

Campaign 2018: Rules of the Road

OVERVIEW OF KEY CAMPAIGN FINANCE AND REPORTING PROVISIONS
FOR THE JUNE 2018 ELECTION

SAN FRANCISCO ETHICS COMMISSION

JANUARY 4, 2018

This is the San Francisco Ethics Commission's training for candidates running for City elective offices in June 2018. This training discusses campaign finance rules and regulations that apply to candidates for City elective office and their treasurers.

The discussion of campaign finance rules in this training is necessarily general and not comprehensive. There may be aspects of the law that apply to you that are not covered in this training. Please consult the Campaign and Governmental Conduct Code, supporting regulations, Commission opinions and advice, and other guidance documents made available by the Commission. If you have specific questions regarding the rules or their application, please contact Ethics Commission staff at ethics.commission@sfgov.org or 415.252.3100 or read the law that may be cited. If there is a conflict between what is presented in this training and the law, the law governs.

Agenda

Campaign finance laws

Training requirements and goals for today's session

Key reminders – During the campaign

Public financing program

Key reminders – Ending the campaign

Support and resources

This presentation covers key aspects of the campaign finance laws, reminders for reporting requirements, and resources for additional information.

Campaign Finance Laws – What and Why?

Approaches that further the voters' mandate

- prohibited activities
- limits and restrictions
- transparency of campaign activities
- accountability for campaign communications
- responsibility for campaign compliance

Unique tools that further advance the public interest

- partial public financing in Mayoral and Board races
- compliance advice and guidance from a local agency

Resources

[FPPC Political Reform Act](#)

[Campaign Finance Reform Ordinance](#)

San Francisco voters established the Ethics Commission in 1993 to ensure that local ethics, campaign finance, and lobbying laws are strong and effective. The City's campaign finance laws are built on State laws, and over time the City has added significant provisions to the laws, including a limited public financing program for campaigns for the offices of Mayor and the Board of Supervisors.

Strong campaign finance laws help encourage competition for elective office, prevent improper influence over elected officials, create an incentive to limit overall expenditures in campaigns, provide fair opportunity to participate in the elections, assist voters in making informed electoral decisions, and ensure integrity of the election process.

The Ethics Commission provides timely, relevant, and practical tools and information to help promote compliance and inform the public.

FPPC Political Reform Act: <http://www.fppc.ca.gov/the-law/the-political-reform-act.html>

Campaign Finance Reform Ordinance:

[http://library.amlegal.com/nxt/gateway.dll/California/campaign/article/election/campaigns?format=templates&fn=default.htm&3.0\\$vid=amlegal:sanfrancisco_ca&nc=JD_Art.ICh.1](http://library.amlegal.com/nxt/gateway.dll/California/campaign/article/election/campaigns?format=templates&fn=default.htm&3.0$vid=amlegal:sanfrancisco_ca&nc=JD_Art.ICh.1)

Training Requirements

Training requirements

- Each candidate and his/her designated treasurer must take this training
- Certificate of training [Form SFEC-107](#) must be submitted by 05/07/18

Goals for today's session

- General overview of the laws and reporting requirements
- For specific questions refer to the law and contact Ethics Commission Staff

Resources available

- [FPPC Manual 2](#)
- [Ethics Commission Guides](#): Candidates' guide for City Elective Office and Public financing supplemental guides for candidates for Mayor and Supervisor

To complete your training requirement for the June 2018 election, you must review this presentation and file the Form SFEC-107 with the Ethics Commission by May 7, 2018.

Training Form: https://sfethics.org/wp-content/uploads/2015/04/form_sfec-107.pdf

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For more information regarding the topics covered in this presentation, please review forms, guides, and materials available at the below links:

<http://www.fppc.ca.gov/content/dam/fppc/NS->

[Documents/TAD/Campaign%20Manuals/Manual_2/Final_Manual_2_Entire_Manual.pdf](http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Manuals/Manual_2/Final_Manual_2_Entire_Manual.pdf)

<http://www.fppc.ca.gov/learn/campaign-rules/campaign-forms.html>

<https://sfethics.org/compliance/campaigns/candidates/running-for-office>

<https://netfile.com/Filer/Authentication/LogIn?>

Filing Requirements Before Campaign Activity

June 5, 2018 Election

- Mayor and Board of Supervisors, District 8
- Complete the nomination process with the Department of Elections by 01/09/18

