

SUPPLEMENT FOR SAN FRANCISCO GENERAL PURPOSE COMMITTEES

**(Including recipient, independent
expenditure, and major donor committees)**

This guide is intended to be used as a
supplement to the Fair Political Practices
Commission's Manuals 4, 5 and 6



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I. INTRODUCTION

This guide summarizes local laws applicable to San Francisco general purpose committees. It is intended to be used as a supplement to the Fair Political Practices Commission's (FPPC) Manual 4 Information for General Purpose Committees, Manual 5 Information for Major Donor Committees or Manual 6 Information for Independent Expenditure Committees, which set forth the basic rules applicable for all state and local general purpose committees. Manuals 4, 5 and 6 are available from the Ethics Commission or the FPPC website. This guide is intended to answer the most frequently asked questions about applicable laws, and is, therefore, necessarily general. Any specific questions regarding these laws should be directed to the San Francisco Ethics Commission at (415) 252-3100 or ethics.commission@sfgov.org.

In addition to the Ethics Commission, agencies that administer and enforce laws regulating recipient committees and elections include the California Secretary of State (SOS), the Fair Political Practices Commission (FPPC), and the San Francisco Department of Elections. They may be contacted as follows:

SOS	(916) 653-6814	www.ss.ca.gov
FPPC	(916) 275-3772	www.fppc.ca.gov
S.F. Dept. of Elections	(415) 554-4375	www.sfelections.org

Please be aware that additional requirements and restrictions may apply. To the extent this guide conflicts with state or local law, the law controls.

II. WHO SHOULD USE THIS GUIDE?

This guide is intended to provide information on local rules that apply to San Francisco general purpose committees. Because FPPC Manuals provide information on state requirements applicable to all state and local general purpose committees, such state requirements are not discussed in this guide.

A general purpose recipient committee is formed when an individual or group receives contributions totaling \$1,000 or more in a calendar year for the purpose of supporting or opposing one or more state or local candidates or ballot measures or to make contributions to other political committees (e.g., a political party). Government Code Section 82027.5 defines a general purpose recipient committee as one that is formed or exists to support or oppose more than one candidate or measure, unless it meets the definition of a primarily formed committee. Committee treasurers must review expenditures to ensure that the committee is filing as the correct committee type. It is not unusual for a general purpose committee to become a primarily formed committee because of its activity being focused on a specific candidate(s) or ballot measure(s). FPPC Regulation 18247.5 sets out the circumstances for when a general purpose

committee must review its status to determine if it qualifies as a primarily formed committee. A committee must never knowingly file as an incorrect type of committee with the intention of avoiding the appropriate legal disclosure of campaign contributions and expenditures to the public.

Major donor and independent expenditure committees do not receive contributions but instead use their own funds to make contributions or expenditures. A major donor committee is an individual or entity (e.g., corporation, firm, business, or proprietorship) that makes one or more contributions to state or local candidates, ballot measure committees, or other committees (including political parties and PACs) totaling \$10,000 or more in a calendar year. An independent expenditure committee is an individual or entity (e.g., corporation, firm, business, or proprietorship) that makes one or more independent expenditures to pay for a communication (i.e. mailing, lawn signs, newspaper ads) totaling \$1,000 or more in a calendar year that is not coordinated with the affected candidate or committee.

Refer to the discussions in the FPPC Manuals and see California Code of Regulations section 18247.5 to determine whether your committee is a general purpose or a primarily formed ballot measure committee and whether it is a state or local committee.

See Government (“Gov’t”) Code § 82027.5; and 2 Cal Code of Regs. §§ 18227.5 and 18247.5.

III. TRAINING AND RECORDKEEPING REQUIREMENTS

This section provides information on training for treasurers, naming committees, recordkeeping, and filing of forms.

A. Training for Committee Treasurers

Every recipient committee must have a treasurer. The committee may not accept contributions or make expenditures before a treasurer is appointed or while the treasurer’s post is vacant, even if there is an assistant treasurer. The FPPC Manuals discuss in detail the responsibilities of a treasurer.

Also, every treasurer must attend the next campaign finance training conducted or sponsored by the Ethics Commission after the date the committee files either its original statement of organization or an amendment to its statement of organization designating a new treasurer.

An individual who serves as treasurer for more than one committee is not required to attend a training if that individual has attended a training within the previous 12 months.

A treasurer may satisfy the training requirement by attending a live training held by the Ethics Commission or by viewing the Ethics Commission's training online. An assistant treasurer who signs campaign statements is also required to complete a training. After completing the training requirement, treasurers and assistant treasurers must submit a Certification of Training Form (Form SFEC-107) to the Ethics Commission.

See S.F. Campaign & Governmental Conduct ("S.F. C&GC") Code § 1.107 and S.F. Ethics Commission ("SFEC") Regulations §§ 1.107-1, 1.107-2 and 1.107-3.

