amendment of Section 1.135, a San Francisco general purpose committee will still have to file pre-election reports if it makes payments of \$500 or more in the applicable period, but not if its only payments are for costs related to the establishment and administration of that committee (e.g., legal and accounting fees, etc.).

See page 15, line 6 through line 15 of the attached draft amendments.

iii. Amend Sections 1.143 and 1.152. These amendments specify that the Executive Director will determine whether *an individual expenditure ceiling*¹³ for an elected office has been lifted by consulting various filed reports, including Forms 496 (for independent expenditures), electioneering communications reports, and member communications reports. Such determinations are currently made by reference to \$5,000 reports filed with the Commission; this amendment eliminates this \$5,000 report disclosure requirement.¹⁴

See page 16, line 16 through line 21; page 19, line 7 through page 20, line 3; and page 20, line 23 through page 21, line 23 of the attached draft amendments.

iv. Delete Section 1.160.5. Section 1.160.5 currently imposes certain disclaimer and reporting rules for “persuasion polls” – i.e., telephone surveys referencing a candidate which are made through at least 1,000 calls, of which at least one is within 60 days of a City election, and which generally paint the referenced candidate in an unflattering light. The amendments delete this section as these calls are generally captured under either independent expenditure or electioneering communications reporting and disclaimer requirements. In this regard, it appears that only two surveys have ever properly triggered this reporting requirement, both of which were also reported as independent expenditures.

¹³ Qualifying candidates for Mayor and the Board of Supervisors may receive public financing for their campaigns, but their spending is subject to individual expenditure ceilings that they may not exceed. These ceilings are adjusted based on candidate and third-party spending. The purpose of flexible individual expenditure ceilings is to ensure that publicly financed candidates are not easily outspent by non-participating, competing candidates.

¹⁴ Independent expenditures and member communications made more than 90 days prior to an election (i.e., before the first week of August) will *not* be reported within 24 hours. However, independent expenditures made outside the 90-day period will be captured on a Form 465 filed with the Commission in the month prior to the election. Moreover, it is extremely unusual for such expenditures and communications to take place before the 90 day period given that most candidate election activity happens after Labor Day. In this regard, staff calculates that less than \$8,000 has been spent on third party spending outside the 90-day period since 2010 (out of a total of \$6.3 million), and \$6,707 of that amount involved funds spent on the “Run Ed Run” recruitment effort.

See page 22, line 8 through page 26, line 16 of the attached draft amendments.

v. Amend Section 1.161. Section 1.161 currently requires both candidates and third-parties to file itemized mass mailer reports within 5 business days, or within 48 hours if sent during 16 days prior to an election. The amendment eliminates this requirement for *third parties*, as their mailers are already generally disclosed within 24 hours on Forms 496, along with other independent expenditures. The amendments retain the mass mailing reporting for *candidates* but limit the number of required copies that must be filed to one

Additionally, amended Section 1.161 specifies that copies of *all* independent expenditures concerning candidates – including mass mailings, billboards, TV and radio ads, etc. – must accompany any Form 496 filed with the Ethics Commission.

Current section 1.161 also imposes disclaimer requirements, which the amendments replace and improve, but which are discussed later in this memorandum.

See page 26, line 17 through page 30, line 2 of the attached draft amendments.

vi. Delete Section 1.161.5. This section currently sets forth the electioneering communications rules, which the amendments move to Section 1.162.

See page 30, line 3 through page 36, line 19 of the attached draft amendments.

vii. Amend Section 1.162. This section currently sets forth the disclaimer rules for “campaign advertisements.” The amendments replace and improve these requirements, which are discussed later in this memorandum.

Amended Section 1.162 sets forth the disclaimer and reporting rules for electioneering communications. The disclaimer rules are discussed later in this memorandum. As for reporting rules, the amendment will require electioneering reporting only when the expenditures per candidate is \$1,000 or more. For purposes of the \$1,000 threshold, the costs of a communication that refers to more than one candidate or ballot measure will be apportioned among each candidate and measure in the communication according to the relative share of that communication dedicated to each candidate or measure.¹⁵ This amendment helps to set a uniform standard for disclosure thresholds – i.e., \$1,000 per candidate – and reduces the reporting deadline to 24 hours. It also addresses the problematic scenario of a ballot measure committee having to file an electioneering communication report simply because its mailer includes a very small reference to an endorsement by a candidate.¹⁶ Under the amendment, the

¹⁵ The entire cost of any communication referencing only one candidate will count towards the \$1,000 threshold.

¹⁶ Definitions relevant to electioneering communications are also moved to the definitions section of CFRO. (See page 3, line 15 through page 4, line 24 of the attached draft amendments.) In this regard, the definition of electioneering communication has been amended to exclude campaign communications by candidates (i.e., candidate mailers that list other candidate endorsements). This is consistent with informal Ethics Commission advice that such communications are not reportable electioneering communications. Also, in response to a suggestion by an interested party, the amendments exempt fundraising event invitations from 501(c)(3) nonprofit organizations that mention candidates (i.e., the candidate appears as the keynote speaker at the nonprofit’s

reportable information will mirror what is already required for independent expenditure reporting on a Form 496.

See page 30, line 3 through page 36, line 19 of the attached draft amendments.

viii. Amend Section 1.163. This section currently sets forth disclaimer rules for recorded telephone messages, which are basically duplicative of state law. The amendments eliminate this disclaimer rule, and replace it with new rules for reporting communications by an organization to its members (i.e., “member communications”) which are made 90 days prior to an election and which advocate for or against a City candidate. Pursuant to state law, these communications generally do not constitute reportable contributions or expenditures. However, member communications may impact expenditure ceilings, and thus tracking them is important. The new rules basically ask for the same information as is reported under the current regime (i.e., general spending information, but not donor information). The amendments impose a \$1,000 per candidate threshold and require reporting within 24 hours, like independent expenditures and electioneering communications.

See page 36, line 20 through page 38, line 10 of the attached draft amendments.

Decision Point 2: Shall the Commission approve the proposed amendments to CFRO’s reporting requirements set forth above?

3. Standardizing and Improving Disclaimer Requirements.

a. Background for campaign disclaimer rules.

The third set of amendments concern “disclaimer” statements that must be included on or in campaign communications. State law requires candidate and political committee communications to include “disclaimers” that indicate on the communication itself who is paying for the communications (e.g., “Paid for by ...”). State law also requires ballot measure committees and independent committees formed primarily to support or oppose a candidate to include the names of the committee’s top two donors of \$50,000 or more (e.g., “Major funding by ...”). (Cal. Govt. Code §§ 84503 & 84506.) These disclaimers must appear in certain sizes and formats which depend on the sender and the medium of communication.¹⁷

Disclaimers are generally useful because they “‘provid[e] the electorate with information,’ and ‘insure that the voters are fully informed’ about the person or group who is speaking.” (*Citizens United v. Fed. Election Comm’n* (2010) 558 U.S. 310, 368 [citations omitted].) They can serve as a “heuristic” device for voters by providing a “cognitive shortcut . . . [that helps] in the identification of a candidate’s [or measure’s sponsor’s] ideological leanings

fundraiser) from the definition of electioneering communications as these organizations are strictly prohibited under federal tax law from advocating for or against any candidate.

¹⁷ Thus, a typical disclaimer for a mass mailing sent pursuant to *state* independent expenditure rules might look like example B in Appendix E.

and ultimately, in voter decision making.” (See Heerwig and Shaw, *supra*, pp. 1471-73.)¹⁸ In short, voters can use the funder information in disclaimers to help them determine how to vote.

b. Issues with current campaign disclaimer rules.

CFRO also imposes a number of disclaimer requirements on campaign-related communications in San Francisco. These requirements can basically be distilled as follows:

- *Campaign communications*¹⁹ and *electioneering communications* referencing City candidates must include a “Paid for by” disclaimer (followed by sender information) in 14-point type or, if spoken, at the same volume and speed as the rest of the communication. (Sections 1.161, 1.161.5, 1.162 & 1.163.)
- The disclaimer in *third-party mass mailings* advocating for or against City candidates must be preceded by “Notice to Voters” and include the cost of the mailing. (Section 1.161.)²⁰
- *Persuasion polls* referencing City candidates must include a disclaimer stating “This is a paid political advertisement by [Name of person(s)],” and identifying the person making the call, if different from the sponsor, by stating “This call is conducted by [Name of person].” (Section 1.160.5.)

CFRO's disclaimer requirements can be substantially simplified. Currently, one must consult five different sections of CFRO to find all of its disclaimer requirements. Moreover, these requirements fail to address certain contexts. In particular, CFRO requires campaign and electioneering communications to include a “Paid for by” disclaimer in 14 point type or, if spoken, at the same volume and speed as the rest of the communication. This rule makes sense for mass mailers, door hangers, and radio ads. But a 14 point type disclaimer is not appropriate for a billboard. It is also unclear how these rules apply to TV and YouTube ads.

Adding to the complexity are the disclaimer requirements imposed on local committees by *state law*, which can be different from CFRO's requirements. (See Appendix F for a chart summarizing state rules for independent expenditures.) For example, state law requires disclaimers on billboards to measure five percent of the height of the billboard. CFRO requires that disclaimers on billboards are in 14 point font. Certainly, complying with state law will mean

¹⁸ See also Bruce E. Cain, *Democracy More or Less* (2014), pg. 48 (“Donor information can inform voter decisions about the competing interests behind various candidates and policies.”).

¹⁹ Used here, the term “campaign communications” includes mass mailings, TV ads, radio ads, newspaper ads, posters, door hangers, yard signs billboards, and robo-calls advocating for or against the election of a City candidate.

²⁰ The full required disclaimer for third-party mass mailings is: “Notice to Voters (Required by City and County of San Francisco) This mailing is not authorized or approved by any candidate for City and County office or by any election official. It is paid for by [name and committee identification number]. [address, city, state]. Total Cost of this mailing is [amount].” (See Section 1.161(b).)

complying with CFRO in this instance, but the disconnect between state law and CFRO may create compliance uncertainties and difficulties.²¹

Another discrepancy exists with respect to third-party mass mailings about a candidate. CFRO and state law each require similar, but distinct, disclaimers indicating that the committee sending the mailing is not controlled by a candidate. (Section 1.161; Cal. Govt. Code section 84506.5.) The result is that a committee must create a hybrid disclaimer to guarantee compliance with both state and local law:

State law disclaimer: “Not authorized by a candidate or committee controlled by a candidate.”

CFRO disclaimer: “This mailing is not authorized or approved by any candidate for City and County office or by any election official.”

“Hybrid” disclaimer: “This mailing is not authorized or approved by any candidate for City and County office, a committee controlled by a candidate, or by any election official.”

Finally, CFRO generally does not directly impose disclaimer requirements on political committees set up to advocate for ballot measures. However, mass mailers and other communications that include even a small reference to an endorsement by a City candidate currently fall under the 14 point font disclaimer requirements for *electioneering communications*.

In light of the state's robust disclaimer rules, the answer to the complexity described above is to adopt amendments incorporating the “*state law plus*” approach already referenced with respect to reporting. Under this approach, CFRO will selectively augment – but not conflict with – state law to improve disclosure and account for local conditions. (Recent revisions to the City of Los Angeles’ disclaimer rules, which modify state rules somewhat, provide some guidance in this regard.) This will simplify compliance and/or mitigate conflict with state law in the future should the Legislature change state disclaimer laws.²²

Staff’s proposed amendments are described below, but can basically be summarized as instructing any non-candidate – including political committees set up to advocate for ballot measures – to follow this basic rule:

Comply with the state's disclaimer law, but: (1) use 12 point font for mass mailers and smaller printed communications, (2) comply with a lower \$20,000 threshold for disclosing top donors, and (3) include a reference to the Ethics Commission's website.

²¹ Complying with state disclaimer requirements by themselves can be difficult in their own right. A former FPPC Chair recently recounted at a conference commemorating the 40th anniversary of the Political Reform Act needing three days to determine the correct disclaimer for a client.

²² As mentioned, staff believes that augmentation of state rules should be done selectively as any deviation from those rules introduces additional complexity.

Moreover, under the amendments, candidates must also continue to place disclaimers on communications not otherwise covered by state law.

In short, by simplifying and improving CFRO's disclaimer rules, these fixes will help to "[e]nsure that all individuals and interest groups in our city have a fair opportunity to participate in elective and governmental processes." (Section 1.100(b)(2).) They will also "[a]ssist voters in making informed electoral decisions." (Section 1.100(b)(8).)

c. Proposed legislative amendments for disclaimer requirements.

i. Amend Section 1.161. Disclaimer requirements for independent expenditures are currently found in Section 1.161 (mass mailers), Section 1.162 (campaign advertisements), and Section 1.163 (recorded telephone calls). The amendments replace these requirements with rules that are consolidated into one code section. More specifically, amended Section 1.161 specifies that CFRO's disclaimer requirements are the same as those imposed by state law except for the following:

- *12 point font for all disclaimers* on mass mailers, door hangers, flyers, posters, oversized buttons and bumper stickers, and print ads. This amendment provides for a larger disclaimer than state law (10 point font), but reduces the current 14 point font requirement, which can take up an inordinate amount of space on smaller mailers, flyers and door hangers. Staff believes that disclaimers are entirely discernible in 12 point font, which is the "safe harbor" size for federal disclaimers on printed communications smaller than 24 inches by 36 inches. (11 C.F.R. 1110.11(c)(2)(i).) The City of Los Angeles also requires 12 point font. (L.A. Muni. Code § 49.7.33.)²³
- *\$20,000 threshold to include top two major funders* of independent expenditure and ballot measure committees. Under state law, disclaimers for ballot measure committees and primarily formed independent expenditure committees must include the names of the committee's top two donors of \$50,000 or more. (Cal. Govt. Code §§ 84503 & 84506.) This amendment lowers the disclosure threshold to \$20,000, which staff believes is appropriate given the generally lower level of ballot measure spending at the City level.²⁴ The City of Los Angeles successfully instituted a similar reform in 2013. (L.A. Muni. Code § 49.7.33.) The amendment allows the Commission to adjust the \$20,000 threshold to reflect changes in the Consumer Price Index, but requires rounding to the nearest \$5,000.

²³ The amendments remove the "Notice to Voters" and mailer cost requirements for third-party mass mailers referenced in footnote 20. In this regard, the inclusion of a single mailer's cost in a disclaimer – isolated from other financial information – does not seem to be particularly meaningful to voters. Instead, staff instead believes that a reference to the Ethics Commission website (see below) will allow voters to glean more information about the "activities and relationships of importance to voters." (See Heerwig and Shaw, *supra*, p. 1474.)

²⁴ In San Francisco (and elsewhere), a common disclosure-defeating tactic is for contributors to make contributions of \$49,999 to a ballot measure or independent expenditure committee. While similar tactics may be used for any monetary threshold, staff believes that the lower \$20,000 threshold will provide more disclosure, particularly in the early stages of a campaign when larger contributors make their first of potentially multiple contributions.

- *Reference to the Ethics Commission website.* A disclaimer's prominent placement on a campaign communication affords an opportunity to convey information that is important to the needs and interests of the recipient. (*See* Heerwig and Shaw, *supra*, pg. 1475). In this regard, staff recommends that City disclaimers refer voters to the Ethics Commission website, where they can view all of a committee's financial information, as well as cutting-edge summaries and infographics prepared by staff. Leveraging the Commission's website in this modest manner will go a long way to helping voters seek out and review more comprehensive information. (*See* Sunstein, *supra*, p. 62 ["information that is vivid and salient" is likely to inform behavior].) The City of Los Angeles successfully instituted a similar reform in 2013. (L.A. Muni. Code § 49.7.33 [requiring disclaimer stating "additional information is available at ethics.lacity.org"].)
- *Candidate communications.* Under state law, candidates are only required to include "Paid for by" disclaimers on mass mailings (including emails) and calls of 500 or more, although FCC rules also require these disclaimers on TV and radio ads. This amendment ensures that CFRO continues to impose the "Paid for by" disclaimer requirement on other communications from candidates, including billboards, door hangers, websites, etc.

