


# **Campaign Finance Law Developments That May Affect Your Local Campaign Finance Reform Ordinance – And Key Practice Tips**

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# Agenda

- ▶ **Introduction**
  - ▶ **Contributions/Limits**
  - ▶ **Aggregate Contributions**
  - ▶ **Limiting Contributions by Profession**
  - ▶ **Committees**
  - ▶ **Campaign Expenditures**
  - ▶ **Independent Expenditures**
  - ▶ **Government Spending**
  - ▶ **Disclosures/Disclaimers**
  - ▶ **Practice Pointers/Summary**
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# What is a “contribution”?

- ▶ A monetary donation to a candidate or committee
- ▶ Non-monetary contribution (donated goods, services, facilities)(“In-kind” contribution)
- ▶ Payment of a loan by a third party
- ▶ Enforceable promise to make a payment
- ▶ Exceptions:
  - Volunteer personal services
  - Fundraising event by occupant of home/office costing \$500 or less

# **Contribution limits cannot be too low for the candidates to mount an effective campaign**

Contribution limits should be based on the factual record & structured to prevent corruption

Contribution limits should have a cost of living adjustment included in the ordinance




**Aggregate contribution limits are highly suspect**

**Restrictions on specific professions  
(e.g. contractors, lobbyists, marijuana dispensaries)  
must be narrowly tailored**



# Committees

- ▶ Candidate Committees
  - ▶ General Purpose Committees
  - ▶ Small Contributor Committees
  - ▶ Ballot Measure Committees
  - ▶ Independent Expenditure Committees
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**Cannot Limit Contributions to Independent Expenditure  
Committees or Ballot Measure Committees**

**No candidate expenditure limits...**

**...unless voluntary**

**Voluntary Expenditure limits cannot be coercive**

**Should not permit higher contribution limits  
for candidates who accept spending limits**

**Watch out for other restrictions that could be construed as a candidate expenditure limit (e.g. temporal restrictions, transfer limits)**



**Public financing is okay - BUT cannot provide extra public funds to match personal expenditures of an opposing candidate**

# Cannot Limit Independent Expenditures

- ▶ “independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption.” - *Citizens United v. FEC* (J. Kennedy)

**Government cannot spend public funds on campaign materials or activities; can be used for informational ballot materials**



# Disclaimers


- ▶ Disclaimer requirements must be substantially related to a sufficiently important governmental interest
- ▶ State disclosure requirements have changed (AB-249)
- ▶ Local requirements may be stricter than state law, if not unduly burdensome and justified



Brown for Governor 2010, ID 1321867  
291 3rd Street  
Oakland, CA 94607

**Who is going to enforce your ordinance?**

# Practical Tips When Updating Your Ordinance

- ▶ Allow plenty of time for city council and community input
  - ▶ Consider developing a city council subcommittee to engage with the City Attorney's office
  - ▶ Involve your city Elections Official
  - ▶ Use FPPC Manuals for guidance
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# Summary

## ▶ Contribution Limits

- Limits should be based on facts & circumstances – Jurisdiction should build factual record to set limits
- Aggregate Contribution Limits – Are highly suspect
- Limiting Contributions by Profession – Must have justification & be narrowly tailored

## ▶ Campaign Expenditures

- Limits on Expenditures – Generally not permissible
- Voluntary Expenditure Limits – Can't be coercive; can't have different contribution limits
- Public Matching Funds – Can't provide extra public funds to match personal expenditures
- Government Funds – Can't be used on campaign materials; can inform voters

## ▶ Disclosure Requirements

- New State Law – Disclose Act imposes numerous new disclaimer requirements
- Local Requirements – Can be more stringent than the State

## ▶ Practice Considerations

- Collaborative work within the jurisdiction – set up city council subcommittee to work with City Attorney and elections official's office to tackle issue. Leave ample time for community input.