Form 501 Candidate Intention Statement

- Before raising or spending any money

Form 410 Statement of Organization

- Within 10 days of reaching \$2,000
- Must file statements electronically

Reminders

- Forms are available at [FPPC website](#) and Ethics Commission's [E-File system](#)
- Checklist for candidates
- Ensure accuracy to avoid rework, delays, and late fees
- Contact EC staff to set-up e-filing account or assistance with filing requirements

Before a candidate solicits or accepts campaign contributions (including loans) or uses any personal funds for campaign purposes, the candidate must file a Candidate Intention Statement (FPPC Form 501) with the Ethics Commission and a Declaration of Intent to Solicit and Accept Contributions with the San Francisco Department of Elections.

If a candidate raises \$2,000 or more, he or she must file a Statement of Organization (FPPC Form 410) with the Secretary of State (SOS) and the Ethics Commission within 10 days of receiving contributions totaling \$2,000 or more. This statement may be filed before a candidate receives \$2,000 if the candidate contemplates receiving \$2,000 or more.

FPPC website: <http://www.fppc.ca.gov/learn/campaign-rules/campaign-forms.html>

Ethics Commission's E-filing System: <https://netfile.com/Filer/Authentication/LogIn?>

General Reminders for Candidates & Committees

Every candidate who forms a committee must have a treasurer

Committee cannot accept contributions or make any expenditures until it has a treasurer

Keep complete and organized records to avoid late fees or violations of the law

Candidates and treasurers may be held personally liable for campaign finance violations

Every committee must have a treasurer, and until a committee has a treasurer it cannot accept contributions or make any expenditures. A candidate can choose to be his or her own treasurer.

It is important to keep complete and organized records to ensure that contributions and expenditures are recorded promptly. Keeping organized records will save committees time in the long run and help avoid any late fees or violations of the law. Candidates and treasurers may be held personally liable for campaign finance violations which may lead to late fees, forfeitures and penalty assessments.

Prohibited Activities

Political Activity Restrictions

- No use of public resources or staff time for campaign;
- No knowing solicitation of other CCSF officials/employees

Use of Funds

- No Use of campaign funds for non-campaign purposes
- Only on behalf of the candidacy for the office specified in the candidate's declaration of intention

During the campaign it is also important to be aware of certain prohibited activities. City resources and staff time cannot be used for campaign activities. No City officer or employee shall knowingly, directly or indirectly, solicit political contributions from other City officers or employees or from persons on employment lists of the City.

State law imposes restrictions on how campaign funds may be used. Generally, any expenditure of campaign funds must be related to a political, legislative or governmental purpose. Local law also prohibits the use of campaign funds to support or oppose other candidates or measures, and to make donations to nonprofit organizations. The FPPC's and the Commission's candidate guides set forth the restrictions on the use of campaign funds in more detail.

Campaign Contribution Limits

City candidates must comply with applicable contribution limits and prohibitions

Candidates may not accept more than \$500 in total from any contributor
Contributions from affiliated persons must be aggregated

Only a candidate may provide more than \$500 to his or her own campaign

Cash contributions must be less than \$100

- Includes money orders, cashier's checks, official checks and traveler's checks
- Due diligence - Contributor card

Rules for receipt/return of contributions

Candidates may not spend funds unless funds are first deposited into campaign account

No individual can give a candidate more than \$500 per election. All cumulative contributions from persons that are affiliated have to be aggregated to determine whether they are within the \$500 limit. The only instance in which a candidate may receive more than \$500 from a person is when the candidate provides a loan or contribution from personal funds to his or her own committee. When a candidate spends his or her funds on campaign expenses, the funds must first be deposited into the campaign bank account and the expenses must be paid from the campaign bank account.

Cash contributions must be \$99.99 or less. You cannot accept a hundred dollar bill and give change back. For every cash contribution that you receive you should ask your contributors to complete and sign a contributor card that provides a record of the contribution and allows you to record the contributor information, which you need for the filing of campaign statements.