The impact of the changes outlined above on third-party mass mailers is illustrated in Appendix E.

See page 26, line 17 through page 29, line 9 as well as page 36, line 1 through page 37, line 2 of the attached draft amendments.

ii. Amend Section 1.162. The amendments replace the campaign advertisement provisions currently found in Section 1.162 with rules for electioneering communications that are currently found in Section 1.161.5. The amendments also update the disclaimer rules for electioneering communications by providing that the "Paid for by" disclaimer must appear in 12 point font on mass mailers, but otherwise must be displayed in a size and manner that complies with the disclaimer requirements for independent expenditures for or against a candidate under state law.²⁵ Moreover, the disclaimer must also include the reference to the Ethics Commission's website. Finally, the rules states that disclaimers are required only if the sender must file an electioneering communications report (i.e., \$1,000 is spent per candidate).

See page 30, line 3 through line 24 of the attached draft amendments.

iii. Amend Section 1.163. As mentioned above, the disclaimer requirement for recorded telephone calls in Section 1.163 has been deleted because it is duplicative of the state law requirement. The amendments replace it with new rules for reporting member communications made 90 days prior to an election and which advocate for or against a City candidate.

See page 36, line 20 through page 37, line 2 of the attached draft amendments.

²⁵ These rules are extensive and address most communication media. See Appendix F.

d. Civil Grand Jury recommendation regarding anonymous donors.

On June 26, 2014, the San Francisco Civil Grand Jury issued a report titled “Ethics in the City: Promise, Practice or Pretense,” which analyzed the City's campaign and governmental ethics laws as well as the Ethics Commission's enforcement and administration of those laws. In Recommendation 6(b) of that report, the Civil Grand Jury suggested that the Ethics Commission:

“should propose ordinance amendments to require disclaimers in mailings, ads, door hangers and other outreach materials funded by committees whose individual donors are not identified to the satisfaction of a reasonable person which states, ‘this is paid for by (insert organization name) funded by anonymous donors in this campaign cycle.’”

Professor Heather Gerken and two of her colleagues made a similar proposal for federal campaigns early last year, claiming that such a disclaimer “could help voters figure out how much trust to put in the ad.” (See Heather K. Gerken, Wade Gibson and Webb Lyons, “Rerouting the Flow of ‘Dark Money’ Into Political Campaigns,” *Washington Post*, April 3, 2014, http://www.washingtonpost.com/opinions/rerouting-the-flow-of-dark-money-into-political-campaigns/2014/04/03/1517ac6e-b906-11e3-9a05-c739f29ccb08_story.html.)

Both proposals stem from the perception that political actors are increasingly using nonprofit organizations to participate in candidate elections without disclosing the funders of their activity. This is certainly true at the federal level where at one point during the 2014 election over half of third-party advertising came from organizations that do not disclose their donors. (See Nicholas Confessore, “Secret Money Fueling a Flood of Political Ads,” *New York Times*, October 10, 2014, <http://www.nytimes.com/2014/10/11/us/politics/ads-paid-for-by-secret-money-flood-the-midterm-elections.html>.)

However, staff is unaware that such activity is taking place to any considerable extent in San Francisco, particularly given that state law (unlike federal law) requires nonprofits making independent expenditures to disclose their donors in many instances.²⁶ Indeed, many nonprofits in San Francisco sponsor their own PACs which disclose contributor information. Moreover, third-parties sending communications that mention candidates without using express advocacy must already disclose donors under CFRO’s electioneering communications rules, thus preventing one of the primary means for nonprofits to avoid donor disclosure. Further, the

²⁶ The threshold for such disclosure changed this past July, and it is unclear what the effect it will have, if any, on nonprofit activity in electoral politics in San Francisco. Nonprofits used to trigger reporting requirements if they made contributions or expenditures totaling \$1,000 or more twice in a five year period. Now, nonprofits making contributions or expenditures in California totaling \$50,000 in a 12 month period or \$100,000 over the course of four years will have to disclose their donors, as will nonprofits specifically soliciting \$1,000 or more in donations in a calendar year for political purposes. (See Cal. Govt. Code § 84222.) In any case, absent evidence of increased nonprofit election activity without donor disclosure, staff does not believe that the addition of another disclaimer requirement to CFRO is warranted. However, staff will continue to monitor this issue.

proposed requirement would also likely fall hardest on unsophisticated parties who may inadvertently violate the rule.²⁷

More generally, the proposed disclaimer requirement differs in kind from current requirements. In particular, this proposal does not simply help identify ideological leanings or provide information about funders and their motivations, which can serve as a “cognitive shortcut” – either positive *or* negative – for the voter. Instead, the proposed language appears to suggest that any failure to disclose donor information should impact the credibility of a campaign communication. More specifically, the proposed language implies that the sender of the communication *should have* disclosed its donors, even if not legally required to do so, and that the reader should thus be skeptical of the sender’s message. It is not clear that it is appropriate for the government to weigh in on otherwise legally compliant communications in this manner.²⁸

In short, staff questions the need for the Civil Grand Jury's proposed disclaimer requirement, and thus has not included language to that effect in the draft amendments for the Commission's consideration.

Decision Point 3: Shall the Commission approve the proposed amendments to CFRO’s disclaimer requirements set forth above?

4. Overall approval of the draft amendments.

The proposed amendments also include certain minor, technical changes that tighten and standardize language, or otherwise help to effectuate the other amendments described above, which have not been fully discussed in this memorandum. Staff recommends that after consideration of the decision points above, the Commission should vote to approve all the remaining changes set forth in the attached version of the draft amendments.

Decision Point 4: Shall the Commission approve all the changes set forth in the proposed amendments, subject to changes otherwise approved by the Commission at its meeting(s)?

Conclusion

The above amendments were proposed by staff to update, streamline, and otherwise improve CFRO. Staff recommends them for approval.

* * * * *

S:\C.F.R.O\2015\EC Mem CFRO 1 16 15.docx

²⁷ There are also vagueness issues associated with the “satisfaction of a reasonable person” standard proposed by the Civil Grand Jury.

²⁸ For further explanation of this problem by a prominent campaign law practitioner, see Robert Bauer, “Nudge Theory and the Gerken Disclosure Proposal,” *More Soft Money Hard Law Blog*, September 24, 2014, <http://www.moresoftmoneyhardlaw.com/2014/09/nudge-theory-gerken-disclosure-proposal/>; see also Cain, *supra*, pg. 50 [describing problems with “shaming” persons exercising their First Amendment rights].)

1 [Campaign and Governmental Conduct Code – Amending Campaign Disclaimer and
2 Disclosure Requirements]

3 **Ordinance amending the Campaign and Governmental Conduct Code to simplify and**
4 **consolidate campaign finance disclaimer and disclosure requirements.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
8 **Board amendment additions** are in double-underlined Arial font.
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. The Board of Supervisors of the City and County of San Francisco hereby
14 finds and determines that:

15 (a) The San Francisco Campaign Finance Reform Ordinance (“CFRO”) was enacted
16 in order to enhance the integrity of the election process and the competitiveness of campaigns
17 in the City and County of San Francisco (the “City”). CFRO’s specific purposes include
18 ensuring that all individuals and interest groups in the City have a fair opportunity to
19 participate in elective and governmental processes and assisting voters in making informed
20 electoral decisions.

21 (b) Given recent case law, certain of CFRO’s contribution limits have been struck
22 down, or are likely to be struck down, by the courts. Removing the CFRO provisions
23 containing those limits will help to ensure that CFRO is consistent with existing law.

24 (c) Over the years, CFRO’s reporting and disclaimer requirements for persons sending
25 election-related communications in City elections require consolidation and simplification,
particularly given overlapping state law requirements covering the same activity. These

1 improvements will provide voters with relevant information about local candidates and ballot
2 measures, and help candidates and committees comply with these local requirements.

3
4 Section 2. The Campaign and Governmental Conduct Code is hereby amended by
5 revising Sections 1.104, 1.114, 1.134, 1.135, 1.143, 1.152, 1.160.5, 1.161, 1.161.5, 1.162,
6 and 1.163, to read as follows:

7 SEC. 1.104. DEFINITIONS.

8 Whenever in this Chapter the following words or phrases are used, they shall mean:

9 (a) "Advertisement" shall be defined as set forth in the California Political Reform Act,
10 California Government Code section 81000 et seq. and its enabling regulations, provided that the
11 advertisement supports or opposes one or more City measures or candidates for City elective office.

12 (b) "Candidate" shall be defined as set forth in the California Political Reform Act,
13 California Government Code section 81000, et seq., but shall include only candidates for City
14 elective office.

15 (c) "Candidate committee" shall mean a committee controlled by a candidate, and
16 primarily formed to support that candidate's election for City elective office.

17 (d) "Charitable organization" shall mean an entity exempt from taxation pursuant to
18 Title 26, Section 501 of the United States Code.

19 (e) "City elective office" shall mean the offices of Mayor, Member of the Board of
20 Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender,
21 Member of the Board of Education of the San Francisco Unified School District and Member
22 of the Governing Board of the San Francisco Community College District. The Board of
23 Supervisors consists of eleven separate City elective offices, the San Francisco Community
24 College District consists of seven separate City elective offices, and the Board of Education of
25 the San Francisco Unified School District consists of seven separate City elective offices.

1 (ef) "Code" shall mean the San Francisco Campaign and Governmental Conduct
2 Code.

3 (fg) "Committee" shall be defined as set forth in the California Political Reform Act,
4 California Government Code section 81000, et seq.

5 (gh) "Contribution" shall be defined as set forth in the California Political Reform Act,
6 California Government Code section 81000, et seq.; provided, however, that "contribution"
7 shall include loans of any kind or nature.

8 (hi) "Controlled committee" shall be defined as set forth in the California Political
9 Reform Act, California Government Code section 81000, et seq.

10 (j) "Distributed" and "distribution" shall mean any act that permits a communication to be
11 viewed, read or heard.

12 (ik) "Election" shall mean any general, or special municipal election held in the City
13 and County of San Francisco for City elective office or for a local measure, regardless of
14 whether the election is conducted by district or Citywide.

15 (l) "Electioneering communication" shall mean any communication, including but not limited
16 to any broadcast, cable, satellite, radio, electronic, or telephone communication, and any mailing,
17 flyer, doorhanger, pamphlet, brochure, card, sign, billboard, facsimile, or printed advertisement, that:

18 (1) refers to a clearly identified candidate for City elective office or a City elective
19 officer who is the subject of a recall election; and

20 (2) is distributed within 90 days prior to an election for the City elective office sought
21 by the candidate or a recall election regarding the City elective officer to 500 or more individuals who
22 are registered to vote or eligible to register to vote in the election or recall election. There shall be a
23 rebuttable presumption that any broadcast, cable, satellite, or radio communication and any sign,
24 billboard or printed advertisement is distributed to 500 or more individuals who are eligible to vote for
25 or against the candidate clearly identified in the communication.

1 (3) The term "electioneering communication" shall not include:

2 (A) communications that constitute independent expenditures under this
3 Chapter or expenditures by a candidate committee for the candidate's election;

4 (B) communications made by a slate mailer organization if such
5 communications are required to be disclosed under the California Political Reform Act, California
6 Government Code Section 81000, et seq.;

7 (C) communications paid for by the City or any other local, State or Federal
8 government agency;

9 (D) non-recorded communications between two or more individuals in direct
10 conversation unless such communications are made by telephone and at least one of the individuals is
11 compensated for the purposes of making the telephone communication;

12 (E) communications that appear on bumper stickers, pins, stickers, hat bands,
13 badges, ribbons and other similar memorabilia;

14 (F) news stories, commentaries or editorials distributed through any newspaper,
15 radio station, television station, or other recognized news medium unless such news medium is owned
16 or controlled by any political party, political committee or candidate;

17 (G) member communications;

18 (H) communications that occur during a candidate debate or forum;

19 (I) communications made solely to promote a candidate debate or forum made
20 by or on behalf of the person sponsoring the debate or forum, provided that such communications do
21 not otherwise discuss the positions or experience of a candidate for City elective office or a City
22 elective officer who is the subject of a recall election; and

23 (J) invitations sent by an entity exempt from taxation pursuant to Title 26,
24 Section 501(c)(3) of the United States Code for its own fundraising event.

25

1 (jm) "Enforcement authority" shall mean the District Attorney for criminal enforcement,
2 the City Attorney for civil enforcement, and the Ethics Commission for administrative
3 enforcement. Nothing in this Chapter shall be construed as limiting the authority of any law
4 enforcement agency or prosecuting attorney to enforce the provisions of this Chapter under
5 any circumstances where such law enforcement agency or prosecuting attorney otherwise
6 has lawful authority to do so.

7 (kn) "Ethics Commission" shall mean the San Francisco Ethics Commission.

8 (lo) "Executive Director" shall mean the Executive Director of the Ethics Commission,
9 or the Executive Director's designee.

10 (mp) "General purpose committee" shall be defined as set forth in the California
11 Political Reform Act, California Government Code section 81000 et seq.

12 (nq) "Independent expenditure" shall be defined as set forth in the California Political
13 Reform Act, California Government Code section 81000 et seq. An expenditure is not
14 considered independent and shall be treated as a contribution from the person making the
15 expenditure to the candidate on whose behalf or for whose benefit the expenditure is made, if
16 the expenditure is made at the request, suggestion, or direction of, or in cooperation,
17 consultation, concert or coordination with, the candidate on whose behalf, or for whose
18 benefit, the expenditure is made.

19 (or) "Individual Expenditure Ceiling" shall mean the expenditure ceiling established for
20 each individual candidate for Mayor or the Board of Supervisors whom the Ethics Commission
21 has certified as eligible to receive public funds under this Chapter.

22 (ps) "Itemized disclosure statement" shall mean a form promulgated by the Ethics
23 Commission that provides a detailed description of the separate costs associated with a
24 communication, including but not limited to photography, design, production, printing,
25 distribution, and postage.

1 ~~(qt)~~ "Mass mailing" shall be defined as set forth in the California Political Reform Act,
2 California Government Code section 81000 et seq., provided that the mass mailing advocates
3 for or against one or more candidates for City elective office.

4 ~~(ru)~~ "Matching contribution" shall mean a contribution up to \$500, made by an
5 individual, other than the candidate, who is a resident of San Francisco. Matching
6 contributions shall not include loans, contributions received more than 18 months before the
7 date of the election, qualifying contributions or contributions made by the candidate's spouse,
8 registered domestic partner or dependent child. Matching contributions must also comply with
9 all requirements of this Chapter. Matching contributions under \$100 that are not made by
10 written instrument must be accompanied by written documentation sufficient to establish the
11 contributor's name and address. The Ethics Commission shall set forth, by regulation, the
12 types of documents sufficient to establish a contributor's name and address for the purpose of
13 this subsection.

14 ~~(sv)~~ "Measure" shall mean any City, San Francisco Unified School District or San
15 Francisco Community College District referendum, recall or ballot proposition, whether or not
16 it qualifies for the ballot.

17 ~~(tw)~~ "Member communication" shall ~~mean a communication made by an organization or its~~
18 ~~committee for the publication, dissemination or communication to the organization's members,~~
19 ~~employees or shareholders, or to the families of the organization's members, employees or~~
20 ~~shareholders by newsletter, letter, flyer, e-mail or similar written or spoken material, that supports or~~
21 ~~opposes a candidate or measure~~ be defined as set forth in the California Political Reform Act,
22 California Government Code section 81000 et seq. and its enabling regulations, provided that the
23 communication advocates for or against one or more City measures or candidates for City elective
24 office.

