

Fair Campaign Practices Commission Campaign Filing Manual

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FAIR CAMPAIGN PRACTICES
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FAIR CAMPAIGN PRACTICES COMMISSION

CAMPAIGN FILING MANUAL

I. INTRODUCTION

The History and Purpose of Campaign Finance Laws in Berkeley

Campaign finance laws were enacted and are enforced in Berkeley to make sure that voters have access to information about the money involved in City elections and to help assure that no one interest gains an unfair advantage over others in the electoral process through the use of campaign monies.

Accordingly, Berkeley election laws stress campaign finance disclosure, so that the public knows where a candidate's financial support is coming from, and place certain limits on contributions (most notably, the requirement that no labor unions, corporations, whether business or non-profit, or other business entity can contribute to local candidates and that no one can give more than \$250 on behalf of a candidate in an election cycle).

Though the applicable laws and regulations contain many detailed requirements with which a campaign treasurer must become familiar, financial disclosure and compliance with contribution limits are the crux of Berkeley's campaign finance laws.

The laws that affect this process come largely from the California Political Reform Act of 1974, the Berkeley Election Reform Act of 1974 (BERA), and the Regulations of the Fair Campaign Practices Commission (FCPC Regulations).

The Fair Campaign Practices Commission - BERA Enforcement

The BERA is enforced by the nine-member Fair Campaign Practices Commission. Each Commissioner serves for the same term as the City Council member appointing him/her. The Commission generally meets on the third Thursday of the month at 7:00 p.m., at the North Berkeley Senior Center, 1901 Hearst Avenue. The specific meeting schedule for the year is posted on the FCPC website at <http://www.cityofberkeley.info/ContentDisplay.aspx?id=12688>.

The Commission employs staff in the City Attorney's office. If you need help, call the Commission staff at (510) 981-6998. Staff is available to help you with any questions or problems you may have meeting your filing obligations under the BERA.

Using the Campaign Filing Manual

The purpose of this Manual is to guide you through the process of disclosing your campaign finances in order to comply with the law.

- ***Please read this entire manual as it must be understood as an integrated document.***
- ***No one section will give you enough information to comply with Berkeley's campaign disclosure laws, and neither will only one reading suffice.***
- ***An early reading will help you avoid problems of non-compliance before they arise. Frequent later readings will help you to disclose your campaign-related activities properly.***

Also, please be aware that this Manual does not substitute for the Berkeley Election Reform Act and FCPC Regulations. Rather, it is intended to assist you in complying with their requirements. The FCPC recommends that you obtain a copy of the BERA and the FCPC Regulations from the City Clerk and read them together with this Manual.

You must also acquaint yourself with the State Filing Manual as all filers have obligations under State law as well (Gov. Code § 81000 et seq.) The State may require separate and additional information. For further assistance, consult the Resource Directory (Appendix B).

Fines

Campaign statements must be filed in a timely manner in order to comply with the Berkeley Election Reform Act and State law. Candidates and committees that fail to do so are subject to fines of \$10 per day, as well as investigations and enforcement actions by the Fair Campaign Practices Commission. (BERA § 2.12.485.) Enforcement actions before the FCPC may result in orders requiring a committee or candidate to take or to cease taking certain actions or to pay a monetary penalty of up to \$1000 per violation, or the sum of the unlawful or undisclosed contribution or expenditure, whichever is greater. (BERA § 2.12.231.)

FCPC Assistance

The Fair Campaign Practices Commission and its staff provide guidance to candidates and committees with regard to the Berkeley Election Reform Act and its implementing regulations. While references to State law are found throughout this Manual, candidates and committees should contact the State Fair Political Practices Commission (FPPC) for advice on State law. Contact information for the State FPPC may be found in the Resource Directory attached as Appendix B.

II. GETTING STARTED

A. Filing Officer:

The City Clerk is Berkeley's filing officer (under both City and State law). The City Clerk will supply you with the proper forms and completed forms are returned to the Clerk's office for filing. The Office of the City Clerk is located on the first floor of 2180 Milvia Street.