B. Record Keeping

An accurate and organized record must be kept of all campaign receipts and expenditures. All individuals who handle receipts and make expenditures must be aware of and practice the record keeping procedures required by the Political Reform Act and FPPC regulations outlined in FPPC Campaign Disclosure Manuals. While others may be involved, the treasurer, principal officer(s) and controlling candidate, if any, remain legally responsible for the accuracy of the records.

Committees must keep all records, including original source documentation, for a period of four years from the date the campaign statement relating to the records was filed. Documents that identify the names of the contributors that are affiliated entities must be kept for five years. Committees may be audited by the Ethics Commission, the FPPC or the Franchise Tax Board. For a detailed discussion of the types of records required to be maintained, see FPPC Campaign Disclosure Manuals and the Ethics Commission's *Records Required for Audit and Guidelines for Organizing Records* guide. Committees are required to provide records to the Ethics Commission within ten business days of a request by the Ethics Commission.

See Gov't Code § 84104; 2 Cal. Code of Regs. § 18401; and S.F. C&GC Code § 1.109.

IV. RULES THAT APPLY TO CANDIDATE-CONTROLLED GENERAL PURPOSE BALLOT MEASURE COMMITTEES

A committee is a controlled committee if a candidate (or his or her representative) has significant influence on the actions or decisions of the committee. **A candidate may control a general purpose committee only if it is a general purpose ballot measure committee.** A candidate-controlled general purpose ballot measure committee may not make expenditures urging the election or defeat of a candidate.

When a candidate-controlled general purpose ballot measure committee makes expenditures that refer to or identify the controlling candidate or another candidate (i.e., electioneering communications), the committee may be required to file reports with the Ethics Commission. See section VI. below for more information.

A candidate-controlled general purpose ballot measure committee:

- May not make any expenditures urging the election or defeat of candidates (including the controlling candidate), and may not make contributions to other committees for this purpose;
- May not make expenses associated with the controlling candidate's campaign for elective office;
- May not be used as an officeholder account;
- May not receive contributions from any City contractor that is prohibited from contributing to the controlling candidate;
- Must file campaign statements at the same time and in all locations in which the controlling candidate's committees file; and
- Must include the name of the controlling candidate in the committee's name.

See Gov't Code §§ 82016, 84215 and 85201; 2 Cal. Code of Regs. § 18405; and S.F. C&GC Code § 1.126.

V. FILING OF CAMPAIGN STATEMENTS

FPPC Manuals discuss the filing of various FPPC forms, as required under state law. The section below discusses additional requirements at the local level as they relate to the filing of forms by San Francisco general purpose committees.

A. Electronic Filing of Campaign Statements

All San Francisco committees must file their FPPC campaign statements electronically with the Ethics Commission. A committee is required to continue filing electronic campaign disclosure statements, regardless of the committee's level of financial activity, until the committee files a statement of termination.

Committees must use the approved .CAL format to file electronic statements. To comply with the electronic filing requirement, committees may use the Commission's free San Francisco Electronic Disclosure System (SFEDS) or a private software vendor. A registration form and a user guide regarding SFEDS are available on the Commission's web site at www.sfethics.org. For questions regarding the Commission's system, please contact the Ethics Commission. For a list of qualified third-party software vendors, please see the Secretary of State's website or visit the electronic filing section of the Ethics Commission's website.

The Ethics Commission has prescribed an electronic filing format for the following FPPC forms: 460, 496, 497, 465, and 461.

See S.F. C&GC Code § 1.112.

B. Pre-Election Filing of FPPC Forms 460 and 461

FPPC Manuals explain that general purpose committees are required to file the following types of campaign statements: 1) semi-annual statements (periods covering through June 30 and December 31); and 2) pre-election statements in any pre-election period in which the committee makes contributions totaling \$500 or more, or makes independent expenditures of \$500 or more to support or oppose any state or local candidate or ballot measure.

Note that in San Francisco, the requirement to file pre-election statements may be triggered by payments other than expenditures supporting or opposing candidates or measures. In San Francisco, a general purpose committee is required to file pre-election statements during any pre-election period in which the committee makes payments of \$500 or more, excluding payments for costs related to the establishment and administration of that committee. Exempted costs include those for legal and accounting fees and other expenses incurred in setting up and running a sponsored committee.

See S.F. C&GC Code § 1.135.

C. Statements Required During Signature Gathering Periods

In addition to the Form 460 filings described above, local law may require general purpose committees to file campaign statements during periods in which signatures are being gathered for the purpose of qualifying a measure for the ballot.

