

ORANGE COUNTY CAMPAIGN REFORM ORDINANCE

Article 1. GENERAL PROVISIONS

Sec. 1-6-1. Name.

This division shall be known and may be cited as the "Orange County Campaign Reform Ordinance."

Sec. 1-6-2. Purpose.

The purpose of this division is to ensure that the financial strength of certain individuals or organizations does not permit them to exercise a disproportionate or controlling influence on the election of Orange County candidates. To achieve this purpose, this division is designed to minimize the opportunity for corruption, to minimize the appearance or perception of corruption, to prevent evasion of the contribution limit, and to maintain public trust in governmental institutions and the electoral process.

Sec. 1-6-3. Relation to Political Reform Act of 1974.

This division is intended to supplement the Political Reform Act of 1974 (the "Political Reform Act"). Unless the term is specifically defined in this division or the contrary is stated or clearly appears from the context, words and phrases shall have the same meaning as when they are used in title 9 of the California Government Code, in which the Political Reform Act is codified, as the same may be, from time to time, amended.

Sec. 1-6-4. Definitions.

(a) *County Candidate*: "County Candidate" means any person who is a candidate for Supervisor, Sheriff-Coroner, District Attorney-Public Administrator, Assessor, Treasurer-Tax Collector, County Clerk-Recorder, Auditor-Controller, or Superintendent of Schools, or, in the event any of the listed consolidated County offices are separated or any of the listed separate offices are consolidated, any individual occupying a separated or consolidated office which is elective.

(b) *Elective County Officer*: "Elective County Officer" means any person who is a Supervisor, Sheriff-Coroner, District Attorney-Public Administrator, Assessor, Treasurer-Tax Collector, County Clerk-Recorder, Auditor-Controller, or Superintendent of Schools, whether appointed or elected or, in the event any of the listed consolidated County offices are separated or any of the listed separate offices are consolidated, any individual occupying a separated or consolidated office which is elective.

(c) *Elective County Office*: "Elective County Office" means the office of Supervisor, Sheriff-Coroner, District Attorney-Public Administrator, Assessor, Treasurer-Tax Collector, County Clerk-Recorder, Auditor-Controller, or Superintendent of Schools, whether appointed or

elected or, in the event any of the listed consolidated County offices are separated or any of the listed separate offices are consolidated, the separated or consolidated office which is elective.

Sec. 1-6-5. Contribution limitations.

(a) No person shall make to any Elective County Officer or County Candidate, or his or her controlled committee, and no such officer, candidate or committee shall accept from any such person, a contribution or contributions totaling more than one thousand nine hundred dollars (\$1,900.00) for each of the following elections for which the person is an Elective County Officer or County Candidate: a primary election, a special election, or a general (runoff) election.

(b) The contribution limitations set forth in subsection (a) shall also apply to any committee which collects contributions for the purpose of making expenditures in support of or opposition to the recall of the elective County officer, and to contributions received by the elective County officer during the time period set forth in section 1-6-7(b) of this division.

(c) The provisions of this section shall not apply to a candidate's contribution of his or her personal funds to his or her own campaign committee, but shall apply to contributions from the separate property of the spouse of that County Candidate or Elective County Officer.

Sec. 1-6-6. Aggregation of contributions.

For purposes of the limitations in this division, the following shall apply:

(a) All contributions made by a sponsored committee to a County Candidate or to an Elective County Officer (or to his or her controlled committee) shall be combined with those contributions made by the sponsor(s) of the committee, and the combined amount shall not exceed the contribution limits of this division within the time periods set forth in section 1-6-7 of this division.

(b) Two (2) or more entities shall be treated as one (1) person when any of the following circumstances apply:

(1) The entities share the majority of members of their boards of directors.

(2) The entities share two (2) or more officers.

(3) The entities are owned or controlled by the same majority shareholder or shareholders.

(4) The entities are in a parent-subsidary relationship.

(c) An individual and any general or limited partnership in which the individual has a ten (10) percent or more share, or an individual and any corporation in which the individual owns a controlling interest (fifty (50) percent or more), or an individual connected with a business entity and that business entity when the individual participates in or controls in any way a decision on

whether the candidate or candidates receive contributions from that business entity, regardless of the percentage of ownership, shall be treated as one (1) person.

(d) No committee which supports or opposes a candidate for County office shall have as a majority of its officers individuals who serve as the majority of officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on whether the candidate or candidates receive contributions.

e) Contributions by children under eighteen (18) years of age shall be presumed to be contributions by their parents or legal guardians, allocated equally to each living parent or living guardian of the child.

Sec. 1-6-7. Election cycles.