B. Forms:

Berkeley uses State forms but provides a fact sheet highlighting reporting requirements that conform to Berkeley law. For this reason, it is important that you obtain the forms and fact sheet provided by the City Clerk.

The City Clerk can supply you with paper copies of the Berkeley Election Reform Act (BERA) and the FCPC Regulations, as well as the State Filing Manual that provides detailed instructions for completing the State forms. FCPC staff is available to resolve any confusion that may arise over which State and local forms must be used and to clarify any reporting requirements the forms demand.

C. NetFile: Electronic Filing System:

The City of Berkeley offers online campaign statement filing to all committees. The NetFile electronic filing system facilitates the creation and filing of campaign statements and increases the accuracy of filings.

NetFile provides many helpful features for filers, including:

- Notification of missing information prior to filing.
- Storage of contribution and expenditure data, saving you time on future filings and providing a quick-access lookup function.
- Automatic calculation of summary lines and summary page totals.
- Clean, accurate, professional looking forms filed quickly and easily.

Committee Treasurers may contact the City Clerk Department at 981-6900 or elections@cityofberkeley.info to get started by obtaining a secure filer ID and password. The City Clerk Department also offers one-on-one training for Treasurers using the NetFile system.

To view City of Berkeley campaign statements online visit <http://www.netfile.com/agency/brk/>

Since the online filing system is based on the state forms, please be sure to obtain the fact sheet mentioned above prior to using the online filing system.

III. WHO MUST FILE

Each of the following has campaign disclosure obligations pursuant to Berkeley law. Check any categories that may apply to your situation, and then use the information that follows to determine when you must file.

A. Elected Berkeley Officeholders

B. Candidates For Berkeley Municipal Office

A candidate is an individual who:

1. is listed on the ballot, or
2. is qualified to have write-in votes counted on his/her behalf, or
3. raises or spends money with the intention of seeking elective office, or
4. allows money to be raised or spent on behalf of his/her campaign for elective office, or
5. is an elected officeholder subject to a recall election.

C. Committees

A committee is any person or combination of persons, including ongoing membership organizations, which receives contributions or makes expenditures of \$250 or more in a calendar year for the purpose of influencing voters in support of or in opposition to any ballot measure or candidate for Berkeley municipal office, or in support of or opposition to the qualification of any measure for the ballot. (BERA § 2.12.095.)

The State's definition of "committee" differs from Berkeley's and the State has a more elaborate system of categorizing different types of committees. Please consult the State Filing Manual and/or contact the State Fair Political Practices Commission if you have questions concerning State definitions and requirements. (See Appendix B, Resource Directory, for contact information.)

1. Recipient Committee

A "Recipient Committee" is formed when the committee receives \$250 or more in contributions during a calendar year. (This differs from the State's \$1000 threshold for formation.) Most committees fall into this category.

The committees listed below are all examples of recipient committees:

- a. A controlled single-candidate committee is organized and controlled by an individual and is formed primarily to support her/his own candidacy for Berkeley municipal office.

A candidate controls a committee if she/he, her or his agent, or any other committee she/he controls has a significant influence on the actions or

decisions of that committee. A controlled committee must have its statements signed and verified by the candidate who controls it. A controlled committee can file jointly with the controlling candidate.

- b. A ballot measure committee is organized primarily to support or oppose any ballot measure in Berkeley, including recall measures for the ballot.

Special filing provisions may apply to committees formed to support or oppose a local ballot measure. (See Chapter IV.) A ballot measure committee formed to support or oppose the recall of an officeholder must abide by the \$250 per candidate contribution limit. (See Chapter VIII.)

- c. A controlled single-candidate committee may also support ballot measures. Such committees must allocate contributions received equally among the candidate and measures unless the donor specifies otherwise in writing. (FCPC Reg. R2.12.415.)
- d. An independent committee is a committee which is not controlled by a candidate or controlled committee, and which does not act jointly with a candidate or controlled committee in connection with the receipt or solicitation of contributions or the making of expenditures. A committee may be controlled with respect to one candidate and independent with respect to other candidates. The state has additional specific committee categories, such as General Purpose City Committees. Please consult the applicable State Filing Manual for further information.