When someone gives you a contribution, you have time to decide whether you want to keep the contribution. If you do not cash, negotiate or deposit the contribution and you return it to the donor before the closing date of the current reporting period, you are not considered to have received the contribution. During the 16 days immediately preceding the election, you have only 48 hours to decide whether a contribution is acceptable and whether you want to keep it. Also, if you receive a contribution of \$1,000 or more during the 90-day period before an election, you must return it within 24 hours.

Loans & Accrued Expenses

There are limits on loans from candidate's personal funds and from others

Candidates who accept goods or services on credit must pay in full

- No later than 180 days after receiving bill/invoice
- Expenses that remain unpaid are considered contributions and are subject to the \$500 contribution limit

There are limits on the amount of personal funds a candidate for City elective office may loan to his or her campaign committee. The limit for a candidate for the Board of Supervisors who does not receive public funding is \$15,000. The limit for a candidate for the Mayor who does not receive public funding is \$120,000. A candidate for Mayor or the Board of Supervisors who receives public funding may not loan or donate, in total, more than \$5,000 of his or her own money to the campaign.

Accrued expenses are unpaid bills for which you have received goods or services. When you don't pay for accrued expenses within 180 days, they are considered to be contributions and are subject to the \$500 contribution limit. It is important that if you receive goods or services on credit, you should periodically assess how much money is in the campaign bank account and pay your vendors in full no later than 180 days after accruing the expense. If vendors do not provide invoices in a timely manner, it is your responsibility to contact them to obtain the invoices so that you can meet the requirement. You must ensure you have sufficient funds to pay your invoices on time because if you do not pay within 180 days, you may be in violation and accrue fines for each day the expense remains unpaid.

Campaign Contribution Bans

Ban on contributions from corporations

Ban on contributions from lobbyists, and bundled contributions from lobbyists, who are registered to lobby the office sought

Ban on contributions from City contractors to officials who approve their contracts (or to candidates for those seats)

- Due diligence by candidates

No assumed name contributions

Unlawful contributions must be forfeited

Corporations are not allowed to make contributions to candidates running for City elective office.

Lobbyists are banned from making campaign contributions or bundling contributions to elected officials at agencies the lobbyists are registered to lobby and to candidates seeking election to those offices.

A City contractor cannot contribute to a City elective officer who approves their contract (nor to any candidate running for such official's seat). This applies when the contract or series of contracts has a total value of \$50,000 or more. This ban applies from the time that negotiations commence until either the termination of negotiations or six months from the date the contract is approved.

Before accepting a contribution, you must ensure that the contribution complies with campaign finance requirements. Contributions in excess of the contribution limit, received from prohibited sources, or that lack complete contributor information must be forfeited to the City.

Committee Disclosures

State and local law require disclosure of campaign receipts and expenditures

Form 460 Campaign Disclosure Statement

- Semi-annual and pre-election filings

Form 470 Officeholder/Candidate Campaign Statement-Short Form

- If raising and spending less than \$2,000
- May opt to file statements electronically

Form 497 Late Contribution Report

- Within 24 hours during 90 days prior to election for contributions of \$1,000 or more

Form SFEC-152a-1 Threshold Form

- Within 24 hours of receiving contributions or making expenditures that equal or exceed \$10,000 (for Board of Supervisors candidates) or \$50,000 (for Mayoral candidates)
- If at least one candidate is certified as eligible to receive public funds, each candidate for the same office must file this form to report subsequent thresholds

Reminders

- Checklist for candidates
- Ensure accuracy to avoid rework, delays, and late fees
- Contact EC staff to set-up e-filing account or assistance with filing requirements

Candidates must file semi-annual campaign statements (Form 460) disclosing the receipts and expenditures of their campaign committees, whether or not the candidate receives contributions or makes expenditures during the reporting period. Candidates are also required to file pre-election campaign statements (Form 460) at specific intervals prior to an election.

If a candidate does not anticipate raising or spending \$2,000 or more in a calendar year, he/she does not need to form a committee (by filing Form 410) and may file an Officeholder and Candidate Campaign Statement – Short Form (Form 470) instead of a Form 460. If the Form 470 is filed and the candidate then raises or spends \$2,000 or more in that calendar year, the candidate must file the Form 470 Supplement, the Form 410, and begin filing the Form 460.