(a) *Primary and general (runoff) elections:* For purposes of this division, contributions made at any time between the final date for contributions to the last primary or general (runoff) election (whichever occurred last) for that same elective County office and June 30 of the present election year shall be considered primary election contributions. If there is a general (runoff) election, then contributions made from July 1 through December 31 of the election year shall be considered general (runoff) election contributions.

(b) *Recalls:* For purposes of this division, contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a recall election, or after the Registrar of Voters has approved a recall petition for circulation and gathering of signatures, whichever occurs first, shall be considered contributions during a recall election cycle. A recall election cycle shall end whenever any of the following occur:

(1) The recall proponents fail to return signed petitions to the Registrar of Voters within the time limits set forth in the California Elections Code.

(2) All committees formed in support of the recall have been terminated pursuant to the provisions of the Political Reform Act.

(3) Ten (10) days after a recall election has been held.

(c) *Special Elections:* For purposes of this division, contributions made at any time after a committee has been formed, pursuant to the provisions of the Political Reform Act, in support of a candidate for a special election shall be considered contributions during a special election cycle. A special election cycle shall end on June 30 or December 31 following the special election, whichever ever occurs first.

Sec. 1-6-8. Prohibition on multiple campaign committees.

For each Elective County Office, and respecting the will of Orange County voters when they approved this division, a County Candidate or an Elective County Officer shall have no more than one (1) campaign committee which shall have only one (1) bank account out of which all qualified campaign and office holder expenses related to that County office shall be made. This section shall not prevent a County Candidate or an Elective County Officer from establishing a separate committee, with its associated bank account, solely for the purpose of running for another office as long as the first bank account is closed within 60 days of establishing a second bank account.

Sec. 1-6-9. Prohibition on contributions; intra-candidate transfers.

(a) No contributions shall be accepted by any County Candidate or Elective County Officer, or their controlled committees, from any other committee controlled by another federal, state, or local candidate or officeholder.

(b) No County Candidate or Elective County Officer, nor his or her controlled committee, shall make any contribution to any other County Candidate or Elective County Officer or to any committee supporting or opposing a County Candidate for office. This section shall not prohibit a County Candidate or Elective County Officer from making a contribution from his or her own personal funds to his or her own candidacy or to the candidacy of any other candidate for Elective County Office.

(c) This subsection shall apply to any funds transferred from a County Candidate's or Elective County Officer's controlled committee established for a different office (the "transferor committee") to the County Candidate's or Elective County Officer's controlled committee established for an Elective County Office (the "transferee committee"). Contributions originally made to the transferor committee shall be attributed to the transferee committee using a "first in-first out" or "last in-first out" accounting method. The transferor committee must make an irrevocable designation in its records at the time of its first transfer whether it elects the "first in-first out" or a "last in-first out" method of accounting for the current and future transfers. Each transferred contribution, when combined with all other contributions received by the County Candidate or Elective County Officer, or his or her controlled committee, from that contributor during the election cycle in which the funds are transferred, shall be subject to the contribution limitations of this division. Transferred contributions shall be deemed contributions made to the transferee committee in the election cycle in which such contributions are received by the transferee committee.

Sec. 1-6-10. Loans to County Candidates and Elective County Officers and their controlled committees.

(a) A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this division.

(b) Every loan to a County Candidate or Elective County Officer or the controlled committee of such County Candidate or Elective County Officer shall be by written agreement which shall be filed with the campaign statement on which the loan is first reported.

(c) The proceeds of a loan made to a County Candidate or Elective County Officer by a commercial lending institution in the regular course of business on the same terms available to members of the public shall not be subject to the contribution limitations of this division if the loan is made directly to the County Candidate or Elective County Officer, or controlled committee. The guarantors of such a loan shall remain subject to the contribution limits of this division.

(d) Extensions of credit (other than loans pursuant to subsection (c) of this section) for a period of more than thirty (30) days are subject to the contribution limitations of this division.

(e) This section shall apply only to loans and extensions of credit used or intended for use for campaign purposes or which are otherwise connected with the holding of public office.

Sec. 1-6-11. Money received by officials treated as contributions.

Any funds, property, goods or services, other than government funds, received by Elective County Officers or County Candidates which are used, or are intended by the donor or by the recipient to be used, for expenses related to holding Elective County Office or running for Elective County Office, shall be considered campaign contributions and shall be subject to the limitations of this division. Reimbursement for reasonable travel expenses related to holding Elective County Office shall be excluded from the provisions of this section.

Sec. 1-6-11.1. Legal defense fund.