See Chapter VIII, Section F for restrictions on transferring funds between campaign committees.

2. Independent Expenditure Committee

- a. An “independent expenditure” is an expenditure made by anyone in connection with a communication which expressly urges a particular result in an election, but which is NOT made at the behest of the affected candidate or committee. (BERA § 2.12.142; Gov. Code § 82031.)
- b. An “independent expenditure committee” is a category of committee that is formed to make independent expenditures and contributions but does not raise funds to support its expenditures (in other words, the committee does not receive contributions).
- c. *Individual or Organization That Makes Independent Expenditures In Excess of \$250.* Any individual or organization that makes independent expenditures of \$250 or more in a calendar year must file Form 465, even if they do not qualify as an Independent Expenditure Committee or Recipient Committee under state law. (FCPC Reg. R2.12.270.)

3. Major Donor Committee

- a. A major donor committee is an individual or entity that makes one or more contributions to candidates, ballot measure committees, or other committees (including political parties and PACs) totaling \$10,000 or more in a calendar year. A major donor committee does not receive contributions in order to make contributions, but uses its own funds to make contributions. (Gov. Code 82013(c))

Reminder: BERA prohibits contributions to Berkeley candidates (i.e. Mayor, Council, Auditor, School Board, Rent Board) and candidate recall ballot measures in excess of \$250.

D. Slate Mailer Organizations

1. A slate mailer is a mass mailing that supports or opposes a total of four or more candidates or ballot measures. (BERA § 2.12.272.)
2. A slate mailer organization is any person who is involved in the production of one or more slate mailers and exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailers and receives or is promised payments totaling five hundred (\$500) or more in a calendar year for the production of one or more slate mailers. (BERA § 2.12.272.)
3. Slate mailer organizations supporting or opposing candidates for Berkeley elective office or any Berkeley measure must file a copy of their campaign disclosure forms with the City Clerk. (BERA § 2.12.272.)

IV. WHEN MUST CAMPAIGN STATEMENTS BE FILED?

This chapter is divided into nine sections. Check each section that applies to you and then familiarize yourself with all applicable rules.

Section A. Statement Of Intention To Be A Candidate (Form 501)
Applies to all candidates.

Section B. Statement Of Organization (Form 410 and City of Berkeley Statement of Organization.) Applies to all candidates and committees. Both the State Form 410 and the local City of Berkeley Statement of Organization are required to be completed and filed by all candidates and committees in order to comply with BMC Section 2.12.260.

Section C. Campaign Bank Account Statement (Form 410)
Candidates and committees must list campaign bank account information on the Form 410.

- Section D. Committees Making Expenditures To Support Or Oppose A Local Ballot Measure
- Section E. Fixed Filing Schedule (Established by the State and followed in Berkeley.)
Applies to all filers.
- Section F. Special Elections
Applies to officeholders, candidates and committees involved in elections not held in June or November.
- Section G. Late Contributions
Applies to all filers who receive a contribution of \$100 or more before the election but after the closing date of the last required pre-election campaign statement. (The State and Berkeley have differing late contribution rules.)
- Section H. Late Independent Expenditures
Applies to all persons (including committees, businesses, and individuals) making an "independent expenditure" of \$1000 or more during the last 40 days before an election.
- Section I. Late Filing Penalties
Applies to all filers.

A. Statement Of Intention To Be A Candidate

A candidate for office must file with the City Clerk a Candidate Intention Statement (Form 501) before she or he solicits or receives any contributions.

B. Statement Of Organization/Form 410

1. Most committees, 10 days to file: All committees which receive contributions of \$250 or more must file both a Form 410 and supplemental "City of Berkeley Statement of Organization" within 10 days after the committee is formed.
2. Late formed committees, 1 business day to file: A Form 410 and "City of Berkeley Statement of Organization" must be filed by the close of the first business day following the committee's formation if the committee forms during the period between the second pre-election report and the election. (BERA § 2.12.255.)
3. Naming candidate committee: The state recently adopted new regulations requiring the names of candidate controlled committees. FPPC Regulation 18402 requires that all candidate-controlled committees must contain the last name of the candidate, the office sought, and the year of the election in the name of the committee. Similarly, committees primarily formed to support or oppose a

candidate must include the last name(s) of the candidates and whether or not they support or oppose the candidate(s).