1 (~~tt~~) "Person" shall mean any individual, partnership, corporation, association, firm,
2 committee, club or other organization or group of persons, however organized.

3 (~~ty~~) "Qualified campaign expenditure" for candidates shall mean all of the following:

4 (1) Any expenditure made by a candidate, or by a committee controlled by the
5 candidate, for the purpose of influencing or attempting to influence the actions of the voters for
6 the election of the candidate to City elective office.

7 (2) A nonmonetary contribution provided to the candidate, officeholder or
8 committee controlled by the candidate.

9 (3) The total cost actually paid or incurred by the candidate or controlled
10 committee of the candidate for a slate mailing or other campaign literature produced or
11 authorized by more than one candidate.

12 (4) Expenses incurred, but for which payment has not yet been made.

13 (5) Expenses associated with complying with applicable laws, including but not
14 limited to the California Political Reform Act, California Government Code Section 81000, et
15 seq., and the provisions of this Chapter.

16 (6) "Qualified campaign expenditure" shall not include filing fees, expenses
17 incurred in connection with an administrative or judicial proceeding, payments for
18 administrative, civil or criminal fines, including late filing fees, costs incurred after the election
19 that do not directly affect the outcome of the election, including but not limited to utility bills,
20 expenses associated with an audit, and expenses related to preparing post-election campaign
21 finance disclosure reports as required by the California Political Reform Act, California
22 Government Code Section 81000, et seq., and the provisions of this Chapter, or for inaugural
23 activities or officeholder expenses.

24 (~~tz~~) "Qualifying contribution" shall mean a contribution of not less than \$10 and not
25 more than \$100 that is made by an individual who is a resident of San Francisco and that

1 complies with all requirements of this Chapter. Qualifying contributions shall not include
2 loans, contributions received more than 18 months before the date of the election or
3 contributions made by the candidate or the candidate's spouse, registered domestic partner or
4 dependent child. Qualifying contributions under \$100 that are not made by written instrument
5 must be accompanied by written documentation sufficient to establish the contributor's name
6 and address. The Ethics Commission shall set forth, by regulation, the types of documents
7 sufficient to establish a contributor's name and address for the purpose of this subsection.

8 (~~aa~~) "Recorded telephone message" shall mean a recorded audio message that
9 expressly supports or opposes a candidate for City elective office that is distributed by
10 telephone.

11 (bb) "Refers to a clearly identified candidate for City elective office or a City elective officer
12 who is the subject of a recall election" shall mean any communication that contains the candidate's or
13 officer's name, nickname or image or makes any other unambiguous reference to the candidate or
14 officer such as "your Supervisor" or "the incumbent."

15 (~~cc~~) "Surplus funds" shall mean funds remaining in a candidate's campaign account at
16 the time the candidate leaves City elective office, or at the end of the post-election reporting
17 period following the defeat of the candidate for City elective office, whichever occurs last, and
18 funds remaining in the campaign account of a committee primarily formed to support or
19 oppose a measure at the end of the post-election reporting period following the election at
20 which the measure appeared on the ballot.

21 (~~dd~~) "Total Opposition Spending" shall mean the sum of any expenditures made or
22 expenses incurred by any person or persons for the purpose of making independent
23 expenditures, electioneering communications or member communications in opposition to a
24 specific candidate for Mayor or the Board of Supervisors.

1 (~~eee~~) "Total Supportive Funds" shall mean the sum of all contributions received by a
2 candidate committee supporting a candidate for Mayor or the Board of Supervisors, other than
3 any funds in the candidate's Campaign Contingency Account exceeding the candidate
4 committee's Trust Account Limit, plus the expenditures made or expenses incurred by any
5 person or persons for the purpose of making independent expenditures, electioneering
6 communications or member communications in support of that same candidate.

7 (~~bff~~) "Trust Account Limit" shall mean the amount of funds in the Campaign
8 Contribution Trust Account of a candidate committee supporting a candidate for Mayor or the
9 Board of Supervisors whom the Ethics Commission has certified as eligible to receive public
10 funds under this Chapter such that the expenditure of this amount would cause the candidate
11 to reach, but not exceed, the candidate's Individual Expenditure Ceiling. The Trust Account
12 Limit shall be reduced as the candidate spends money and shall be increased when his or her
13 Individual Expenditure Ceiling increases.

14 (~~egg~~) "Unexpended public funds" shall mean all funds remaining in the candidate
15 committee's account on the 30th day after the candidate controlling the committee is either
16 elected or not elected to office, regardless of the source of the funds, but shall not exceed the
17 amount of public funds provided to the candidate. Funds raised after this date are not
18 unexpended funds.

19 (~~dhh~~) "Voter" shall mean an individual registered to vote in San Francisco.

20 (~~eei~~) "Withdrawal" or "withdraw" shall mean, prior to an election, ending one's
21 candidacy or failing to qualify for an office for which a candidate has solicited or accepted
22 contributions.

23 (~~ffi~~) "Written instrument" shall mean a check, credit card receipt, or record of
24 electronic transfer of funds.

25 SEC. 1.114. CONTRIBUTION LIMITS.

1 (a) LIMITS ON CONTRIBUTIONS TO CANDIDATES. No person other than a candidate
2 shall make, and no campaign treasurer for a candidate committee shall solicit or accept, any
3 contribution which will cause the total amount contributed by such person to such candidate committee
4 in an election to exceed \$500.

5 ~~(1) Per Candidate Limit. No person other than a candidate shall make, and no~~
6 ~~campaign treasurer for a candidate committee shall solicit or accept, any contribution which will cause~~
7 ~~the total amount contributed by such person to such candidate committee in an election to exceed \$500.~~

8 ~~(2) Overall Limit. No person shall make any contribution which will cause the total~~
9 ~~amount contributed by such person to all candidate committees in an election to exceed \$500 multiplied~~
10 ~~by the number of City elective offices to be voted on at that election.~~

11 (b) LIMITS ON CONTRIBUTIONS FROM CORPORATIONS. No corporation
12 organized pursuant to the laws of the State of California, the United States, or any other state,
13 territory, or foreign country, whether for profit or not, shall make a contribution to a candidate
14 committee, provided that nothing in this subsection shall prohibit such a corporation from
15 establishing, administering, and soliciting contributions to a separate segregated fund to be
16 utilized for political purposes by the corporation, provided that the separate segregated fund
17 complies with the requirements of Federal law including Sections 432(e) and 441b of Title 2 of
18 the United States Code and any subsequent amendments to those Sections.

19 ~~(c) LIMITS ON CONTRIBUTIONS TO COMMITTEES.~~

20 ~~(1) Per Committee Limit. No person shall make, and no committee treasurer shall~~
21 ~~solicit or accept, any contribution which will cause the total amount contributed by such person to the~~
22 ~~committee to exceed \$500 per calendar year.~~

23 ~~(2) Overall Limit. No person shall make, and no committee treasurer shall solicit or~~
24 ~~accept, any contribution which will cause the total amount contributed by such person to all~~
25 ~~committees to exceed \$3,000 per calendar year.~~

1 ~~(3) Definitions. For purposes of this Subsection, "committee" shall mean any committee~~
2 ~~making expenditures to support or oppose a candidate, but shall not include candidate committees.~~

3 ~~(d)~~ AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.

4 (1) General Rule. For purposes of the contribution limits imposed by this
5 Section and Section 1.120 the contributions of an entity whose contributions are directed and
6 controlled by any individual shall be aggregated with contributions made by that individual and
7 any other entity whose contributions are directed and controlled by the same individual.

8 (2) Multiple Entity Contributions Controlled by the Same Persons. If two or
9 more entities make contributions that are directed and controlled by a majority of the same
10 persons, the contributions of those entities shall be aggregated.

11 (3) Majority-Owned Entities. Contributions made by entities that are majority-
12 owned by any person shall be aggregated with the contributions of the majority owner and all
13 other entities majority-owned by that person, unless those entities act independently in their
14 decisions to make contributions.

15 (4) Definition. For purposes of this Section, the term "entity" means any person
16 other than an individual and "majority-owned" means a direct or indirect ownership of more
17 than 50 percent.

18 ~~(e)~~ CONTRIBUTOR INFORMATION REQUIRED. If the cumulative amount of
19 contributions received from a contributor is \$100 or more, the committee shall not deposit any
20 contribution that causes the total amount contributed by a person to equal or exceed \$100
21 unless the committee has the following information: the contributor's full name; the
22 contributor's street address; the contributor's occupation; and the name of the contributor's
23 employer or, if the contributor is self-employed, the name of the contributor's business. A
24 committee will be deemed not to have had the required contributor information at the time the
25

1 contribution was deposited if the required contributor information is not reported on the first
2 campaign statement on which the contribution is required to be reported.

3 (~~fe~~) FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other
4 penalty, each committee that receives a contribution which exceeds the limits imposed by this
5 Section or which does not comply with the requirements of this Section shall pay promptly the
6 amount received or deposited in excess of the amount permitted by this Section to the City
7 and County of San Francisco and deliver the payment to the Ethics Commission for deposit in
8 the General Fund of the City and County; provided that the Ethics Commission may provide
9 for the waiver or reduction of the forfeiture.

10 (~~gt~~) RECEIPT OF CONTRIBUTIONS. A contribution to a candidate committee or
11 committee making expenditures to support or oppose a candidate shall not be considered
12 received if it is not cashed, negotiated, or deposited and in addition it is returned to the donor
13 before the closing date of the campaign statement on which the contribution would otherwise
14 be reported, except that a contribution to a candidate committee or committee making
15 expenditures to support or oppose a candidate made before an election at which the
16 candidate is to be voted on but after the closing date of the last campaign statement required
17 to be filed before the election shall not be considered to be deemed received if it is not
18 cashed, negotiated or deposited and is returned to the contributor within 48 hours of receipt.
19 For all committees not addressed by this Section, the determination of when contributions are
20 considered to be received shall be made in accordance with the California Political Reform
21 Act, California Government Code Section 81000, et seq.

22 SEC. 1.134. LIFTING OF VOLUNTARY EXPENDITURE CEILINGS;
23 SUPPLEMENTAL REPORTING IN ELECTIONS FOR ASSESSOR, PUBLIC DEFENDER,
24 CITY ATTORNEY, DISTRICT ATTORNEY, TREASURER, SHERIFF, THE BOARD OF
25

1 EDUCATION OF THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT, OR THE
2 GOVERNING BOARD OF THE SAN FRANCISCO COMMUNITY COLLEGE DISTRICT.

3 This Section shall apply only if at least one candidate for the City elective office has
4 accepted the applicable voluntary expenditure ceiling, and the Ethics Commission has not
5 lifted that voluntary expenditure ceiling. This Section applies only to candidates for Assessor,
6 Public Defender, City Attorney, District Attorney, Treasurer, Sheriff, the Board of Education of
7 the San Francisco Unified School District, or the Governing Board of the San Francisco
8 Community College District.

9 (a) The voluntary expenditure ceiling shall no longer be binding on a candidate:

10 (1) If a candidate seeking election to the same City elective office, who has
11 declined to accept the voluntary expenditure ceiling, receives contributions or makes qualified
12 campaign expenditures in excess of 100 percent of the applicable voluntary expenditure
13 ceiling,

14 (2) If a person or persons_ make expenditures or payments, or incur expenses
15 for the purpose of making independent expenditures, electioneering communications or
16 member communications that total more than 100 percent of the applicable voluntary
17 expenditure ceiling, and those expenditures or communications clearly identify a candidate
18 seeking election to the same City elective office, or

19 (3) If a candidate seeking election to the same City elective office, who has
20 accepted the voluntary expenditure ceiling, makes qualified campaign expenditures in excess
21 of 100 percent of the voluntary expenditure ceiling.

22 (b) Any candidate committee that receives contributions, makes qualified campaign
23 expenditures, incurs expenses or has funds in its Campaign Contribution Trust Account that
24 total more than 100 percent of the applicable voluntary expenditure ceiling shall, within 24
25 hours of exceeding 100 percent of the applicable voluntary expenditure ceiling, file a

1 statement with the Ethics Commission, on forms to be provided by the Ethics Commission,
2 stating that fact and any additional information required by the Ethics Commission.

3 ~~(e) Any person other than a candidate committee who makes expenditures or payments, or~~
4 ~~incurs expenses for the purpose of distributing independent expenditures, electioneering~~
5 ~~communications or member communications that clearly identify any candidate in an amount that in~~
6 ~~the aggregate equals or exceeds \$5,000 per candidate shall, within 24 hours of reaching or exceeding~~
7 ~~this threshold, file a statement with the Ethics Commission. The statement shall include a legible copy~~
8 ~~of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio~~
9 ~~or video, disclose the cost of each communication, and provide any additional information required by~~
10 ~~the Ethics Commission.~~

11 ~~Thereafter, until the Ethics Commission lifts the applicable voluntary expenditure ceiling, any~~
12 ~~such person shall file a supplemental statement with the Ethics Commission each time the person makes~~
13 ~~expenditures for the purpose of distributing independent expenditures, electioneering communications~~
14 ~~or member communications that clearly identify any candidate in an amount that in the aggregate~~
15 ~~equals or exceeds an additional \$5,000 per candidate. The supplemental statements shall be filed~~
16 ~~within 24 hours of reaching or exceeding this threshold, and shall include a legible copy of the~~
17 ~~communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or~~
18 ~~video, disclose the cost of each communication, and provide any additional information required by the~~
19 ~~Ethics Commission.~~

20 ~~(dc) Within one business day after receiving a notice indicating that the thresholds in~~
21 ~~subsection (a) have been met, the Ethics Commission shall inform every candidate in the same race that~~
22 ~~the expenditure ceiling has been lifted. The Executive Director shall promptly review statements filed~~
23 ~~pursuant to state and local law, including California Government Code section 84204 and Sections~~
24 ~~1.161, 1.162, and 1.163 of this Chapter, to determine whether a communication supports or opposes~~
25 ~~one or more candidates.~~

1 (d) Within one business day after determining that the threshold listed in subsection (a) has
2 been met with respect to an office appearing on the ballot, the Executive Director shall inform every
3 candidate for that office that the Ethics Commission has lifted the applicable voluntary expenditure
4 ceiling. The Executive Director shall also post a notice on the Ethics Commission's website and send
5 written notice by email to any other person who has requested such notice.

6 SEC. 1.135. SUPPLEMENTAL PRE-ELECTION STATEMENTS.

7 (a) Supplemental Preelection Statements. In addition to the campaign disclosure
8 requirements imposed by the California Political Reform Act and other provisions of this
9 Chapter, ~~at a~~ San Francisco general purpose committees that makes contributions or
10 expenditures totaling \$500 or more during the period covered by the preelection statement, other than
11 expenditures for the establishment and administration of that committee, shall file a preelection
12 statements before any election held in the City and County of San Francisco at which a
13 candidate for City elective office or City measure is on the ballot, ~~if the committee makes~~
14 ~~contributions or expenditures totaling \$500 or more during the period covered by the preelection~~
15 ~~statement.~~

16 (b) Time for Filing Supplemental Preelection Statements. In even-numbered years,
17 preelection statements required by this Section shall be filed pursuant to the preelection
18 statement filing schedule established by the Fair Political Practices Commission for county
19 general purpose recipient committees. In odd-numbered years, the filing schedule is as
20 follows:

21 (1) For the period ending 45 days before the election, the statement shall be
22 filed no later than 40 days before the election;

23 (2) For the period ending 17 days before the election, the statement shall be
24 filed no later than 12 days before the election.

25 (c) The Ethics Commission may require that these statements be filed electronically.