Nothing in this division prevents a County Candidate or an Elective County Officer from establishing a separate account for a legal defense fund, to be used for the sole purpose of defraying attorney's fees and other related legal costs incurred for the County Candidate's or Elective County Officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. The legal defense fund shall be subject to Government Code sections 85304 and 85304.5 and section 18530.45 of title 2 of the California Code of Regulations, as may be amended from time to time. Contributions to the legal defense fund shall not be subject to the contribution limitations of this division.

Sec. 1-6-12. Solicitation of contributions from persons who have County business dealings.

No nonelected County public official or County employee shall solicit, direct or receive a contribution from any person, or his or her agent, who has a proceeding involving legislative or administrative action pending before the County public official or County employee or has had such a matter pending during the preceding twelve (12) months. This section does not apply to a

nonelected County public official or County employee who is a County Candidate acting in furtherance of his or her own controlled committee.

Sec. 1-6-13. Transmittal of campaign contributions in County office buildings.

(a) No person shall receive or personally deliver or attempt to deliver a contribution in any office which the County owns or for which the County pays the majority of the rent.

(b) For purposes of this section:

(1) *Personally deliver* means delivery of a contribution in person or causing a contribution to be delivered in person by an agent or intermediary, other than the United States Mail.

(2) *Receive* includes the receipt of a campaign contribution delivered in person.

Sec. 1-6-14. Disclosure of occupation and employer.

(a) No campaign contribution cumulating to one hundred dollars (\$100.00) or more shall be deposited into a campaign bank account of a County Candidate or Elective County Officer unless the disclosure information required by the Political Reform Act, including the name, address, occupation and employer of the contributor or, if self-employed, the name under which the individual is self-employed, is on file in the records of the recipient of the contribution. Said disclosure information shall be included in the campaign disclosure statement in which the contribution is reported.

(b) In the event the required disclosure information is not obtained within sixty (60) days of receipt of the contribution or by the end of the next filing period whichever occurs last, the contribution shall be returned to the contributor. If the whereabouts of the contributor cannot be ascertained, the contribution shall be deposited in the Orange County General Fund or transferred to a charity that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

Sec. 1-6-15. Criminal misdemeanor actions.

(a) Any person who willfully violates any provision of this division is guilty of a misdemeanor. Any person who willfully causes or solicits any other person to violate any provision of this division, or who aids and abets any other person in the violation of any provision of this division, shall be liable under the provisions of this section.

(b) No person convicted of a misdemeanor under this division shall be a candidate for an elective County office or act as a County lobbyist or as a County contractor for a period of four (4) years following the date of the conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable. A plea of *nolo contendere* shall be deemed a conviction for purposes of this section.

Sec. 1-6-16. Violations and enforcement—Administrative.

Violations of this division shall be investigated and enforced pursuant to section 1-2-112 of the Campaign Finance and Ethics Commission Ordinance.

Sec. 1-6-17. Statute of limitations.

Civil actions and/or criminal prosecutions for violations of any provision of this division shall be commenced within four (4) years after the date on which the violation occurred.

Sec. 1-6-18. Applicability of other laws.

Nothing in this division shall exempt any person from applicable provisions of any other laws of this State or jurisdiction.

Sec. 1-6-19. Severability.

If any provision of this division, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this division to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this division are severable.

Sec. 1-6-20. Interpretation of division.

This division should be liberally construed to accomplish its purposes.

Sec. 1-6-21. Amendments.

(a) The Board of Supervisors shall by ordinance adjust the contribution limitations in February of each odd-numbered year to reflect any cumulative increase or decrease in the Consumer Price Index for “all urban consumers” for the Los Angeles, Riverside, Orange Counties Urban Area as announced by the United States Department of Labor Bureau of Labor Statistics from December of the next to the prior even-numbered year to December of the prior even-numbered year. Such adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions.

(b) No substantive repeal of any provision of this division shall be effective unless a proposition shall first have been submitted to the electors of the County and approved by a majority vote.

(c) Nothing in this division prevents the Orange County Board of Supervisors by majority vote from amending this division to make technical non-substantive changes or by a four-fifths vote from making substantive amendments to further the purposes of this division.

Sec. 1-6-22. Slate mailers.

(a) The provisions of Government Code section 82048.4 are not incorporated in, and shall not be used in the interpretation of, the Orange County Campaign Reform Ordinance.

(b) If a slate mailer is produced and/or distributed other than at the behest of a County Candidate or Elective County Officer, then it is an independent expenditure, and is not subject to the contribution limitations of this division.

(c) The following provisions shall apply only to slate mailers in which more than twenty-five (25) percent of the surface area of the slate mailer (exclusive of the area used for address and postage) expressly advocates or opposes the election of an individual County Candidate or Elective County Officer.