NOTE: While most original forms are filed with the City Clerk, state law requires that committees file original Form 410 statements (Initial, Amendment and Termination) with the Secretary of State and file a copy of the Form 410 with the City Clerk. Additionally, under BERA, a committee is “formed” and therefore must file an initial Form 410 within 10 days of raising \$250. (BERA § 2.12.095.) However, under state law, a committee is only “formed” and thus required to file the Form 410 within 10 days of receiving contributions totaling \$1000 or more. Based on these differing definitions of committee formation, to comply with BERA a committee must file the Form 410 within 10 days of raising \$250. If at the time the committee files this initial Form 410, it has not yet raised \$1000, the committee should check the box “Not yet qualified” at the top of the Form 410 as explained in detail in the instruction to the Form 410. Within 10 days of raising contributions totaling \$1000 and thus qualifying as a committee under state law, the committee must file an amended Form 410 with the Secretary of State, designating on the Form 410 the date the committee reached \$1000 in contributions.

The Form 410 is also used to provide notice of the termination of a committee. Recipient committees must file an original Form 410 with the Secretary of State and a copy with the City Clerk to terminate the committee. A Form 460 Termination Statement showing a zero balance must be filed on the same day as the Form 410 Termination Statement. Committees may terminate only when they are no longer active in campaigns, have filed all required forms, do not anticipate becoming active and have no surplus funds or outstanding debts (or no intention or ability to discharge the debt). Filing obligations will continue until a Form 410 with the termination section completed has been filed.

A candidate/officeholder who has one or more controlled committees automatically terminates his or her status as a candidate/officeholder when the individual has terminated ALL of his or her controlled committee(s) AND has left office.

A candidate/officeholder who does not have a controlled committee, who filed a Form 470, will terminate automatically at the end of the calendar year IF:

- the candidate lost, withdrew, or was not on the ballot in the election; OR
- the individual left office during the calendar year; AND
- the individual has ceased to receive contributions and make expenditures and has filed all of the required campaign statements.

C. Campaign Bank Account Statement

The Candidates and Committees must include all required campaign bank account information in the Statement of Organization (Form 410), which is filed within 10 days of committee formation as discussed above. At the same time, filers should also complete and file a City of Berkeley Statement of Organization form.

D. Committees Making Expenditures To Support Or Oppose A Local Ballot Measure

Before a measure is voted on, state law requires committees primarily formed to support or oppose the qualification, passage, or defeat of a local ballot measure and that are required to file semi-annual campaign statements must also file a campaign statement on the following dates: April 30 (for the period January 1 through March 31), and October 31 (for the period July 1 through September 30). Effective June 3, 2012, BERA additionally requires that any other type of campaign committee that is making expenditures of at least \$250 in support or opposition to a ballot measure (including during the signature gathering process, and including the initiative, recall, and referendum process), must file quarterly statements on the same schedule as a “ballot measure” committee. (B.M.C. 2.12.271)

During the semi-annual period in which pre-election statements are to be filed, committees supporting or opposing ballot measures should file on the more frequent pre-election schedule. Following the election, these committees must file semi-annual statements until the committee is terminated.

For example, a committee formed on January 1 to support a measure on the November ballot (Measure Z) must file a quarterly statement on April 30, and a semi-annual campaign statement on July 31. For the semi-annual period beginning on July 1, the committee must only file pre-election statements and a semi-annual/post-election statement due the following January 31. If the committee were formed on April 1 or later in support of or against the same measure, then the committee would only file semi-annual and pre-election statements, as applicable. (See Gov. Code § 84202.3.)

Similarly, an existing City general purpose committee decides to oppose Measure Z, and on March 5 prints up door hangers in opposition to the measure at a cost of \$400. As the committee has made expenditures to oppose the measure in excess of \$250, the committee must file a quarterly report by April 30. Note regarding Referendum Petition Drives: The state Fair Political Practices Commission has opined that a local referendum becomes a measure under state law when the first petitions are circulated for signature to voters concerning the referendum, such that contributions or expenditures to qualify the referendum for the ballot or to support or oppose the referendum are reportable under the Act. The FCPC has reached a similar determination regarding local referendums under Berkeley Election Reform Act.