Any committee—such as a general purpose committee—that raises or spends funds to support or oppose a recall, initiative or referendum petition must file campaign disclosure statements during periods in which signatures are gathered. A committee is required to file campaign disclosure statements if it is any of the following:

- A committee primarily formed to support or oppose the qualification of a measure; or
- A recipient committee that is a proponent of a recall, initiative or referendum petition; or
- A committee that makes independent expenditures totaling \$1,000 or more in a calendar year to support or oppose the qualification of a measure and that is either a general purpose recipient or independent expenditure committee.

To comply with the filing requirements of S.F. C&GC Code section 1.113, a committee primarily formed to support or oppose a recall, initiative or referendum petition must file FPPC Form 460 during the signature gathering period. Any general purpose recipient or independent expenditure committee that meets the requirements of

California Government Code section 84203.5 must file campaign statements under the same 1.113 filing schedule governing a committee supporting or opposing the recall, initiative or referendum petition as follows:

- A general purpose recipient committee that is a proponent of such measure must file Forms 460 and 465;
- A general purpose recipient committee that is not a proponent of such measure must file Form 465; and
- An independent expenditure committee must file Form 465.

The table below shows reporting periods and filing deadlines that apply to statements filed during signature gathering periods. These filing periods apply from the time that a committee begins to circulate a signature petition and cover through the earlier of the date that the signature petitions are submitted or the submission date under state law.

Filing Deadline	Reporting Period
the 5 th day of every month	covering through the last day of the previous month
the 20 th day of every month	covering through the 15 th day of the month
the 5 th day of the month following the end of the circulation period to disclose contributions or expenditures made during the signature gathering period	covering through the last day of the previous month

Also, within one business day of the first date that a petition is circulated to qualify a measure for the ballot, the proponent must file SFEC Form-113 with the Ethics Commission to inform the Commission that the proponent has begun to circulate the petition.¹

See S.F. C&GC Code § 1.113; SFEC Regulations §§ 1.113-1, 1.113-2, 1.113-3, 1.113-4 and 1.113-5.

VI. EXPENDITURES RELATING TO CANDIDATES FOR CITY ELECTIVE OFFICE²

In addition to the forms listed above and required by state law, committees may have to file additional forms when they make independent expenditures, electioneering communications or member communications relating to a candidate for City elective

¹ You may file this form by email (ethics.commission@sfgov.org) or facsimile (415-252-3112).

² A City elective office includes the offices of Mayor, Member of the Board of Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender, Member of the Board of Education of the San Francisco Unified School District and Member of the Governing Board of the San Francisco Community College District.

office (see discussion below for a description of these types of expenditures). When a person (including a committee) makes expenditures totaling \$1,000 or more per candidate during the 90 days prior to an election or on the date of the election, one of the following forms must be filed within 24 hours along with a copy of the communication: 1) FPPC Form 496 Late Independent Expenditure Report; 2) SFEC Form 162 Electioneering Communications Report; or 3) SFEC Form 163 Member Communications Report.

FPPC Form 496 Late Independent Expenditure Report

An independent expenditure is an expenditure that expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or measure.

A committee making an independent expenditure of \$1,000 or more per City candidate must file a Form 496 Late Independent Expenditure Report in electronic format. The corresponding communication must be filed by email or personal delivery (the communication must reference the Form 496 report number to which it relates).

SFEC Form 162 Electioneering Communications Report

An electioneering communication is a communication that: 1) refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election; and 2) is distributed within 90 days before an election for the City elective office sought by the candidate or a recall election regarding the City elective officer to 500 or more persons eligible to vote in that election.

A committee making an electioneering communication of \$1,000 or more per City candidate must file a Form 162 Electioneering Communications Report along with the corresponding communication, by email or personal delivery.

SFEC Form 163 Member Communications Report

A member communication is a communication made by an organization or its committee for the publication, dissemination or communication to the organization's members, employees or shareholders, or to the families of the organization's members, employees or shareholders by newsletter, letter, flyer, e-mail or similar written or spoken material, that supports or opposes a candidate or measure during the 90 days prior to an election.

A committee making a member communication of \$1,000 or more per City candidate must file a Form 163 Member Communications Report and must be filed, along with the corresponding communication, by email or personal delivery.

Payments for a communication that refers only to one candidate are attributable entirely to that candidate. Payments for a communication that refers to more than one candidate, or also refers to one or more ballot measures, should be apportioned among each candidate and measure according to the relative share of the communication dedicated to that candidate or measure.

An expenditure is not considered independent and will be treated as a contribution from the person/committee making the expenditure to the candidate on whose behalf, or for whose benefit the expenditure is made, if the expenditure funds a communication that is made at the request, suggestion, direction or in consultation, concert or coordination with the candidate on whose behalf, or for whose benefit, the expenditure is made. An expenditure is also not considered to be independent if the candidate makes or participates in making any decision regarding the timing, location, mode, intended audience, volume of distribution or frequency or placement of the communication. See section 1.115 of the S.F. C&GC Code for more information.