Contributions totaling in aggregate \$1,000 or more from a single source made to or received by a candidate committee or ballot measure committee during the 90 days prior to an election, as well as on election day, must be reported on FPPC Form 497 within 24 hours.

Candidates for the Board of Supervisors must electronically file the Threshold Form within 24 hours of receiving or spending \$10,000 or more and candidates for Mayor must electronically file within 24 hours of receiving, spending or having \$50,000 or more. In a race where at least one candidate receives public funds, all candidates for that race must electronically file the Threshold Form within 24 hours of reaching the \$100,000 threshold (Board of Supervisors races) or \$1,000,000 threshold (Mayoral races). Thereafter, candidates must electronically file the Threshold Form within 24 hours of each time they spend an additional \$10,000 (supervisory candidates) or an additional \$50,000 (mayoral candidates).

Disclaimers on Campaign Communications

State and local law impose disclaimer requirements on campaign advertising, including campaign mailers, radio, television and newspaper ads, telephone calls, and electronic media ads

[Disclose Act AB 249](#) became effective on January 1, 2018

- We are currently reviewing the changes and will be providing more guidance to committees soon.

Mass mailing filing requirements (>200 pieces)

- File Form SFEC-161 with 1 piece of the mailing within 5 working days
- Filing due within 48 hours during 16 days preceding the election

For questions regarding disclaimer requirements please contact the Ethics Commission.

A mass mailing is a mailing that consists of more than 200 substantially similar pieces of mail sent in a calendar month. When you send a mass mailing, you must file a Form 161 along with a sample of the mail within five business days of sending the mass mailing. During the 16-day period immediately preceding the election, Form 161 must be filed within 48 hours of the date of the mailing.

Managing Changes and Recordkeeping

Committee Changes

- Amend your Form 410 if you make a change to your committee name, purpose, treasurer or any contact information, within 10 days of any change
- Due within 24 hours during the 16-day period preceding an election

Record keeping

- City candidates are required to maintain records for four years to substantiate their campaign reporting
- For more information regarding record keeping guidelines visit [audit page](#)

Form 410 must be amended within 10 days if you make a change to your committee name, purpose, treasurer or any contact information. Form 410 amendments are due within 24 hours of a change during the 16-day period immediately preceding an election.

All candidates are required to retain records related to all contributions and expenditures for four years from the date of filing the campaign statement to which they relate. Each committee's campaign activity may be subject to audit by the Ethics Commission, and publicly financed candidates are subject to mandatory audit under City law.

Audit page: <https://sfethics.org/compliance/campaigns/audits>

Accountability & Responsibility

Public Disclosure

Equips the public to understand candidate support and activities

Late Fees

\$10 per day for paper filings and
\$25 per day for electronic filings

Audits

Committees are subject to audit by the Ethics Commission. Publicly financed candidate committees are mandatorily required to be audited.

Enforcement

Failure to file campaign reports may be subject to civil, criminal and administrative penalties

Required disclosure of campaign statements will help inform the public about a committee's campaign activity.

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 Forms requiring 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.

Each committee's campaign activity may be subject to audit by the Ethics Commission. Audits are conducted to determine whether committees have complied with applicable requirements and prohibitions imposed by State and local law. All candidates who receive public funding are audited. The Ethics Commission additionally selects non-publicly funded candidate committees from each election cycle for audit.

Any person who violates any of the reporting requirements, in either state or local law may be subject to civil, criminal or administrative penalties.

Enforcement & sanctions

Criminal enforcement

- \$5,000 per violation or 6 months imprisonment in County jail, or both.

Civil enforcement

- \$5,000 for each violation, or 3x the amount not reported or amount received or spent in excess of the limits.

Administrative enforcement

- \$5,000 per violation, or 3x amount not reported or received or spent in excess of limits.

Any person who violates any of the reporting requirements, in either state or local law may be subject to civil, criminal or administrative penalties.

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.

Participating in Public Financing

Declare your intent to participate in Public Financing by January 9, 2018

- Statement of Participation or Non-Participation in Public Financing Program must be electronically filed

Establish eligibility by submitting all of the following by March 27, 2018

- Qualifying request (Form SFEC142(b)-2)
- Qualifying Contributions List (Form SEFC-142(c)-2)
- Supporting Documentation

Review handout and supplemental guide for qualifying thresholds, limits and other requirements

All candidates for Mayor or the Board of Supervisors must file a Statement of Participation or Non-Participation indicating whether they intend to participate in the public financing program.