1 SEC. 1.143. ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.

2 This Section shall apply only if the Ethics Commission has certified that at least one
3 candidate for Mayor or the Board of Supervisors is eligible to receive public funds under this
4 Chapter.

5 (a) The Executive Director shall adjust the Individual Expenditure Ceiling of a
6 candidate for Mayor to an amount equal to the sum of the Total Opposition Spending against
7 that candidate and the highest level of the Total Supportive Funds of any other candidate for
8 Mayor if such amount is greater than \$1,475,000, provided that the Executive Director may
9 adjust a candidate's Individual Expenditure Ceilings only in increments of \$100,000.

10 (b) The Executive Director shall adjust the Individual Expenditure Ceiling of a
11 candidate for the Board of Supervisors to an amount equal to the sum of the Total Opposition
12 Spending against that candidate and the highest level of the Total Supportive Funds of any
13 other candidate for the same office on the Board of Supervisors if such amount is greater than
14 \$250,000, provided the Executive Director may adjust a candidate's Individual Expenditure
15 Ceiling only in increments of \$10,000.

16 (c) ~~No later than the second business day after a statement is filed pursuant to Section~~
17 ~~1.152(a)(3) or (b)(3) of this Chapter, the Executive Director shall determine whether the~~
18 ~~communication supports or opposes one or more candidates. The Executive Director shall promptly~~
19 ~~review statements filed pursuant to state and local law, including Government Code section 84204 and~~
20 ~~Sections 1.161, 1.162, and 1.163 of this Chapter, to determine whether a communication supports or~~
21 ~~opposes one or more candidates.~~

22 Factors the Executive Director shall use to determine whether the communication
23 supports or opposes one or more candidates include the following:

- 24 (1) whether the communication clearly identifies one or more candidates;
25 (2) the timing of the communication;

1 (3) the voters targeted by the communication;

2 (4) whether the communication identifies any candidate's position on a public
3 policy issue and urges the reader or viewer to take action, including calling the candidate to
4 support or oppose the candidate's position;

5 (5) whether the position of one or more candidates on a public policy issue has
6 been raised as distinguishing these candidates from others in the campaign, either in the
7 communication itself or in other public communications;

8 (6) whether the communication is part of an ongoing series of substantially
9 similar advocacy communications by the organization on the same issue; and

10 (7) any other factors the Executive Director deems relevant.

11 (d) Within one business day of the date that the Executive Director makes a
12 determination under Subsection (c), either the candidate(s) identified in the communication or
13 any candidate seeking the same City elective office as the candidate identified in the
14 communication may object to the Executive Director's determination. The Executive Director
15 shall respond to any objection within one business day of receiving the objection.

16 (e) Within one business day of the Executive Director's response, either the
17 candidate(s) identified in the communication or any candidate seeking the same City elective
18 office as the candidate identified in the communication may submit to the Executive Director a
19 request that the Ethics Commission review the Executive Director's determination. Within one
20 business day of receiving the request, the Executive Director shall notify each Commissioner
21 of the candidate's request.

22 If within one business day of the Executive Director's notice, two or more members of
23 the Commission inform the Executive Director that they would like to review the determination,
24 the Executive Director shall schedule a meeting of the Commission on a date that occurs
25 within one week of the Commissioners' requests. If three members of the Commission vote to

1 override the Executive Director's determination, the Commission shall make a final
2 determination based on the factors set forth above.

3 (f) If no candidate objects to the Executive Director's determination, if no candidate
4 requests review by the Commission of the Executive Director's determination, if a request is
5 made and two or more members of the Commission do not request to review the
6 determination, or within one week of two members of the Commission requesting to review
7 the Executive Director's determination, at least three members of the Commission do not vote
8 to overrule the Executive Director's determination, the Executive Director's determination shall
9 become final.

10 The Executive Director shall determine whether to adjust the Individual Expenditure
11 Ceilings of each candidate for Mayor or the Board of Supervisors pursuant to either
12 Subsection (a) or (b) of this Section within one business day of a final determination.

13 **SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF**
14 **SUPERVISORS AND MAYOR.**

15 **(a) ELECTIONS FOR THE BOARD OF SUPERVISORS.**

16 (1) In addition to the campaign disclosure requirements imposed by the
17 California Political Reform Act and other provisions of this Chapter, each candidate committee
18 supporting a candidate for the Board of Supervisors shall file a statement with the Ethics
19 Commission indicating when the committee has received contributions to be deposited into its
20 Campaign Contribution Trust Account or made expenditures that equal or exceed \$5,000
21 within 24 hours of reaching or exceeding that amount.

22 (2) In addition to the supplemental report in Subsection (a)(1) of this Section,
23 each candidate committee supporting a candidate for the Board of Supervisors shall file a
24 statement with the Ethics Commission disclosing when the committee has received
25 contributions to be deposited into its Campaign Contribution Trust Account or made

1 expenditures that in the aggregate equal or exceed \$100,000. The candidate committee shall
2 file this report within 24 hours of reaching or exceeding the threshold. Thereafter, the
3 candidate committee shall file an additional supplemental report within 24 hours of every time
4 the candidate committee receives additional contributions to be deposited into its Campaign
5 Contribution Trust Account or makes additional expenditures that in the aggregate equal or
6 exceed \$10,000.

7 ~~(3) Any person other than a candidate committee who makes expenditures for the~~
8 ~~purpose of distributing independent expenditures, electioneering communications, or member~~
9 ~~communications that clearly identify any candidate for the Board of Supervisors, and the amount of~~
10 ~~those expenditures in the aggregate equals or exceeds \$5,000 per candidate, shall, within 24 hours of~~
11 ~~reaching or exceeding this threshold, file a statement with the Ethics Commission. Such statement shall~~
12 ~~include a legible copy of the communication if it is conveyed in writing or an electronic recording if it~~
13 ~~is conveyed via audio or video, disclose the cost of each communication, and provide any additional~~
14 ~~information required by the Ethics Commission. Every person who is required to file a statement with~~
15 ~~the Ethics Commission pursuant to this Subsection shall indicate on the statement which candidate or~~
16 ~~candidates for the Board of Supervisors the independent expenditures, electioneering communications,~~
17 ~~or member communications disclosed on the statement support or oppose, or whether they are neutral.~~
18 ~~For the purposes of this Subsection, the costs of a communication that supports or opposes more than~~
19 ~~one candidate or ballot measure shall be apportioned among each candidate and measure in the~~
20 ~~communication.~~

21 ~~Thereafter, any such person shall file a supplemental statement with the Ethics~~
22 ~~Commission each time the person makes expenditures for the purpose of distributing independent~~
23 ~~expenditures, electioneering communications or member communications that clearly identify any~~
24 ~~candidate for the Board of Supervisors in an amount that in the aggregate equals or exceeds an~~
25 ~~additional \$5,000 per candidate. The supplemental statements shall be filed within 24 hours of~~

1 ~~reaching or exceeding this threshold, and shall include a legible copy of the communication if it is~~
2 ~~conveyed in writing or an electronic recording if it is conveyed via audio or video, disclose the cost of~~
3 ~~each communication, and provide any additional information required by the Ethics Commission.~~

4 (3) The Executive Director shall post the information disclosed on statements
5 required by this subsection on the website of the Ethics Commission within two business days
6 of the statement's filing.

7 (b) ELECTIONS FOR MAYOR.

8 (1) In addition to the campaign disclosure requirements imposed by the
9 California Political Reform Act and other provisions of this Chapter, each candidate committee
10 supporting a candidate for Mayor shall file a statement with the Ethics Commission indicating
11 when the candidate committee has received contributions to be deposited into its Campaign
12 Contribution Trust Account or made expenditures that equal or exceed \$50,000 within 24
13 hours of reaching or exceeding that amount.

14 (2) In addition to the supplemental report in Subsection (b)(1) of this Section,
15 each candidate committee supporting a candidate for Mayor shall file a statement with the
16 Ethics Commission disclosing when the candidate committee has received contributions to be
17 deposited into its Campaign Contribution Trust Account or made expenditures that in the
18 aggregate equal or exceed \$1,000,000. The candidate committee shall file this report within
19 24 hours of reaching or exceeding the threshold. Thereafter, the candidate committee shall
20 file an additional supplemental report within 24 hours of every time the candidate committee
21 receives additional contributions or makes additional expenditures that in the aggregate equal
22 or exceed \$50,000.

23 ~~(3) Any person other than a candidate committee who makes expenditures for the~~
24 ~~purpose of distributing independent expenditures, electioneering communications, or member~~
25 ~~communications that clearly identify any candidate for Mayor, and the amount of those expenditures in~~

1 ~~the aggregate equals or exceeds \$5,000 per candidate, shall, within 24 hours of reaching or exceeding~~
2 ~~this threshold, file a statement with the Ethics Commission. Such statement shall include a legible copy~~
3 ~~of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio~~
4 ~~or video, disclose the cost of each communication, and provide any additional information required by~~
5 ~~the Ethics Commission. Every person who is required to file a statement with the Ethics Commission~~
6 ~~pursuant to this Subsection shall indicate on the statement which candidate or candidates for Mayor~~
7 ~~the independent expenditures, electioneering communications, or member communications disclosed on~~
8 ~~the statement support or oppose, or whether they are neutral. For the purposes of this Subsection, the~~
9 ~~costs of a communication that supports or opposes more than one candidate or ballot measure shall be~~
10 ~~apportioned among each candidate and measure in the communication.~~

11 ~~Thereafter, any such person shall file a supplemental statement with the Ethics~~
12 ~~Commission each time the person makes expenditures for the purpose of distributing independent~~
13 ~~expenditures, electioneering communications or member communications that clearly identify any~~
14 ~~candidate for Mayor in an amount that in the aggregate equals or exceeds an additional \$5,000 per~~
15 ~~candidate. The supplemental statements shall be filed within 24 hours of reaching or exceeding this~~
16 ~~threshold, and shall include a legible copy of the communication if it is conveyed in writing or an~~
17 ~~electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and~~
18 ~~provide any additional information required by the Ethics Commission.~~

19 (3) The Executive Director shall post the information disclosed on statements
20 required by this subsection on the website of the Ethics Commission within two business days
21 of the statement's filing.

22 (c) The supplemental statements required by Subsections (a)(2) ~~and (b)(2), (a)(3), (b)(2)~~
23 ~~and (b)(3)~~ are not required until the Ethics Commission has certified that at least one
24 candidate is eligible to receive public funds under this Chapter, provided that within two
25 business days of the date that the Ethics Commission provides notice under this subsection

1 that it has certified that a candidate is eligible to receive public funds under this Chapter, any
2 report that previously would have been required under (a)(2) and (b)(2), ~~(a)(3), (b)(2) or (b)(3)~~
3 must be filed. Within two business days of certifying that at least one candidate is eligible to
4 receive public financing under this Chapter, the Ethics Commission shall post a notice on its
5 website, send out a press release and send written notice by regular or electronic mail to all
6 other candidates running for the same City elective office and to any other person who has
7 requested such notice.

8 ~~SEC. 1.160.5. DISCLOSURE AND FILING FOR PERSUASION POLLS.~~

9 ~~(a) Definitions. Whenever in this Section the following words or phrases are used, they shall~~
10 ~~mean:~~

11 ~~(1) "Persuasion poll" shall mean any telephone survey, or series of telephone surveys~~
12 ~~that are substantially similar or identical, that~~

13 ~~(A) refers to a clearly identified candidate for City elective office or a City~~
14 ~~elective officer, other than in a basic preference question;~~

15 ~~(B) includes at least one call made within 60 days prior to an election for the~~
16 ~~City elective office sought by the candidate named in the survey or a recall election regarding the City~~
17 ~~elective officer named in the survey;~~

18 ~~(C) includes at least 1,000 completed calls, such as person-to-person~~
19 ~~discussions following the survey script; and~~

20 ~~(D) for which at least two of the following are true:~~

21 ~~(i) Each phone conversation in the survey takes less than four minutes on~~
22 ~~average to complete, excluding any sponsorship identification;~~

23 ~~(ii) The survey includes fewer than three demographic inquiries~~
24 ~~regarding factors such as age, educational level, or marital status, sufficient to allow for the tabulation~~
25

1 of results based on relevant subset(s) of the population consistent with standard polling industry
2 practices;

3 ~~(iii) The persons conducting the survey do not collect or tabulate survey
4 results for all the phone conversations;~~

5 ~~(iv) The survey includes an untrue statement about the candidate or
6 officer described in section (a)(1)(A); or~~

7 ~~(v) The survey is designed or intentionally conducted in a manner
8 calculated to influence the vote of the respondent in the election described in Subsection (a)(1)(B).~~

9 ~~(2) "Basic preference question" shall mean:~~

10 ~~(A) a question which provides a respondent with a list of names of candidates
11 for City elective office without providing or implying any information regarding any candidate and
12 asks which candidate the respondent supports in a particular race, or~~

13 ~~(B) a question which names a City elective officer without providing or implying
14 any information regarding the officer and asks whether the respondent supports or opposes the recall
15 of that officer.~~

16 ~~(3) "Payment" shall be defined as set forth in Government Code of the State of
17 California (commencing at Section 81000); provided, however, that "payment" shall also include any
18 enforceable promise to make a payment.~~

19 ~~(4) "Refers to a clearly identified candidate for City elective office or a City elective
20 officer" shall mean any communication that contains the candidate's or officer's name or nickname or
21 makes any other unambiguous reference to the candidate or officer such as "your Supervisor" or "the
22 incumbent."~~

23 ~~(5) "Disclosure date" shall mean:~~

24 ~~(A) The date that a written formal agreement regarding the persuasion poll is
25 made between the person making the calls and the poll sponsor(s) or the sponsor(s) agent;~~

1 ~~(B) The date of the 1,000th call in the poll; and~~

2 ~~(C) After a person has met the threshold under Subsection (B), the date of each~~
3 ~~1,000th additional call in the poll.~~

4 ~~(b) Telephonic disclosure. No person shall authorize, administer or make payment for a~~
5 ~~persuasion poll unless, at the beginning of each call, the person making the call identifies the person(s)~~
6 ~~making payments for or authorizing the call by stating "This is a paid political advertisement by [Name~~
7 ~~of person(s)]," and, identifies the person making the call, if different from the sponsor, by stating "This~~
8 ~~call is conducted by [Name of person]." These disclosures shall be spoken at the same volume and~~
9 ~~speed as the rest of the communication so as to be clearly audible by the call recipient and otherwise~~
10 ~~appropriately conveyed for the hearing impaired. These disclosures shall be repeated upon request of~~
11 ~~the call recipient.~~

12 ~~(c) Filing.~~

13 ~~(1) Any person who authorizes, administers or makes payment for a persuasion poll~~
14 ~~shall, within 48 hours of each disclosure date, file an itemized statement with the San Francisco Ethics~~
15 ~~Commission. A person authorizing, administering or making payment for a persuasion poll is not~~
16 ~~required to file an itemized statement under this Section if the person is aware that another person~~
17 ~~authorizing, administering or making payment for the same persuasion poll has filed an authorized~~
18 ~~statement for the persuasion poll as required by this Section.~~

19 ~~(2) Each itemized statement required to be filed under this Section shall be filed on a~~
20 ~~form promulgated by the San Francisco Ethics Commission and shall contain the following~~
21 ~~information:~~

22 ~~(A) the full name, street address, city, state and zip code of each person who~~
23 ~~authorizes, administers or makes payment for the persuasion poll;~~

1 ~~(B) the full name, street address, city, state and zip code of each person sharing~~
2 ~~or exercising direction and control over the person authorizing, administering or making payments for~~
3 ~~the survey;~~