(1) If a third party has provided funds to the slate mailer organization that are used for the production and/or distribution of a slate mailer at the behest of a County Candidate or Elective County Officer, then:

(A) The attributable cost of production and/or distribution of the slate mailer is a contribution from the third party to the County Candidate or Elective County Officer to the extent the attributable cost of production and/or distribution exceeds the amount, if any, paid by the County Candidate or Elective County Officer, or his or her controlled committee, up to the total of the funds provided by the third party, and this contribution is subject to the contribution limitations of this division, and

(B) The attributable cost of production and/or distribution of the slate mailer that exceeds the total of the funds provided by the third party and any funds paid by the County Candidate or Elective County Officer, or his or her controlled committee, is a contribution from the slate mailer organization to the County Candidate or Elective County Officer, and this contribution is subject to the contribution limitations of this division.

(2) If a slate mailer is produced or distributed at the behest of a County Candidate or Elective County Officer, without any contribution from a third party, then the attributable cost of production and/or distribution is a contribution from the slate mailer organization to the County Candidate or Elective County Officer to the extent the attributable cost of production and/or distribution exceeds the amount, if any, paid by the County Candidate or Elective County Officer, or his or her controlled committee, to the slate mailer organization, and this contribution is subject to the contribution limitations of this division.

(3) If a slate mailer expressly opposes the election of a County Candidate or Elective County Officer, and the slate mailer is produced and/or distributed at the behest of an opposing County Candidate ("the opponent"), then:

(A) If a third party has paid the slate mailer organization to oppose the County Candidate or Elective County Officer, then:

(i) The attributable cost of production and/or distribution of the slate mailer is a contribution from the third party to the opponent to the extent it exceeds any payment to the slate mailer organization from the opponent or the controlled committee of such opponent up to the total amount paid to the slate mailer organization by the third party to oppose the County Candidate or Elective County Officer, and this contribution is subject to the contribution limitations of this division, and

(ii) The attributable cost of production and/or distribution of the slate mailer that exceeds the total of the payment made to the slate mailer organization by the third party to oppose the County Candidate or Elective County Officer and any payment made to the slate mailer organization by the opponent or the controlled committee of such opponent is a contribution from the slate mailer organization to the opponent, and this contribution is subject to the contribution limitations of this division.

(B) If no third party has paid the slate mailer organization to oppose the County Candidate or Elective County Officer, then the attributable cost of production and/or distribution is a contribution from the slate mailer organization to the opponent to the extent the attributable cost of production and/or distribution exceeds the amount, if any, paid by the opponent or the controlled committee of such opponent to the slate mailer organization, and this contribution is subject to the contribution limitations of this division.

(d) "Attributable cost of production and/or distribution" is computed by multiplying the total cost of production and/or distribution of the slate mailer by a fraction, the numerator of which is the number of square inches of the mailer that expressly advocates or opposes the election of a County Candidate, and the denominator of which is the number of square inches of the mailer devoted to all candidates.

(e) A slate mailer is produced and/or distributed at the behest of a County Candidate or Elective County Officer:

(1) If the County Candidate or Elective County Officer, or the County Candidate's or elective County officer's controlled committee, or the County Candidate's, Elective County Officer's or committee's agent or consultant pays any of the costs for the slate mailer, or provides any information or photographs used in the mailer, or consults or confers with the slate mailer organization in any manner regarding the content, timing, or distribution of the slate mailer, or

(2) Under any of the circumstance described in section 18225.7(a) and section 18225.7(b) of Title 2 of the California Code of Regulations, as those sections exist as of June 1, 2002.

(3) A nonrefundable deposit made to a slate mailer organization shall not be considered a payment within the meaning of subsections (e)(1) or (e)(2) above, if

(A) the deposit is made by, or on behalf of, a County Candidate or Elective County Officer who is not opposed in the County election, or (B) if the deposit is made as consideration for a written agreement whereby the slate mailer organization obligates itself to not produce a slate mailer in which more than twenty-five (25) percent of the surface area of the slate mailer (exclusive of the

area used for address and postage) expressly advocates or opposes the election of the County Candidate or Elective County Officer by, or for whom, the deposit is made.

Sec. 1-6-23. Notice of late independent expenditures.

Any person who makes a late independent expenditure of one thousand dollars (\$1,000.00) or more in support of or in opposition to any County Candidate(s) shall notify all candidates running for that same office at least twenty-four (24) hours prior to the first publication, distribution or broadcast of the independent expenditure communication. The Notice of Late Independent Expenditure shall be by personal delivery, telegram, facsimile, or by any other electronic means and shall include a copy of such communication.