The mere filing of the form indicating an intention to participate does not automatically qualify a candidate to receive public funds. The candidate must submit a Qualifying Request along with supporting documentation by the required deadline to establish eligibility.

For more information regarding the public financing program requirements review the Ethics Commission's supplemental guides available at:

<https://sfethics.org/compliance/campaigns/candidates>

Certification and Disbursement

After the Ethics Commission reviews your application, you will receive a notice regarding your eligibility

Earliest date a candidate certified as eligible may receive public funds is January 15, 2018

Initial Public Fund Grant

- \$20,000 for candidates of Board of Supervisors
- \$100,000 for candidates of Mayor

Review handout and supplemental guide for additional information about matching funds

After the Ethics Commission reviews your qualifying request, you will receive a notice regarding your eligibility. If you are certified as eligible to receive public funds, you will receive an initial grant of \$20,000 if you are a candidate for the Board of Supervisors or \$100,000 for a candidate for the Mayor.

For more information regarding the public financing program requirements review the Ethics Commission's supplemental guides available at:
<https://sfethics.org/compliance/campaigns/candidates>

After Election

You need to continue to file campaign reports until you terminate your committee and/or you have left elective office

Your campaign may be subject to audit by the Ethics Commission.

All candidates certified as eligible to receive public funds will be audited.

Return unexpended funds to the City.

Turn over all funds in Campaign Contingency Account (use *Form SFEC-108*). – only for publicly financed candidates

Once the election is over, it is important to remember that your filing obligations do not automatically end. Until you terminate your committee you need to continue to file campaign statements. If you don't expect to receive more contributions or make more expenditures you should terminate your committee.

Unexpended funds must be returned to the City, up to the amount of public funds received by the candidate. Candidates may use unexpended funds after the election for a limited range of expenses such as expenses associated with the Ethics Commission's audit of the campaign committee and expenses related to preparing and filing post-election campaign statements. Public funds must be used only to pay for qualified campaign expenditures.

Termination of Committee

File a termination Statement of Organization (Form 410)

Electronically file a FPPC Form 460 termination statement

To terminate a committee you must have:

- Zero cash balance
- No more contributions or expenditures
- Paid all debt

In order to terminate your committee you need to have a zero cash balance in your campaign bank account and have paid all your debt. File a termination Form 410, by checking the 'termination statement' box in the form. Also file a Form 460 termination statement indicating that you have a zero cash balance in your bank account.

Support and Resources

San Francisco Ethics Commission

www.sfethics.org

25 Van Ness Ave., Suite 220,
San Francisco, CA 94102

ethics.commission@sfgov.org

(415)-252-3100

San Francisco Department of Elections

www.sfelections.org

SFVote@sfgov.org

(415)-554-4375

Fair Political Practices Commission (FPPC)

www.fppc.ca.gov

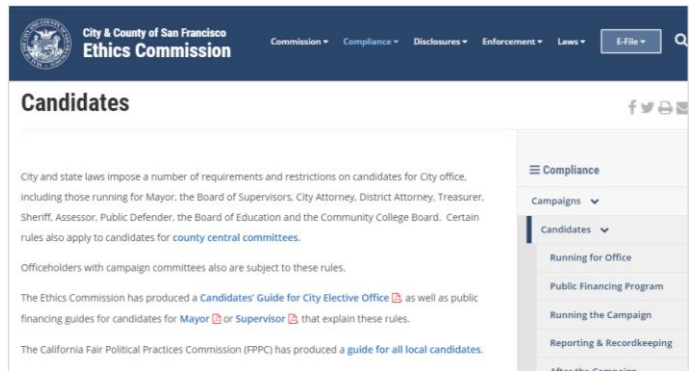
advice@fppc.ca.gov

1-866-ASK-FPPC

Secretary of State-Political Reform Division

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(916) 653-6224



For specific questions or filing assistance please contact the Ethics Commission at ethics.commission@sfgov.org or 415.252.3100.