4 ~~(C) the dates during which the persuasion poll was conducted;~~

5 ~~(D) for each day, the number of calls attempted to households in the City and~~
6 ~~County of San Francisco if the election described in Subsection (a)(1)(B) is a City-wide election, or the~~
7 ~~number of calls to households in the district if the election described in Subsection (a)(1)(B) is a district~~
8 ~~election;~~

9 ~~(E) for each day, the number of individuals contacted and the number of~~
10 ~~messages left in households in the City and County of San Francisco if the election described in~~
11 ~~Subsection (a)(1)(B) is a City-wide election, or the number of individuals contacted and the number of~~
12 ~~messages left in households in the district if the election described in Subsection (a)(1)(B) is a district~~
13 ~~election;~~

14 ~~(F) a detailed accounting of any payments of \$100.00 or more that the person~~
15 ~~has received from another person, which were used for conducting or administering the persuasion~~
16 ~~poll; such detailed accounting shall include the dollar amount or value of each payment; the date of the~~
17 ~~payment's receipt; the name, street address, city, state, and zip code of the person who made such~~
18 ~~payment; the occupation and employer of the person who made such payment, if any, or, if the person~~
19 ~~is self-employed, the name of the person's business; and the cumulative amount of payments received~~
20 ~~for the purpose of conducting or administering persuasion polls from that person during the calendar~~
21 ~~year;~~

22 ~~(G) a copy of the script used in conducting the persuasion poll, if any, and a~~
23 ~~copy of every question asked in the survey and every statement made to respondents in the survey; and~~

24 ~~(H) any other information required by the Ethics Commission consistent with~~
25 ~~the purposes of this Section.~~

1 ~~(3) The filer shall verify, under penalty of perjury, the accuracy and completeness of the~~
2 ~~information provided in the itemized statement, and shall retain for a period of five years all books,~~
3 ~~papers and documents necessary to substantiate the itemized statements required by this Section.~~

4 ~~(4) The Ethics Commission may require any itemized statement to be filed electronically~~
5 ~~and may permit any required statement to be filed by facsimile. The Ethics Commission shall~~
6 ~~promulgate regulations to implement this subsection before any person shall be required to file an~~
7 ~~itemized statement electronically or permitted to file a statement by facsimile.~~

8 ~~(5) If any person files an itemized statement after any deadline imposed by this Section,~~
9 ~~the Ethics Commission shall, in addition to any other penalties or remedies established in this Chapter,~~
10 ~~fine the person \$10 per day after the deadline until the statement is received by the Ethics Commission.~~
11 ~~The Ethics Commission may reduce or waive a fine if the Commission determines that the late filing~~
12 ~~was not willful and that enforcement will not further the purposes of this Chapter. The Ethics~~
13 ~~Commission shall deposit funds collected under this Section in the General Fund of the City and~~
14 ~~County of San Francisco.~~

15 ~~(d) The Ethics Commission may adopt regulations exempting additional types of polls from the~~
16 ~~provisions of this Section to effectuate the purpose of this Section.~~

17 ~~SEC. 1.161. DISCLOSURE AND FILING REQUIREMENTS FOR MASS MAILINGS.~~

18 ~~(a) MASS MAILINGS BY CANDIDATES.~~

19 ~~(1) Disclosure. In addition to the requirements set forth in California Government~~
20 ~~Code Section 84305, each mass mailing paid for by a candidate committee shall include on the outside~~
21 ~~of each piece of mail in the mass mailing the following statement in not less than 14 point type and in a~~
22 ~~color or print which contrasts with the background so as to be easily legible: "paid for by~~
23 ~~_____ (insert candidate committee's name and street address)." A post office box may be~~
24 ~~stated in lieu of a street address if the candidate committee's address is a matter of public record with~~
25 ~~the Ethics Commission.~~

1 ~~(2) Filing.~~

2 ~~(i) Each candidate committee that pays for a mass mailing shall, within five~~
3 ~~working days after the date of the mailing, file two pieces of the mailing with the Ethics Commission.~~

4 ~~(ii) Each candidate committee that pays for a mass mailing shall, within five~~
5 ~~business days after the date of the mailing, file an itemized disclosure statement with the Ethics~~
6 ~~Commission for that mailing.~~

7 ~~(iii) Each candidate committee that pays for a mass mailing shall file two pieces~~
8 ~~of mail and the itemized disclosure statement required by Subsections (a)(2)(i) and (a)(2)(ii) within 48~~
9 ~~hours of the date of the mailing if the date of the mailing occurs within the final 16 days before the~~
10 ~~election.~~

11 ~~(iv) Every mass mailing filed pursuant to this subsection shall be clearly legible.~~

12 ~~(b) MASS MAILINGS BY PERSONS OTHER THAN CANDIDATES.~~

13 ~~(1) Disclosure. Any person who makes independent expenditures for a mass mailing~~
14 ~~which supports or opposes any candidate for City elective office shall place the following statement on~~
15 ~~the mailing in typeface no smaller than 14 points:~~

16 ~~Notice to Voters (Required by City and County of San Francisco) This mailing is not~~
17 ~~authorized or approved by any candidate for City and County office or by any election official. It is~~
18 ~~paid for by [name and committee identification number]. [address, city, state]. Total Cost of this~~
19 ~~mailing is [amount].~~

20 ~~(2) Filing.~~

21 ~~(i) Each person who makes independent expenditures of \$1,000 or more for a~~
22 ~~mass mailing which supports or opposes any candidate for City elective office shall file two pieces of~~
23 ~~the mailing and an itemized disclosure statement for the mailing with the Ethics Commission, unless~~
24 ~~that person is otherwise required to file disclosures regarding the communication under Section 1.134,~~
25 ~~1.152, or 1.161.5 of this Code.~~

1 (ii) ~~Any filing required by this Section shall be submitted within five business~~
2 ~~days after the date of the mailing if the date of the mailing is more than 16 days before the election, and~~
3 ~~within 48 hours after the mailing if the date of the mailing occurs within the final 16 days before the~~
4 ~~election.~~

5 (iii) ~~Every piece of mail filed pursuant to this Section shall be clearly legible.~~

6 (iv) ~~The Ethics Commission may permit any required statement or mailing to be~~
7 ~~filed by facsimile.~~

8 SEC. 1.161. CAMPAIGN ADVERTISEMENTS.

9 (a) DISCLAIMERS. ~~In addition to complying with the disclaimer requirements set forth in~~
10 ~~Chapter 4 of the California Political Reform Act, California Government section 84100 et seq., and its~~
11 ~~enabling regulations, all committees making expenditures which support or oppose any candidate for~~
12 ~~City elective office or any City measure shall also comply with the following additional requirements:~~

13 (1) TOP TWO CONTRIBUTORS. ~~The disclaimer requirements for primarily formed~~
14 ~~independent expenditure committees and primarily formed ballot measure committees set forth in the~~
15 ~~Political Reform Act with respect to a committee's top two major contributors shall apply to~~
16 ~~contributors of \$20,000 or more. The Ethics Commission may adjust this monetary threshold to reflect~~
17 ~~any increases or decreases in the Consumer Price Index. Such adjustments shall be rounded off to the~~
18 ~~nearest five thousand dollars.~~

19 (2) WEBSITE REFERRAL. ~~Each disclaimer required by the Political Reform Act or its~~
20 ~~enabling regulations and by this section shall be followed in the same required format, size and speed~~
21 ~~by the following phrase: "Financial disclosures are available at sfethics.org." A substantially similar~~
22 ~~statement that specifies the web site may be used as an alternative in audio communications.~~

23 (3) MASS MAILINGS AND SMALLER WRITTEN ADVERTISEMENTS.

1 Any disclaimer required by the Political Reform Act and by this section on a mass
2 mailing, door hanger, flyer, poster, oversized campaign button or bumper sticker, or print
3 advertisement shall be printed in at least 12-point font.

4 (4) CANDIDATE ADVERTISEMENTS. Advertisements by candidate committees shall
5 include the following disclaimer statements: "Paid for by _____ (insert the name of the candidate
6 committee)." and "Financial disclosures are available at sfethics.org." Except as provided in
7 subsection (a)(3), the statements' format, size and speed shall comply with the disclaimer requirements
8 for independent expenditures for or against a candidate set forth in the Political Reform Act and its
9 enabling regulations.

10 (b) FILING REQUIREMENTS.

11 (1) INDEPENDENT EXPENDITURES. Committees required by state law to file late
12 independent expenditure reports disclosing expenditures that support or oppose a candidate for City
13 elective office shall also file with the Ethics Commission on the same date a copy of the associated
14 advertisement(s), and

15 (A) if the advertisement is a telephone call, a copy of the script and, if the
16 communication is recorded, the recording shall also be provided; or

17 (B) if the advertisement is audio or video, a copy of the script and an audio or
18 video file shall be provided.

19 (2) CANDIDATE MASS MAILINGS.

20 (A) Each candidate committee that pays for a mass mailing shall, within five
21 working days after the date of the mailing, file a copy of the mailing and an itemized disclosure
22 statement with the Ethics Commission for that mailing.

23 (B) Each candidate committee that pays for a mass mailing shall file a copy of
24 the mailing and the itemized disclosure statement required by subsection (b)(2) within 48 hours of the
25 date of the mailing if the date of the mailing occurs within the final 16 days before the election.

1 (3) The Ethics Commission shall specify the method for filing copies of advertisements
2 and mass mailings.

3 SEC. ~~1.161.5. 1.162.~~ ~~DISCLOSURE AND FILING FOR~~ ELECTIONEERING
4 COMMUNICATIONS.

5 (a) ~~DISCLOSURE STATEMENTS~~ DISCLAIMERS.

6 (1) Every electioneering communication for which a statement is filed pursuant to
7 subsection (b) shall include a disclosure statement the following disclaimer: "Paid for by _____
8 (insert the name of the person who paid for the communication)." and "Financial disclosures are
9 available at sfethics.org." identifying the person who paid for the communication. Such disclosure
10 statement shall, at a minimum, contain the following words, "paid for by _____ (insert the
11 name of the person who paid for the communication)."

12 ~~(2) Any disclosure statement required by this section to be in printed form shall be~~
13 ~~printed in a type and color so as to be easily legible to the intended public. Such disclosure statement~~
14 ~~shall be printed in at least 14 point type and in a color or print that contrasts with the background so as~~
15 ~~to be easily legible to the intended public.~~

16 ~~(3) Any disclosure statement required by this Section to be in spoken form shall be~~
17 ~~spoken at the same volume and speed as the rest of the communication so as to be clearly audible and~~
18 ~~understood by the intended public and otherwise appropriately conveyed for the hearing impaired.~~

19 (2) Any disclaimer required by this Section shall be included in or on an electioneering
20 communication in a size, speed or format that complies with the disclaimer requirements for
21 independent expenditures supporting or opposing candidates set forth in the Political Reform Act and
22 its enabling regulations.

23 (3) Notwithstanding subsection (a)(2), any disclaimer required by this Section to appear
24 on a mass mailing shall be printed in at least 12-point font.

25 (b) REPORTING OBLIGATIONS.

1 (1) Every person who makes payments for electioneering communications in an
2 aggregate amount of \$1,000 per candidate during any calendar year shall, within ~~48~~ 24 hours of
3 each ~~disclosure date~~ distribution, file ~~an itemized~~ a disclosure statement with the Ethics
4 Commission, ~~unless that person is otherwise required to file disclosures regarding the communication~~
5 ~~under Section 1.134, 1.152, or 1.161 of this Code.~~ For the purposes of this subsection, payments for a
6 communication that refers only to one candidate shall be attributed entirely to that candidate.
7 Payments for a communication that refers to more than one candidate, or also refers to one or more
8 ballot measures, shall be apportioned among each candidate and measure according to the relative
9 share of the communication dedicated to that candidate or measure.

10 (2) Each ~~itemized~~ disclosure statement required to be filed under this Section
11 shall contain the following information for each communication:

12 (A) the full name, street address, city, state and zip code of the person
13 making payments for electioneering communications;

14 (B) the name of any individual sharing or exercising direction and control
15 over the person making payments for electioneering communications;

16 ~~(C) the total amount of payments made by the person for electioneering~~
17 ~~communications during the calendar year;~~

18 ~~(D) a detailed description of each payment made by the person for~~
19 ~~electioneering communications during the calendar year, provided that the person has not already~~
20 ~~reported such payments on an itemized disclosure statement filed under this Section; such detailed~~
21 ~~description shall include the date the payment was made, the full name and address of the person to~~
22 ~~whom the payment was made; the amount of the payment, and a brief description of the consideration~~
23 ~~for which each payment was made;~~

24 ~~(C) the distribution date of the electioneering communication, the name(s) and~~
25 ~~office(s) of the candidate(s) for City elective office or City elective officer(s) referred to in the~~

1 communication, the payments for the communication attributable to each such candidate or officer, a
2 brief description of the consideration for which the payments were made, whether the communication
3 supports, opposes, or is neutral with respect to each such candidate or officer, and the total amount of
4 reportable payments made by the person for electioneering communications referencing each such
5 candidate or officer during the calendar year;

6 ~~(E) a detailed accounting of any payments of \$100 or more that the person has~~
7 ~~received from another person, which were used for making electioneering communications, provided~~
8 ~~that the person has not already reported such payments received on an itemized disclosure statement~~
9 ~~filed under this Section; such detailed accounting shall include the dollar amount or value of each~~
10 ~~payment, the date of the payment's receipt, the name, street address, city, state, and zip code of the~~
11 ~~person who made such payment, the occupation and employer of the person who made such payment, if~~
12 ~~any, or, if the person is self-employed, the name of the person's business, and the cumulative amount of~~
13 ~~payments received for the purpose of making electioneering communications from that person during~~
14 ~~the calendar year;~~

15 (D) for any payments of \$100 or more that the person has received from another
16 person, which were used for making electioneering communications, the date of the payment's receipt,
17 the name, street address, city, state, and zip code of the person who made such payment, the occupation
18 and employer of the person who made such payment, if any, or, if the person is self-employed, the name
19 of the person's business, and the cumulative amount of payments received from that person during the
20 calendar year which were used for making electioneering communications;

21 ~~(F) the total amount of all payments reported under Subsection (E) during the~~
22 ~~calendar year;~~

23 (GE) a legible copy of the electioneering communication, and if in printed
24 form, or a transcript of the electioneering communication if in spoken form; and

1 (i) if the communication is a telephone call, a copy of the script and if the
2 communication is recorded, the recording shall be provided; or

3 (ii) if the communication is audio or video, a copy of the script and an
4 audio or video file shall be provided.

5 (HF) any other information required by the Ethics Commission consistent
6 with the purposes of this Section.

7 (3) The filer shall verify, under penalty of perjury, the accuracy and
8 completeness of the information provided in the ~~itemized~~ disclosure statement, and shall retain
9 for a period of five years all books, papers and documents necessary to substantiate
10 the ~~itemized~~ statements required by this Section.