E. Fixed Filing Schedule

1. **Semi-Annual Filings:** Berkeley officeholders, candidates and committees must file semi-annual statements for each half of the year, whether or not they have had any campaign-related activity during each six-month period.
2. **Election Period Filings:** During the six-month period in which they are involved in an election, Berkeley officeholders, candidates and committees must file two pre-election statements in addition to the semi-annual statements.

During the six-month period when they are not directly involved in an election, Berkeley officeholders, candidates and committees still file semi-annual statements.

Note that officeholders and candidates who have raised or spent, or anticipate raising or spending, less than \$250 in a calendar year have fewer filing obligations. Please see Appendix D.

Candidate committees must use Form 460 for the reports listed above. Other committees use Forms 425, 450, 461 or 465, as appropriate. Check the applicable State Filing Manual for further explanation.

F. Special Elections

Berkeley elections are sometimes held at times other than June or November of even-numbered years (when State elections are held). Candidates and committees directly involved in such elections are required to file two pre-election statements and one post-election semi-annual statement on a schedule adjusted to correspond to the election's actual date. The City Clerk's Office will provide candidates and committees with adjusted filing schedules in the event of such an election.

G. Late Contributions

The late contribution reporting requirement for Berkeley committees differs from State law. While State law only requires late contribution reporting for contributions of \$1000 or more, Berkeley requires reporting of all contributions received during the Late Contribution reporting period of **\$100 or more**. (BERA § 2.12.145; FCPC Reg. R2.12.295.) The late reporting period runs from the closing date of the last pre-election campaign statement through the election. A late contribution report must therefore be filed even if the filing deadline falls on or after Election Day.

Candidates and committees receiving a late contribution of \$100-\$999 from a single source must report the contribution within 48 hours of the time it is received or made. If the reporting deadline falls on a Saturday, Sunday or holiday, the report will be deemed timely filed if received by the City Clerk no later than the next business day. (BERA § 2.12.295, FCPC Reg. R2.12.295.)

Late contributions of \$1000 or more from a single source must be reported within 24 hours of receipt. (Gov. Code § 84203; BERA § 2.12.295.)

Due to the short 24 hour to 48 hour deadline for receipt, Late Contribution Reports may be personally delivered, sent by guaranteed overnight delivery, or delivered by fax but NOT delivered by regular mail. Note that the committee is responsible for ensuring the committee's filings are received by the City Clerk's Office. For example, a committee should not assume that a faxed report was received, but should instead confirm that the report was received by checking the online filing system or by contacting the City Clerk's Office. If a required campaign report is not timely received, the committee may be subject to late filing penalties as discussed below.

Note: Except for contributions by a candidate to his or her own campaign, contributions to a candidate may not exceed \$250 per contributor for a single election. (BERA § 2.12.415.)

H. Late Independent Expenditures

BERA requires that any person making an independent expenditure of \$1000 or more in support of or opposition to a measure or candidate, or group of measures or candidates, **during the last 40 days** before the candidate(s) or measures(s) appear on the ballot, must file a notice with the City Clerk within 24 hours of the expenditure. The notice must be filed either by personal delivery, overnight mail, or fax. (BERA § 2.12.297) State law similarly requires late independent expenditure reporting, but only during the last 16 days before an election.

Notice should be completed through the filing of a Form 496, to include (a) each candidate or measure supported or opposed, (b) the amount spent to support or oppose each candidate or measure, (c) whether the candidate or measure was supported or opposed, (d) the date and amount of each expenditure, (e) a description of the type of communication for which the expenditure was made, (f) the name and address of the person making the expenditure, and (g) the name and address of the payee.

In addition to the Form 496, three copies of the communication funded by the independent expenditure must be provided to the City Clerk.