Sec. 1-6-24. Disclosure by persons subject to aggregation of contributions.

Any person who makes a contribution(s) that is subject to aggregation as described in section 1-6-6(b), (c) and (f) shall disclose in writing to the County Candidate or Elective County Officer, or to his or her campaign committee, at the time a contribution is made, any other prior contributions with which their current contribution must be aggregated. This section does not relieve the County Candidate, Elective County Officer or his/her treasurer of the obligation to use reasonable diligence in determining which contributions should be aggregated.

Sec. 1-6-25. Reporting of current and cumulative contributions.

Contributions received from any contributor during a reporting period which have a cumulative total of one hundred dollars (\$100.00) or more shall be itemized along with the cumulative total of contributions received from that contributor (including any other contributions required to be aggregated with the current contribution) during that same election cycle. Such amounts shall be reported on the required forms as provided by the Fair Political Practices Commission. The term "election cycle" as used in this section shall mean the applicable period described in section 1-6-7.

Sec. 1-6-26. Filing of post-election campaign statements.

A post-election Campaign Statement (Fair Political Practices Commission Form 460, or successor form) shall be filed by all County Candidates running in the current election including write-in candidates, no later than fifteen (15) days following the date of a primary, general (runoff), recall or special election covering the period from the last pre-election statement through the tenth (10th) day following the election.

Sec. 1-6-27. Filing of amendments to campaign statements.

Upon written notification by the County Registrar of Voters that an amendment of a previously-filed campaign statement is required, said amendment shall be filed with the Registrar of Voters no later than thirty (30) calendar days following the date of the notification.

Sec. 1-6-28. Timely return of excess contributions.

That portion of contributions accepted by the County Candidate or the Elective County Officer, or his or her controlled committee, which is in excess of the limitations imposed by this division shall be returned to the donor within seven (7) days of their discovery. A written notification showing the donor's name, the amount returned, and the date of the return shall be provided to the Registrar of Voters within seventy-two (72) hours after the return.

Sec. 1-6-29. Candidate acknowledgment of receiving county Campaign Finance Ordinance.

The Registrar of Voters shall provide each County Candidate and Elective County Officer appointed to an office which is normally elective with a copy of this division as well as copies of any subsequent amendments. Each County Candidate and Elective County Officer appointed to an office which is normally elective will be required to sign a form prepared by the Registrar of Voters acknowledging receipt of a copy of this division and any subsequent amendments.

Article 2. ELECTRONIC CAMPAIGN DISCLOSURE

Sec. 1-6-30. Electronic campaign disclosure.

(a) Whenever any County Candidate or Elective County Officer, or his or her controlled committee, is required by the Political Reform Act to file a campaign disclosure statement or report with the Registrar of Voters and receives contributions or loans totaling more than twenty-five thousand dollars (\$25,000.00) in an election cycle, as defined in section 1-6-7 of the Orange County Campaign Reform Ordinance, the County Candidate, Elective County Officer, or his or her controlled committee shall file at the same time a copy of the statement or report in an electronic format with the Registrar of Voters, provided the Registrar of Voters has prescribed the format at least sixty (60) days before the statement or report is due.

(b) All other candidates and officers, and their controlled committees, who are required by the Political Reform Act to file a campaign disclosure statement or report with the Registrar of Voters may voluntarily file a copy of the statement or report electronically, in the format prescribed by the Registrar of Voters.

(c) Once a County Candidate or Elective County Officer, or his or her controlled committee, is subject to the electronic filing requirements imposed by subsection (a), every statement or report filed thereafter shall also be filed electronically.

(d) Each campaign disclosure statement and report filed pursuant to subsections (a) and (b) shall be maintained in an electronic database that is searchable by the public. Information that is protected from disclosure by State law shall not be available to the public.

(f) The requirements of this section shall not abrogate any requirements in the Political Reform Act that paper originals and copies be filed.

(g) This section shall become effective upon on the date set by resolution of the Board of Supervisors.

**Article 3. SOLICITATION OF SIGNATURES FOR CANDIDATE
NOMINATION PAPERS**

Sec. 1-6-31. Solicitation of signatures for candidate nomination papers.

(a) No person may solicit for the nomination paper for any local, state or federal office the signature of any County employee at his or her workplace. For the purpose of this article, "workplace" shall mean any area devoted primarily to the conduct of County business but shall not include any area that is a traditional, limited, or designated public forum.

(b) Any person who willfully violates this article is guilty of an infraction punishable in accordance with section 1-1-34.

(c) Nothing in this article shall be construed to limit, restrict, or interfere with the access rights of a recognized employee organization under the Meyers-Milias-Brown Act (Government Code section 3500 et seq.).