11 ~~(4) The Ethics Commission may permit any required statement or mailing to be filed by~~
12 ~~facsimile The Ethics Commission shall determine the method for filing the disclosure statement and the~~
13 ~~copy of the communication, which may include electronic filing.~~

14 ~~(c) REGULATIONS. The Ethics Commission may issue regulations implementing this Section.~~

15 ~~(c) DEFINITIONS. Whenever in this Section the following words or phrases are used, they~~
16 ~~shall mean:~~

17 ~~(1) "Disclosure Date" shall mean:~~

18 ~~(A) the first date during any calendar year when an electioneering~~
19 ~~communication is distributed after a person has made payments aggregating \$1,000.00 for~~
20 ~~electioneering communications; and~~

21 ~~(B) after a person has met the threshold under Subsection (A), any date during~~
22 ~~that same calendar year when an electioneering communication is distributed, if that same person~~
23 ~~made any payments for such electioneering communication.~~

24 ~~(2) "Distributed" shall mean any act that permits an electioneering communication to~~
25 ~~be viewed, read or heard.~~

1 (3) ~~"Electioneering Communication" shall mean any communication, including but not~~
2 ~~limited to any broadcast, cable, satellite, radio, internet, or telephone communication, and any mailing,~~
3 ~~flyer, doorhanger, pamphlet, brochure, card, sign, billboard, facsimile, or printed advertisement, that:~~

4 (A) ~~refers to a clearly identified candidate for City elective office or a City~~
5 ~~elective officer who is the subject of a recall election; and~~

6 (B) ~~is distributed within 90 days prior to an election for the City elective office~~
7 ~~sought by the candidate or a recall election regarding the City elective officer to 500 or more~~
8 ~~individuals who are registered to vote or eligible to register to vote in the election or recall election.~~

9 ~~There shall be a rebuttable presumption that any that any broadcast, cable, satellite, or radio~~
10 ~~communication and any sign, billboard or printed advertisement is distributed to 500 or more~~
11 ~~individuals who are eligible to vote for or against the candidate clearly identified in the~~
12 ~~communication.~~

13 (C) ~~The term "Electioneering Communication" shall not include:~~

14 (i) ~~communications that constitute independent expenditures under this~~
15 ~~Chapter;~~

16 (ii) ~~communications made by a slate mailer organization if such~~
17 ~~communications are required to be disclosed under the California Political Reform Act, California~~
18 ~~Government Code Section 81000, et seq.;~~

19 (iii) ~~communications paid for by the City or any other local, State or~~
20 ~~Federal government agency;~~

21 (iv) ~~non-recorded communications between two or more individuals in~~
22 ~~direct conversation unless such communications are made by telephone and at least one of the~~
23 ~~individuals is compensated for the purposes of making the telephone communication;~~

24 (v) ~~communications that appear on bumper stickers, pins, stickers, hat~~
25 ~~bands, badges, ribbons and other similar memorabilia;~~

1 ~~(vi) news stories, commentaries or editorials distributed through any~~
2 ~~newspaper, radio station, television station, or other recognized news medium unless such news~~
3 ~~medium is owned or controlled by any political party, political committee or candidate;~~

4 ~~(vii) communications to all members, employees and shareholders of an~~
5 ~~organization, other than a political party, provided that such communications do not constitute general~~
6 ~~public advertising such as, but not limited to, broadcasting, billboards, and newspaper advertisements;~~

7 ~~(viii) that occur during a candidate debate or forum; and~~

8 ~~(ix) communications made solely to promote a candidate debate or~~
9 ~~forum made by or on behalf of the person sponsoring the debate or forum, provided that such~~
10 ~~communications do not otherwise discuss the positions or experience of a candidate for City elective~~
11 ~~office or a City elective officer who is the subject of a recall election.~~

12 ~~(4) "Internet Communication" shall include paid internet advertisements such as~~
13 ~~"banner" and "pop up" advertisements, paid emails or emails sent to addresses purchased from~~
14 ~~another person, and similar types of internet communications as defined by the Ethics Commission by~~
15 ~~regulation, but shall not include web blogs, listserves sent to persons who have contacted the sender,~~
16 ~~discussion forums, or general postings on web pages.~~

17 ~~(5) "Payment" shall be defined as set forth in Government Code of the State of~~
18 ~~California (commencing at Section 81000); provided, however, that "payment" shall also include any~~
19 ~~enforceable promise to make a payment.~~

20 ~~(6) "Refers to a clearly identified candidate for City elective office or a City elective~~
21 ~~officer who is the subject of a recall election" shall mean any communication that contains the~~
22 ~~candidate's or officer's name, nickname or image or makes any other unambiguous reference to the~~
23 ~~candidate or officer such as "your Supervisor" or "the incumbent."~~

24 ~~(D) REGULATIONS. The Ethics Commission shall issue regulations implementing this~~
25 ~~Section, including regulations defining all members, employees and shareholders of an organization.~~

1 ~~SEC. 1.162. DISCLOSURE REQUIREMENTS CAMPAIGN ADVERTISEMENTS.~~

2 ~~(a) Disclosure. Any campaign advertisement that urges support for or opposition to one or~~
3 ~~more candidates for City elective office shall include a disclosure statement identifying the person who~~
4 ~~paid for the advertisement. Such disclosure statement shall, at a minimum, contain the following~~
5 ~~words, "paid for by _____ (insert the name of the person who paid for the communication)"~~
6 ~~and appear at least once on the advertisement.~~

7 ~~(1) Any disclosure statement required by this section to be in printed form shall be~~
8 ~~printed in a type and color so as to be easily legible to the intended public. Such disclosure statement~~
9 ~~shall be printed in at least 14-point type and in a color or print that contrasts with the background so~~
10 ~~as to be easily legible to the intended public.~~

11 ~~(2) Any disclosure statement required by this section to be in spoken form shall be~~
12 ~~spoken at the same volume and speed as the rest of the communication so as to be clearly audible and~~
13 ~~understood by the intended public and otherwise appropriately conveyed for the hearing impaired.~~

14 ~~(b) Definitions. For the purposes of this Section, the term "campaign advertisement" means:~~

- 15 ~~(1) Programming received by a television or radio;~~
16 ~~(2) A communication placed in a newspaper, periodical or magazine of general~~
17 ~~circulation;~~
18 ~~(3) Posters, door hangers, and yard signs produced in quantities of 200 or more; and~~
19 ~~(4) A billboard.~~

20 ~~SEC. 1.163. DISCLOSURE REQUIREMENTS RECORDED TELEPHONE MESSAGES.—~~

21 ~~Any recorded telephone message distributed to 500 or more individuals or households must~~
22 ~~include the following statement: "paid for by _____ (insert name of person who paid for the~~
23 ~~recorded telephone message)." Statements required pursuant to this Section shall be audible and~~
24 ~~played at the same volume and speed as the rest of the recorded telephone message. Any person paying~~
25

1 ~~for a recorded telephone message must maintain a transcript of the message and a record of the~~
2 ~~number of distributed calls for each message.~~

3 SEC. 1.163. MEMBER COMMUNICATIONS.

4 (a) Every person who makes payments for member communications in an aggregate amount of
5 \$1,000 per candidate within the 90 days prior to an election shall, within 24 hours of each distribution,
6 file a disclosure statement with the Ethics Commission. For the purposes of this subsection, payments
7 for a communication that supports or opposes only one candidate shall be attributed entirely to that
8 candidate. Payments for a communication that supports or opposes more than one candidate, or also
9 supports or opposes one or more ballot measures, shall be apportioned among each candidate and
10 measure according to the relative share of the communication dedicated to that candidate or measure.

11 (b) Each disclosure statement required to be filed under this Section shall contain the following
12 information:

13 (1) the full name, street address, city, state and zip code of the person making payments
14 for member communications;

15 (2) the name of any individual sharing or exercising direction and control over the
16 person making payments for member communications;

17 (3) the distribution date of the member communication, the name(s) and office(s) of the
18 candidate(s) for City elective office or City elective officer(s) referred to in the communication, the
19 payments for the communication attributable to each such candidate or officer, a brief description of
20 the consideration for which the payments for such costs were made, whether the communication
21 supports or opposes each such candidate or officer, and the total amount of reportable payments made
22 by the person for member communications supporting or opposing each such candidate or officer
23 during the calendar year;

24 (4) a legible copy of the member communication; and
25

1 (A) if the communication is a telephone call, a copy of the script and if the
2 communication is recorded, the recording shall be provided; or

3 (B) if the communication is audio or video, a copy of the script and an audio or
4 video file shall be provided.

5 (5) any other information required by the Ethics Commission consistent with the
6 purposes of this Section.

7 (c) The filer shall verify, under penalty of perjury, the accuracy and completeness of the
8 information provided in the disclosure statement, and shall retain for a period of five years all books,
9 papers and documents necessary to substantiate the statements required by this Section.

10 (d) REGULATIONS. The Ethics Commission may issue regulations implementing this Section.

11
12 Section 3. Effective Date. This ordinance shall become effective 30 days after
13 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
14 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
15 of Supervisors overrides the Mayor's veto of the ordinance.

16
17 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
18 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
19 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
20 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
21 additions, and Board amendment deletions in accordance with the "Note" that appears under
22 the official title of the ordinance.

23
24 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
25 of this ordinance, or any application thereof to any person or circumstance, is held to be

1 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
2 shall not affect the validity of the remaining portions or applications of the ordinance. The
3 Board of Supervisors hereby declares that it would have passed this ordinance and each and
4 every section, subsection, sentence, clause, phrase, and word not declared invalid or
5 unconstitutional without regard to whether any other portion of this ordinance or application
6 thereof would be subsequently declared invalid or unconstitutional.

7

8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

9

10 By:

11 ANDREW SHEN
12 Deputy City Attorney

S:\C.F.R.O\2015\App A CFRO amendments - 1 16 15.docx

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Appendix B

Summary of Comments at Interested Persons Meetings and Related Staff Assessments¹

Definitions and Related Issues	
Comment 1. An individual suggested exempting nonprofit fundraising event invitations that mention candidates (i.e., the candidate appears as the keynote speaker at the nonprofit’s fundraiser) from the definition of electioneering communications.	Staff assessment: Staff agrees with this suggestion for 501(c)(3) nonprofits, which are prohibited from advocating for or against any candidate. Staff has incorporated language to this effect into the proposed ordinance.
Comment 2. Certain individuals urged that candidate endorsements placed on ballot measure communications should trigger electioneering communication rules.	Staff assessment: Staff agrees. Under existing law, ballot measure ads referencing one or more candidates constitute electioneering communications. However, the proposed changes would clarify that reporting and disclaimer rules are triggered only if the cost of the communication attributable a particular candidate is \$1,000 or more.
Comment 3. An individual expressed concern that the term “persuasion poll” confuses many in the public, who might mistakenly believe that paying for polls actually designed to collect information (instead of directly influence a City election) triggers special reporting.	Staff assessment: Staff has removed term “persuasion poll” from CFRO under the proposed changes, as such polls would constitute either electioneering communications or independent expenditures.
Comment 4. An individual suggested that the proposed CFRO section that includes a list of small written items that must have a 12-point font disclaimer more closely track the FPPC’s guidelines.	Staff assessment: Staff has made this change.
Comment 5. An individual suggested that CFRO define the term “distribution” in addition to “distribute,” which is already defined.	Staff assessment: Staff has made this change.
Reporting Issues	
Comment 6. An individual asked why staff did not propose eliminating the requirement for candidates to report mass mailings.	Staff assessment: The referenced provision helps with enforcement, primarily of disclaimer rules.
Comment 7. State law requires 24-hour disclosure of independent expenditures totaling \$1,000 or more during the 90 days prior to an election. Staff proposed imposing a similar threshold for electioneering communications and member communications. Noting the low cost for online communications, slate cards, etc., an individual urged the adoption of a third-party disclosure threshold based on the number of recipients of a	Staff assessment: Staff believes that the \$1,000 state threshold is low enough to capture relevant spending (online or otherwise), particularly since reporting is triggered by aggregate spending (i.e., total spending for all independent expenditures). A different threshold would likely lead to confusion, be inconsistent with state law, and burden low-cost grassroots electioneering. Staff notes that the FPPC has explicitly determined that low-

¹ This summary is included after the request of an attendee at the second IP meeting. Comments from the first meeting are also included. For ease of reference, comments are grouped by subject matter and in certain instances represent a distillation of separate comments.

Appendix B

<p>communication (instead of the \$1,000 monetary threshold) in order to ensure disclosure of low cost activities.</p>	<p>cost personal internet activity does not constitute either a contribution or an expenditure. (FPPC Reg. 18215.2.)</p>
<p>Comment 8. State law requires disclosure of independent expenditures within 24 hours for the 90 days prior to an election (but not for Election Day). Staff proposed imposing 24 hour reporting requirements for electioneering communications and member communications during the same period. An individual urged imposing these reporting requirements for Election Day itself (i.e., a report due the day after the election).</p>	<p>Staff assessment: Staff does not believe that a sufficient reason exists to deviate from state law and expand the current 24 hour reporting requirement to cover the day of the election. The primary purposes of 24 hour reporting are to inform the public prior to voting and to facilitate the City’s public financing program. Staff is not persuaded that 24 hour disclosure concerning third-party communications after Election Day serves these purposes. Financial information about independent expenditures and most electioneering communications (i.e., ballot measure ads) on Election Day will be disclosed in year-end reports.</p>
<p>Comment 9. Two individuals requested that the Commission specify how to calculate the cost of postings on established websites (including company sites, Facebook, etc.) for purposes of electioneering communication/independent expenditure reporting, particularly when the \$1,000 threshold has otherwise been met and requires disclosure of all prior electioneering communications/independent expenditures.</p>	<p>Staff assessment: Staff agrees that this issue should be addressed, but would propose doing so via a Commission regulation.</p>
<p>Comment 10. State 24 hour disclosure requirements for independent expenditures do not require that the filer disclose vendors used for these IEs. These vendors are included on campaign reports filed at other times. Staff’s proposed 24 hour reporting requirements for electioneering communication/member communication similarly do not require vendor reporting. An individual urged that the CFRO proposals require vendor disclosure for all three types of 24 hour reports.</p>	<p>Staff assessment: Staff believes that a single set of reporting requirements for payments made should generally be applicable to independent expenditures, electioneering communications, and member communications, and that those requirements should be based on the state requirements for independent expenditures. Moreover, staff questions the public demand for vendor information on a 24 hour basis. Finally, staff notes that vendor information is reported on pre-election, mid-year and end of year reports for all independent expenditures and for most electioneering communications (which mostly consist of ballot measure ads).</p>
<p>Comment 11. An individual urged requiring that member communications disclosures include information about the nature of the communication (e.g., mailers, phone calls, etc.) and the identity of the members whose funds were used to pay for the communications.</p>	<p>Staff assessment: Staff agrees that member communications disclosures should specify the nature of reported communication and has added this requirement to the proposed changes. However, staff does not believe that requiring disclosure of member funds used for these internal communications is warranted. Moreover, increasing the current disclosure in this manner would present particularly difficult compliance issues for unions which engage in most of the reported member communications. Notably, federal law does not require donor disclosure in its member communications reporting.</p>