Draft Committees

A draft committee is any person, entity or group of persons that receives or spends \$1,000 or more to support the qualification or election of an identifiable person to City elective office who has not qualified as a candidate. A draft committee must file campaign statements that are required to be filed by a primarily formed committee supporting a candidate.

Expenditures made by a draft committee are considered to be independent expenditures and requirements discussed above apply.

Receipt/Return of Contributions

A contribution to a committee making expenditures to support or oppose a candidate is not considered to be received if it is *not cashed, negotiated, or deposited and in addition it is returned to the donor before the closing date* of the campaign statement on which the contribution would otherwise be reported. A contribution to a committee making expenditures to support or oppose a candidate made before an election at which the candidate is to be voted on but after the closing date of the last campaign statement required to be filed before the election is not considered to be received if it is not cashed, negotiated or deposited and is returned to the contributor within 48 hours of receipt.

When returning a contribution, it must be returned in full within the correct time period. For example, if a committee receives a contribution that does not have complete contributor information, the committee should return the un-negotiated contribution in full within the allowable time period.

See Gov't Code §§ 82031 and 85700; and S.F. C&GC Code §§ 1.104(t), 1.114(g), 1.115, 1.161, 1.162 and 1.163.

VII. POLITICAL ADVERTISING DISCLAIMERS

State and local laws impose disclaimer requirements on committees that pay for communications relating to ballot measures and candidates. In general, a committee making independent expenditures for a ballot measure must include the following disclaimer statements: 1) “Paid for by *committee name*,” and 2) “Financial disclosures available at sfethics.org.” A committee making independent expenditures referring to a candidate must include these two disclaimer statements as well as “Not authorized by the candidate or a committee controlled by the candidate.” Mass mailings also require the sender’s address. **For detailed information about these requirements and the relevant formatting rules, see the San Francisco Ethics Commission’s Political Advertising Disclaimer Charts.**

In addition to these disclaimer requirements, local law imposes filing requirements on communications regarding candidates for City elective office. The local filing requirements are discussed above in Section VI of this guide.

See S.F. C&GC Code §§ 1.161, 1.162 and 1.163.

VIII. LATE FEES, FORFEITURES AND FINES

Any person who violates any of the reporting requirements, in either state or local law may be subject to fees, penalties and/or imprisonment. Fines vary depending on the violation but potentially are significant and can be as much as \$5,000 per violation or three times the amount of money received or spent in excess of legal limits, whichever is greater.

In addition to any other penalties that may be imposed, late fees for filing campaign reports after the filing deadline are \$10 per day for paper filings, limited to the amount of activity during the reporting period or \$100, whichever is greater. The late fee for electronic statements is \$25 per day and is limited to the cumulative amount reported for the period covered by the late statement or \$250, whichever is greater.

Failure to report contributions or complete contributor information may result in forfeiture of the contributions. Prior to depositing contributions that total \$100 or more, a committee must obtain and report complete contributor information including the contributor’s name, date of contribution, the contributor’s street address and the contributor’s occupation and employer information.

Employer information for contributors who are not employed, such as students, retired, or unemployed contributors may be left blank but the relevant occupation information (i.e., “student” or “retired” or “unemployed”) must be reported in the occupation field. Committees must report the business name of self-employed contributors. If there is no business name, or if the business name is simply the contributor’s own name, indicate

the occupation (i.e., “painter”) and “self-employed/same” as the business name. Some professions require a business name (i.e., “owner” or “manager” must have a business name), while others (i.e., “attorney” or “babysitter”) may or may not. Please contact Ethics Commission staff if you have questions.

Failure to obtain and report contributor information on campaign statements may result in the forfeiture of the contribution to the City’s General Fund, in addition to other penalties.

See S.F. C&GC Code §§ 1.106, 1.114(e), 1.114(f) and 1.170; and Gov't Code § 91000 et seq.

IX. AUDITS

Each committee’s campaign activity may be subject to audit by the Ethics Commission, the FPPC or the Franchise Tax Board. Audits are conducted to determine whether committees have complied with applicable requirements and prohibitions imposed by State and local law. The Ethics Commission randomly selects committees for audit. As stated above, treasurers should retain records related to contributions and expenditures for four years from the date that the campaign statement disclosing such contributions and expenditures is filed.

See S.F. Charter, Article XV, C3.699-11(4); S.F. C&GC Code § 1.150; and Gov't Code § 90000, et. seq.

X. CONCLUSION

As noted above, this guide is intended to answer the most frequently asked questions about laws applicable to recipient committees other than candidate-controlled committees, and is by necessity general. Any specific questions regarding these laws should be directed to the Ethics Commission at (415) 252-3100 or the California Fair Political Practices Commission’s toll-free number at (866) 275-3772. Questions regarding San Francisco laws should be directed to the Ethics Commission.