Appendix B

<p>Comment 12. City law currently requires 48 hour disclosure for persuasion polls (i.e., “polls” really intended to influence a candidate election). Staff proposed consolidating this requirement with those for electioneering communications and/or independent expenditures. An individual suggested requiring disclosure of information currently required for persuasion polls, but not required for electioneering communications and/or independent expenditures, including number of calls attempted, individuals contacted, and messages left.</p>	<p>Staff assessment: Staff does not believe that a sufficient reason exists to alter state law requirements or to justify imposing the additional requirements (i.e., listing number of calls, etc.) for electioneering communication or member communication reporting. Imposition of such requirements would certainly come at the cost of increased complexity and compliance costs and staff does not believe that there is sufficient demand for, or public benefit from, such information on a 24 hour basis.</p>
<p>Comment 13. An individual expressed concern that certain slate mailer spending would not be captured by the City’s third-party disclosure rules. The individual also urged that the City designate the Ethics Commission as the filing officer for slate mailers.</p>	<p>Staff assessment: Most payments for slate mailer endorsements will in fact be reported as independent expenditures (if they reach the \$1,000 threshold). Although outside the scope of the current set of amendments, staff believes that there is merit to the idea of having the City designate the Ethics Commission as the filing officer for slate mailers, but would propose addressing this issue at a later date after staff has explore it more fully.</p>
<p>Comment 14. An individual urged that 24 hour reporting deadlines for electioneering communications and member communications should be consistent with state law rules for independent expenditure reporting, and that the Commission should not extend any deadlines for the electioneering communications and member communications that fall on a weekend day or holiday.</p>	<p>Staff assessment: Staff agrees that 24 hour reporting deadlines for electioneering communications and member communications should be consistent with state law. However, staff proposes addressing this issue by revisiting SFEC regulation 1.172-1. (See CFRO § 1.172 [Commission may address holiday and weekend extensions by regulation].)</p>
<p>Comment 15. An individual urged that the CFRO proposals make clear that, where an electioneering communication referenced numerous candidates or measures, the \$1,000 reporting threshold only applied to the proportionate amount of the cost of the communication attributable to each candidate or measure.</p>	<p>Staff assessment: Staff agrees and has included language to this effect.</p>
<p>Comment 16. An individual urged that the CFRO proposals make clear whether the \$1,000 threshold for reporting electioneering communications and member communications was triggered by either expenditures that total, in aggregate, \$1,000 or a single expenditure of \$1,000.</p>	<p>Staff assessment: Staff agrees and has included language to this effect.</p>
<p>Comment 17. An individual objected to staff’s proposal to limit supplemental pre-election reporting to instances where the City general purpose committee has made contributions or independent expenditures of \$500 or more in connection with a City election. The individual claimed that this change would open too many loopholes, including transfers of funds to state committees that are ultimately used in City elections.</p>	<p>Staff assessment: Staff has modified the proposed change, and now recommends an amendment that would eliminate the need for a pre-election report if expenditures are made solely for legal and accounting and other administrative costs.</p>

Appendix B

<p>Comment 18. An individual suggested that staff require copies of all ballot measure ads to be filed with the Ethics Commission within 24 hours.</p>	<p>Staff assessment: Although staff may wish to explore this idea in the future, it would result in a substantial increase in filings with the Commission that do not fit within the scope of the proposed changes and that staff is not currently prepared to handle.</p>
<p>Disclaimer Issues</p>	
<p>Comment 19. State law requires contributors of \$50,000 or more to be named in disclaimers on certain independent expenditure and ballot measure communications. Staff proposed decreasing the threshold to \$25,000 for City elections. An individual suggested also requiring the naming of the committee’s unpaid consultants or other vendors whose accrued expenses meet this monetary threshold as part of this disclaimer requirement.</p>	<p>Staff assessment: Staff does not agree with this proposal. The disclaimers at issue normally refer to contributors, but accrued expenses are generally not contributions. Moreover, staff is not persuaded that the public is interested in knowing a campaign’s vendors on a campaign communication, even if that vendor has not been paid during the beginning of the campaign. Also, determining how long an accrued expense would have to be outstanding to trigger the requirement (i.e., 30 days, 45 days, etc.) in a sensible and workable manner would be problematic.</p>
<p>Comment 20. An individual contended that state law does not currently require certain disclaimers for ballot measure and independent expenditure committees with donors of less than \$50,000, and thus that the proposed changes would not capture ballot measure and independent expenditure committees with donors of less than \$25,000.</p>	<p>Staff assessment: Staff’s proposal is intended to augment state law disclaimer rules. Staff confirmed with counsel for the Fair Political Practices Commission that the commenter’s interpretation of state law is incorrect.</p>
<p>Comment 21. An individual urged that that the proposed changes make clear that they are not intended to require ballot measure communications to include a disclaimer used for independent expenditures regarding a candidate (“Not authorized by a candidate or committee controlled by a candidate”).</p>	<p>Staff assessment: Staff agrees, and believes that the proposed language accomplishes this goal.</p>
<p>Comment 22. Certain individuals urged that the proposed CFRO changes make clear how electioneering communications disclaimer requirements apply to ballot measure ads that reference an endorsing candidate.</p>	<p>Staff assessment: Staff agrees, and believes that the proposed language accomplishes this goal. The disclaimer rules are triggered only if the cost of the part of the communication attributable to the candidate is \$1,000 or more.</p>
<p>Comment 23. Staff proposed eliminating the City’s disclosure requirements for robo-calls given basically identical state requirements. An individual expressed concern that the City’s requirement that robo-call disclaimers are said “at the same volume and speed of the rest of the message” would not be retained.</p>	<p>Staff assessment: State law will require any independent expenditure robo-calls sent by a political committee to include a disclaimer that is “spoken in a clearly audible and intelligible manner.” (FPPC Reg. § 18450.4.) Staff believes that this requirement is sufficient.</p>
<p>Other Issues</p>	
<p>Comment 24. After the meeting, an individual urged that Commission take a number of actions beyond the scope of the current regulatory proposals including: a private right of action for all ethics violations, the imposition of</p>	<p>Staff assessment: Some or all of these suggestions may have merit. However, most are outside the scope of the current proposals, which are deliberately targeted in nature. Staff will consider certain of these</p>

Appendix B

<p>limited denials of participation in City business for CFRO violations; required disclosure of a campaign's finance committee members; additional behested payment disclosure by donors regarding their City business; contribution bans for persons receiving a "public benefit" from the City (i.e., reinstate part of Proposition J); itemized disclosure of donors for gifts of travel to City officials; and limits on candidate-controlled general purpose committees.</p>	<p>suggestions – some of which were included in the recent Civil Grand Jury report – in the near future.</p>
--	--

S:\C.F.R.O\2015\App B CFRO 2015 IP Mtg Summary.docx

Appendix C

FILING REQUIREMENTS FOR THIRD-PARTY COMMUNICATIONS THAT SUPPORT OR OPPOSE A CANDIDATE*

CURRENT REQUIREMENTS:

Communication	Threshold (\$)	Due Date	Form
Independent Expenditures – All	\$1,000/candidate	24 hrs.	FPPC Form 496
Independent Expenditures – Mass Mailings	\$1,000	5 working days or 48 hrs. if 16 days before election	Third-Party Disclosure Form (Parts 1, 2, 3 & 5) plus two copies
Electioneering Communications	\$1,000	48 hrs.	Third-Party Disclosure Form (Parts 1, 2, 3 & 6) plus a copy
“\$5,000 expenditures” – Independent Expenditures, Electioneering Communications, Member Communications	\$5,000/candidate	24 hrs.	Third-Party Disclosure Form (Parts 1, 2, 3 & 4) plus a copy
Persuasion Polls	N/A	48 hrs.	Third-Party Disclosure Form (Parts 1, 2, 3 & 7) plus a copy

PROPOSED REQUIREMENTS:

Communication	Threshold (\$)	Due Date	Form
Independent Expenditures – All	\$1,000/candidate	24 hrs.	FPPC Form 496 plus a copy
Electioneering Communications	\$1,000/candidate	24 hrs.	Electioneering Communications Form plus a copy
Member Communications	\$1,000/candidate	24 hrs.	Member Communications Form plus a copy

*Does not include mid-year report, end-of-year report, or 2 pre-election reports.

Appendix D

San Francisco Ethics Commission
25 Van Ness, Suite 220
San Francisco, CA 94102
Phone: (415) 252-3100
Fax: (415) 252-3112
Email: ethics.commission@sfgov.org
Web: www.sfethics.org



For SFEC use

THIRD PARTY DISCLOSURE FORM REGARDING SAN FRANCISCO CANDIDATES

(S.F. Campaign and Governmental Conduct Code §§ 1.134(c), 1.152(a)(3), 1.152(b)(3), 1.161(b), 1.161.5, and 1.160.5)

I. Instructions

Use this form to report third party spending regarding candidates for the following San Francisco City elective offices: Mayor, Board of Supervisors, Board of Education, Board of the Community College District, Sheriff, District Attorney, City Attorney, Treasurer, Assessor and Public Defender. If you have any questions about this form, please contact the Ethics Commission at 415-252-3100.

II. What type of third party spending must be reported?

San Francisco Campaign and Governmental Conduct Code (“S.F. C&GC Code”) sections 1.134(c), 1.152(a)(3), 1.152(b)(3), 1.161(b), 1.161.5, and 1.160.5 require persons who make any: (1) independent expenditure, (2) electioneering communication, or (3) member communication that clearly identifies a candidate for City elective office or authorizes administers or pays for a (4) persuasion poll to file disclosure statements with the Ethics Commission. For more information, please refer to the applicable sections of the law, available on the Ethics Commission’s website at www.sfethics.org.

III. How to Complete the Third Party Disclosure Form

All filers must complete Parts 1, 2, and 3 of this form. In Part 3, check the box(es) that identify your filing.

If you are attaching additional sheets of paper, check the box at the bottom of the section (part) to which the additional sheets of paper apply and label the additional sheet(s).

Part 1

Report Number: Assign a unique identification number to each Third Party Disclosure Form that you file for an election. You may use any numbering system such as 1, 2, 3 or a, b, c, or Candidate Ava-1, Candidate Ava-2, Candidate Ava-3, Candidate Bob-1, Candidate Bob-2 and so forth. Also label each communication with the same report number given to the form that the communication accompanies.

Amendments: If you are amending a previously filed form, check the Amendment box, and enter the identification number of the report that you are amending. Describe the reason for the amendment in the space provided.

A filer who does not know the actual costs when he or she is required to file this form may provide good faith estimates, provided that the filer must amend this statement within 48 hours after he or she receives accurate information regarding the actual costs.

Appendix D

Part 2

Filer information: Provide filer's complete contact information.

Part 3

Type of filing: Check the box(es) that identify the reason for filing this form. A single communication may trigger filing requirements prescribed by more than one section of the law. By filing one form, checking all the boxes that apply in part 3, providing the required disclosure in other parts of this form, and providing the applicable copy (copies) of the communication, you will satisfy the various filing requirements prescribed by sections 1.134(c), 1.152(a)(3), 1.152(b)(3), 1.161(b), 1.161.5, and 1.160.5.

Part 4---S.F. C&GC Code §§ 1.134(c), 1.152(a)(3), and 1.152(b)(3): \$5,000 expenditures

Who files: Part 4 of this form must be completed by any person¹ who makes expenditures for the purpose of distributing independent expenditures, electioneering communications or member communications that clearly identify a candidate for City elective office in an aggregate amount of \$5,000 or more per candidate.

When to file: Within 24 hours of (1) reaching the initial threshold of \$5,000 and (2) each time the person makes or incurs an additional expense that in the aggregate totals \$5,000 or more per candidate.

This disclosure is required in a race for Mayor or Board of Supervisors only if the Ethics Commission has certified that at least one candidate for Mayor or one candidate for the Board of Supervisors in the same district is eligible to receive public funds. In all other races, disclosure is required only if at least one candidate has accepted the applicable voluntary expenditure ceiling and the Ethics Commission has not lifted that voluntary expenditure ceiling.

What to file: A disclosure statement (Part 4 of this form) and a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video.

The cost of a communication that supports or opposes more than one candidate or measure must be apportioned among each candidate and measure in the communication. Your records must include a calculation of how such costs were apportioned and determined.

Part 5---S.F. C&GC Code § 1.161(b): mass mailing

Who files: Any person who makes independent expenditures of \$1,000 or more for a mass mailing that supports or opposes any candidate for City elective office must complete Part 5 of this form. The filer must disclose the itemized costs associated with the mailing, including but not limited to the amounts paid for photography, design, production, printing, distribution and postage. The filer must show each separate charge or payment for each cost associated with the mailing.

When to file: Within (a) five (5) working days after the date of the mailing; or (b) 48 hours of the date of the mailing if the date of the mailing occurs within the final 16 days before the election.

What to file: A disclosure statement (Part 5 of this form) and two originals of the mass mailing.

What disclosure is required on the mass mailing?

The mass mailing must contain the following disclosure in at least 14 point font:

¹ A person is any individual, partnership, corporation, association, firm, proprietorship, joint venture, syndicate, business trust, company, limited liability company, committee, club or other organization or group of persons acting in concert, however organized.

Appendix D

Notice to Required Voters (Required by City and County of San Francisco)

This mailing is not authorized or approved by any candidate for City and County office or by any election official. It is paid for by [name and committee identification number]. [address, city, state].
Total Cost of this mailing is [amount].

Part 6---S.F. C&GC Code § 1.161.5: electioneering communication

Who files: Any person who makes payments for electioneering communications² that total \$1,000 during any calendar year.

When to file: Within 48 hours of each disclosure date.³

What to file: A disclosure statement (Part 6 of this form) and a legible copy of the electioneering communication if it is in printed form or a transcript of the electioneering communication if it is in spoken form.

What disclosure is required on the communication?

The electioneering communication must contain the following words, “paid for by ____ (insert the name of the person who paid for the communication).” This disclosure statement must be in at least 14 point type if the communication is in written form, or spoken at the same volume and speed as the rest of the communication and appropriately conveyed for the hearing impaired if it is in spoken form.

Part 7---S.F. C&GC Code § 1.160.5: persuasion poll

Who files: Any person who authorizes, administers or makes payment for a persuasion poll⁴ must file this itemized statement with the San Francisco Ethics Commission within 48 hours of each disclosure date, unless the person is aware that another person authorizing, administering or making payment for the same persuasion poll has filed a form under section 1.160.5.

² An electioneering communication is any communication (such as any broadcast, cable, satellite, radio, internet, or telephone communication, and any mailing, flyer, doorhanger, pamphlet, brochure, card, sign, billboard, facsimile, or printed advertisement) that: refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election; and is distributed 90 days prior to an election for the City elective office sought by the candidate or a recall election regarding the City elective officer to 500 or more individuals.

³ “Disclosure date” means (A) the first date during any calendar year when an electioneering communication is distributed after a person has made payments aggregating \$1,000 for electioneering communications; and (B) after the person has met the threshold under (A), any date during the same calendar year when an electioneering communication is distributed, if that same person made any payments for such electioneering communication.

⁴ A “persuasion poll” is any telephone survey, or series of telephone surveys that are substantially similar or identical, that refers to a clearly identified candidate for City elective office or City elective officer, other than in a basic preference question, and that includes:

1. At least one call made within 60 days prior to an election for the City elective office sought by the candidate named in the survey or prior to a recall election regarding the City elective officer named in the survey; and
2. At least 1,000 completed calls, such as person-to-person discussions following the survey script; and

For which at least two of the following are true:

- Each phone conversation takes less than four minutes on average to complete, excluding any sponsorship identification.
- The survey includes fewer than three demographic inquiries regarding factors such as age, educational level, or marital status.
- The persons conducting the survey do not collect or tabulate survey results for all the phone conversations.
- The survey includes an untrue statement about the candidate or officer described in the persuasion poll.
- The survey is designed or intentionally conducted in a manner calculated to influence the vote of the call recipient.

Appendix D

When to file: Within 48 hours of the date of each of the following: (1) the date that a written formal agreement regarding the persuasion poll is made between the person making the calls and the poll sponsor(s) or the sponsor(s)' agent; (2) the date of the 1000th call in the poll; and (3) the date of each 1000th additional call in the poll.

What to file: A disclosure statement (Part 7 of this form) and a copy of the script used in conducting the persuasion poll, and a copy of every question asked in the survey and every statement made to respondents in the survey.

What disclosure is required for the persuasion poll?

Any caller conducting a persuasion poll must, at the beginning of each call, (1) identify the person(s) making payments for or authorizing the call by stating "This is a paid political advertisement by [Name of person(s)];" and (2) identify the person making the call, if different from the sponsor, by stating "This call is conducted by [Name of person]." These disclosures must be spoken at the same volume and speed as the rest of the communication so as to be clearly audible by the call recipient and otherwise appropriately conveyed for the hearing impaired. These disclosures must be repeated upon the request of the call recipient.

IV. How do you determine the filing deadline if you meet the filing obligations of more than one of the sections described above?

For any expenditure, a person may be required to file reports under more than one section of the law. This form allows you to disclose various third-party spending through one form. While most of these filing obligations require you to report spending within 24 hours of making the expenditure, some of these requirements prescribe a longer time-frame to file your reports. If you are required to report expenditures under multiple requirements with differing filing deadlines, you must submit this form by the earliest deadline applicable in order for your filing to be considered timely.

V. May you fax or email the Third Party Disclosure Form to the Ethics Commission?

You may file the Third Party Disclosure Form by facsimile, email, postal mail, or in-person delivery (keep in mind that most of the above-referenced rules require 24-hour notification). You must attach a clear and legible copy of the communication.

While most of the above-referenced rules require a person to file one copy of the communication, section 1.161(b) regarding mass mailings requires two originals of the mass mailing.

Example: A filer pays for an electioneering communication for a candidate for the Board of Supervisors and meets the filing thresholds of Parts 4 and 6 of this form. Parts 4 and 6 each require the filer to provide a legible copy of the communication. The filer must complete both Parts 4 and 6, but needs only to provide only one copy of the communication.

Appendix D

San Francisco Ethics Commission
25 Van Ness, Suite 220
San Francisco, CA 94102
Phone: (415) 252-3100
Fax: (415) 252-3112
Email: ethics.commission@sfgov.org
Web: www.sfethics.org



For SFEC use

THIRD PARTY DISCLOSURE FORM REGARDING SAN FRANCISCO CANDIDATES (S.F. Campaign and Governmental Conduct Code §§ 1.134(c), 1.152(a)(3), 1.152(b)(3), 1.161(b), 1.161.5, and 1.160.5)

Part 1. Report Information

Date of this filing	Enter date of election
No. of pages (do not count pages with instructions)	
Report Number (Assign a unique identification number to each original filing. Label attached communication with same number.)	
<input type="checkbox"/> Amendment to Report Number (list report number below and explain reason for amendment in next row)	
Reason for amendment:	

Part 2. Filer Information

Name of Filer (if committee, enter committee name)	FPPC I.D. Number (if applicable)
Filer telephone number ()	
Filer street address, city, state and zip code	
Signature	
Name of signatory	Date signed

Part 3. Type of Filing (check all boxes that apply)

- Part 4---Section 1.134(c), 1.152(a)(3), or 1.152(b)(3) filing (\$5,000 expenditures)
 Part 5---Section 1.161(b) filing (mass mailing)
 Part 6---Section 1.161.5 filing (electioneering communication)
 Part 7---Section 1.160.5 filing (persuasion poll)

Appendix D

Part 4. Report of Expenditures of \$5,000 or More Relating to a Candidate

In elections for City elective office other than Mayor or the Board of Supervisors, this part of the form is required only if at least one candidate for the City elective office has accepted the applicable voluntary expenditure ceiling and the Ethics Commission has not lifted the voluntary expenditure ceiling. In elections for Mayor or the Board of Supervisors, this form is required when the Ethics Commission has certified at least one candidate in the race as eligible to receive public funds.

a. Specify the race(s), including district number, in which cumulative expenditures of \$5,000 or more per candidate were made: _____

b. In the table below, provide information about all expenditures that aggregate to \$5,000 or more per candidate for City elective office.⁵

Candidate(s) identified in the communication	Type of Expenditure(s), i.e., independent expenditure, electioneering communication, or member communication	Indicate whether communication is intended to (1) support; or (2) oppose the candidate; or (3) be neutral.	Date of expenditure(s) (earlier of date goods/services are received or paid)	Cost apportioned to this candidate ⁶	Total amount of expenditures made related to this candidate for the election specified ⁷	Date the communication was distributed (the date the communication was broadcasted, mailed, disseminated, or passed out)

c. Attach a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video. Remember to label your communication so that it matches the Report Number that you assign to this form.

d. Please check this box if you are attaching additional pages and indicate the number of pages attached: No. of additional pages: []

⁵ "Expenditures" include independent expenditures, electioneering communications and member communications. You must include expenses that have been incurred but not yet paid. Do not count contributions made directly to candidates.

⁶ In this column, include all unreported expenditures relating to this candidate. For example, if you previously incurred \$2,000 in independent expenditures for Candidate Dhillon that were not reported because you had not met the \$5,000 threshold at that time, and then you incurred another \$4,000 for Candidate Dhillon, you must report in this column that you spent a cumulative amount of \$6,000 for this candidate. In this example, you would attach a copy of the communication(s) relating to the \$2,000 and \$6,000 expenditures.

⁷ In this column, report the sum of all previously reported amounts and the amount currently being reported.

Appendix D

Part 5. Itemized Disclosure Statement for Mass Mailings

a. Describe the mass mailing by completing the table below.

Title or description of mass mailing:	
Date of mass mailing:	
Total cost of mass mailing:	
Number of pieces mailed:	

b. Please provide the following information in the table below:

- The name, address (including street, city, and zip code) of each vendor
- The services or items provided by the vendor
- The cost of each service or item provided by the vendor

Name of Vendor	Service or Item Provided	Cost of Each Service or Item
	<input type="checkbox"/> photography <input type="checkbox"/> design (which may include graphics, text, layout, proofs) <input type="checkbox"/> production (which may include paper, printing, photocopying) <input type="checkbox"/> distribution (which may include mail house, folding, stuffing, sorting, labels, mailing lists) <input type="checkbox"/> postage (which may include US postage, other delivery, messenger, courier) <input type="checkbox"/> other _____	<input type="checkbox"/> Check box if this is an estimated cost
	<input type="checkbox"/> photography <input type="checkbox"/> design (which may include graphics, text, layout, proofs) <input type="checkbox"/> production (which may include paper, printing, photocopying) <input type="checkbox"/> distribution (which may include mail house, folding, stuffing, sorting, labels, mailing lists) <input type="checkbox"/> postage (which may include US postage, other delivery, messenger, courier) <input type="checkbox"/> other _____	<input type="checkbox"/> Check box if this is an estimated cost
	<input type="checkbox"/> photography <input type="checkbox"/> design (which may include graphics, text, layout, proofs) <input type="checkbox"/> production (which may include paper, printing, photocopying) <input type="checkbox"/> distribution (which may include mail house, folding, stuffing, sorting, labels, mailing lists) <input type="checkbox"/> postage (which may include US postage, other delivery, messenger, courier) <input type="checkbox"/> other _____	<input type="checkbox"/> Check box if this is an estimated cost

c. Attach two of the original pieces of the mass mailing. Remember to label your mass mailing so that it matches the Report Number that you assign to this form.

d. Please check this box if you are attaching additional pages and indicate the number of pages attached: No. of additional pages: []

Appendix D

Part 6. Itemized Disclosure Statement for Electioneering Communications

a. Complete Schedule A below.

Schedule A: Information about electioneering communication	
1.	Name of any individual exercising/ sharing direction and control over filer:
2.	Total amount of payments made for electioneering communications during calendar year:
3.	Total amount of payments made that are itemized on this statement (please provide information regarding these payments on Schedule B):
4.	Total amount of all payments received to date for electioneering communications during the calendar year:
5.	Total amount of payments received that are itemized on this statement (please provide information regarding these previously unreported payments of \$100 or more on Schedule C):
6.	Name and Office of Candidate(s) or City Elective Officer identified in this Electioneering Communication:
7.	Date Electioneering Communication was distributed:

b. Complete Schedule B below to provide information regarding payment(s) disclosed in **Item 3 above** (Schedule A), which have not been reported on a previously filed itemized disclosure statement.

Schedule B: Information regarding payments made for electioneering communications (from line 3 on Schedule A)				
	(i)	(ii)	(iii)	(v)
	Date Payment Made	Full Name & Street Address of Person to Whom Payment was Made	Amount of Payment	Description of Consideration for Which Payment was Made
a.			<input type="checkbox"/> Check box if this is an estimated cost	
b.			<input type="checkbox"/> Check box if this is an estimated cost	
c.			<input type="checkbox"/> Check box if this is an estimated cost	

Check box if additional pages of Schedule B are used:

Appendix D

**Part 6. Itemized Disclosure Statement for Electioneering Communications
(continued)**

c. Complete Schedule C below to provide information regarding payment(s) disclosed in **Item 5 above** (Schedule A), which have not been reported on a previously filed itemized disclosure statement.

Schedule C: Information regarding previously unreported payments of \$100 or more that the filer received from another person were used for making the electioneering communications (from line 5 on Schedule A)

	(i)	(ii)	(iii)	(iv)	(v)
	Date Payment Received	Amount/Value of Payment Received	Full Name, Street Address, City, State and Zip Code of Person From Whom Filer Received Payment(s)	Occupation and Employer of Person Identified in Column (iii), or, if the Person is Self-Employed, the Name of the Person's Business	Cumulative Amount of Payments Received From Person Identified in Column (iii) During Calendar Year
a.					
b.					
c.					

Check box if additional pages of Schedule C are used:

d. Attach a legible copy, or a transcript if in spoken form, of the electioneering communication. Remember to label your communication so that it matches the Report Number that you assign to this form.

Appendix D

Part 7. Itemized Disclosure Statement for Persuasion Polls

a. Provide information regarding each person who authorized, administered or made payments for the persuasion poll

Full Name	Street Address	City	State	Zip Code	Email	Telephone Number

b. Provide information regarding each person who shared or exercised direction and control over the person(s) named in (a) above

Name of Person Making Payment	Street Address	City	State	Zip Code	Occupation and Employer (If self employed, name of business.)	Date Payment Received	Amount of Payment	Cumulative Amount Received

c. Provide information regarding person(s) who made payments of \$100 or more to the person(s) named in (a) or (b) above

Full Name	Street Address	City	State	Zip Code	Email	Telephone Number

d. Provide information about the Persuasion Poll

Disclosure date: _____ / _____ / _____

Please check below to indicate the applicable type of disclosure date.

- The date that a written formal agreement regarding the persuasion poll was made between the person making the calls and the poll's sponsor or the sponsor's agent
- The date of the 1,000th call in the persuasion poll
- The date of each 1,000th additional call in the persuasion poll

The dates during which the persuasion poll was conducted: _____ / _____ / _____ to _____ / _____ / _____

The persuasion poll was conducted in relation to the:

- City wide election of _____ or
Name of Office
- District _____ election for member of the Board of Supervisors
District #

Appendix D

Part 7. Itemized Disclosure Statement for Persuasion Polls (continued)

Please include the following information:

- For each day, the number of calls attempted to households in the City and County of San Francisco if the election is a City-wide election, or the number of calls to households in the district if the election is a district election
- For each day, the number of individuals contacted and the number of messages left in households in the City and County of San Francisco if the election is a City-wide election, or the number of individuals contacted and the number of messages left in households in the district if the election is a district election

Date	Number of calls attempted	Number of individuals contacted	Number of messages left

e. Attach the following communications to this form. Remember to label your communications so that they match the Report Number that you assign to this form.

- A legible copy of the script used in conducting the persuasion poll **and**
- A copy of every question asked and every statement made in the persuasion poll

f. Please check this box if you are attaching additional pages and indicate the number of pages attached: [] No. of additional pages:[]

Appendix E

EXAMPLES OF MASS MAILER DISCLAIMERS FOR THIRD-PARTY COMMITTEES THAT ARE PRIMARILY FORMED TO SUPPORT OR OPPOSE A CANDIDATE

Example A: current CFRO/state law (14 point font):

Notice to Voters (Required by City and County of San Francisco)
This mailing is not authorized or approved by any candidate for City and County office, a committee controlled by such candidate, or by any election official.
It is paid for by the Committee Supporting Candidate X for Supervisor 2016,
Major Funding By Donor 1 and Donor 2. (ID#1234567)
12345 67th Avenue, Suite 89, San Francisco, CA 94100
Total Cost of this mailing is \$1,000.

Example B: current state law (10 point font):

Paid for by the Committee Supporting Candidate X for Supervisor 2016, Major Funding By Donor 1 and Donor 2
12345 67th Avenue, Suite 89, San Francisco, CA 94100
Not authorized by a candidate or a committee controlled by a candidate.

Example C: proposal (12 point font):

Paid for by the Committee Supporting Candidate X for Supervisor 2016,
Major Funding By Donor 1 and Donor 2
12345 67th Avenue, Suite 89, San Francisco, CA 94100
Not authorized by a candidate or a committee controlled by a candidate.
Financial disclosures are available at sfethics.org.



Political Advertising Disclaimers

2. Independent Expenditure Ads on Candidates

→ **General purpose committees provide a disclaimer that must include, unless otherwise noted:**

“Paid for by *committee name*” and “Not authorized by the candidate or a committee controlled by the candidate”

Examples:

- “This call was paid for by ABC Trade Association and was not authorized by Senator Jones”
- “This ad was paid for by Susan Johnson and was not authorized by a candidate or committee controlled by a candidate”

→ **Primarily formed committees for or against a candidate must add an additional disclaimer that lists \$50,000 donors.**

Examples:

- “Paid for by Citizens Against Senator Smith, major funding by International Workers Association and California Insurance Committee. This ad was not authorized by Senator Smith.”

The following disclaimers apply to ads that expressly advocate support or opposition of a candidate

Communication	Manner of Display
<p>All mass mailings (more than 200) (see note)</p>	<ul style="list-style-type: none"> • Committee name/address (on file with Forms 410 or 461) on outside of mailing in no less than 10 pt type/contrasting print color • An insert in the mailing must also state that the ad was not authorized by the candidate or a committee controlled by the candidate
<p>Telephone calls (more than 200) - made by vendors (“robo” calls) or paid individuals</p>	<ul style="list-style-type: none"> • Disclaimer must state that the call is “paid for by” committee name • Must be at least 3 seconds either at the beginning or end of the call
<p>Radio</p>	<ul style="list-style-type: none"> • Must be at least 3 seconds either at beginning or end of the ad
<p>Television</p>	<ul style="list-style-type: none"> • Both written & spoken at the beginning or end of ad • Not less than 4 seconds • Size & contrasting color must be legible to average viewer • <u>Exception</u> - no spoken disclosure required if written statement is shown for at least 5 seconds on a 30 second broadcast or 10 seconds on 60 second broadcast

Independent Expenditures - Candidate Ads

Communication	Manner of Display
Electronic Media 1. Websites, blast emails and Facebook posts 2. Ads of limited size (micro bar, button ad, ads limited to 500 characters or less) 3. SMS texts 4. Electronic ads sent in an audio format 5. Electronic ads sent in a video format	<ol style="list-style-type: none"> 1. Disclaimer statement must be in the same font size as majority of text and displayed conspicuously near the ad 2. Ad must provide disclaimer via rollover, link, or other connection to website with the disclaimer 3. Include the committee ID number and if technically possible link to the committee's campaign statement on Secretary of State's website 4. Same requirements as for radio ads above 5. Same requirements as for television ads above
Newspaper ads	<ul style="list-style-type: none"> • 10 pt type in contrasting color • Also check the Elections Code
Yard Signs (more than 200) Billboards	<ul style="list-style-type: none"> • 5% of height of advertisement in contrasting color
Door hangers, flyers, posters, and oversized campaign buttons and bumper stickers (buttons 10" across or larger and stickers 60 sq inches or larger) (all more than 200)	<ul style="list-style-type: none"> • 10 pt type in contrasting color

Note: Two display rules exist for mass mailings. A mass mailing must have the committee name/address on the outside of an envelope in 6 pt type; while the manner of display for the ad disclaimer requires the committee name in no less than 10 pt type. Often a one-page mailer combines the display rules with both the committee name and address in no less than 10 pt type although the address may be at 6 pt. type.

The information on this chart does not carry the force of law. If there are any discrepancies between the chart and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

References: [Government Code Sections](#): 82031, 84305, 84310, 84506, 84506.5, 84507, 84509.
[Title 2 Regulations](#): 18225, 18435, 18440, 18450.1, 18450.4, 18450.5.