I. Late Filing Penalties

Statements that are not timely filed are subject to a late filing fee of \$10 for each day a statement is past due. The late fee may be waived, on an individual basis, only if good cause is shown. Once a filer receives specific written notice from the City Clerk, the fine may only be waived if the late filing is filed by the deadline stated in the notice. After that deadline (ten (10) days for semi-annual statements and five (5) days for pre-election statements) elapses, the fine may not be waived for any reason. (BERA § 2.12.485; Gov. Code § 91013.)

Filers may obtain a copy of the fining policy regarding untimely campaign statements from the City Clerk. The City Clerk will refer nonfilers to the State and/or FCPC for enforcement action.

Intentional failure to file is a misdemeanor under State and Berkeley law.

V. REPORTING AND RECORD-KEEPING REQUIREMENTS: CONTRIBUTIONS

Contributions are extensively defined in BERA Section 2.12.100. Contributions include a gift, loan, advance, deposit, forgiveness of a debt, or promise of money or anything of value received by a candidate or committee for the purpose of influencing the voters. Contributions also include the purchase of tickets for fundraising events, discounts from vendors, transfers of money, goods or services from other committees, including controlled committees; and a candidate's own money used on behalf of her or his candidacy. Non-monetary (in-kind) contributions are calculated at their fair market value and must be disclosed in the same manner as other contributions.

There are a number of requirements regarding the receipt of contributions:

1. Treasurer: A candidate or committee must have a treasurer before a contribution may be accepted on behalf of a candidate or committee. To fulfill this requirement, a candidate may appoint her/himself as treasurer. (BERA § 2.12.245.)
2. Bank account: Candidates or committees must have a bank account, and the campaign checking account must be at a bank in Alameda County. BERA requires that “all monetary contributions to the candidate, to a person on behalf of the candidate or to a person on behalf of a committee shall be placed in the candidate’s or committee’s checking account **promptly**.” (BERA § 2.12.250(A).) While BERA does not define what is considered a prompt deposit, committee treasurers should make frequent deposits and should put a process in place for ensuring contributions received by the candidate, committee members and/or campaign volunteers are quickly forwarded to the treasurer for deposit.
3. Record retention: Candidates, treasurers and officeholders must keep detailed accounts, records and bills, and receipts for contributions of \$25.00 or over. These receipts must include the date and amount of contribution, the name of the contributor(s), and the type of contribution (e.g., monetary, in-kind). The cumulative amount of contributions must also be kept. (2 Cal. Code Reg. § 18401.) For contributions made by way of credit or debit card, records must include all credit card receipts, transaction slips or other writings signed by the contributor, credit card vouchers, and other documentation of credit card transactions, including credit card confirmation numbers and itemized transaction reports. These records include but are not limited to receipts, interest from savings, designations of candidate contributions, loan agreements, etc.

ALL RECORDS MUST BE ADEQUATE TO DOCUMENT THE ACCURACY OF THE CAMPAIGN STATEMENTS.

No committee or candidate shall accept a nonmonetary contribution with a value in excess of \$50 unless the contributor provides the treasurer with a receipt itemizing and identifying the contribution, including the fair market value of such goods or services. (BERA § 2.12.250D)

RECORDS MUST BE KEPT FOR **FOUR YEARS** FROM THE DATE A FINAL REPORT IN CONNECTION WITH AN ELECTION IS FILED. (BERA § 2.12.250.E.)

Upon request, the campaign treasurer must make all records available to the Fair Campaign Practices Commission, the City Attorney, the District Attorney, the California Attorney General, or the California Secretary of State. (BERA § 2.12.250E.)

4. Separate accounting: Separate campaign bank accounts or separate accounting must be maintained if a candidate or committee receives or expends money for a Berkeley candidate as well as a non-Berkeley candidate or on any ballot measure. (FCPC Regulation R2.12.415.1.) Thus, money spent on a Berkeley candidate will be distinguishable from money spent on a non-Berkeley candidate or on any measure. Separate bank accounts or accounting are required in order to enforce Berkeley's \$250 per candidate contribution limitation as well as the prohibition on candidate contributions from certain organizations and business entities. (See Chapter VII.)

In lieu of separate accounts, a committee may submit to the FCPC staff a written proposal for separate accounting. If the proposal is approved, separate bank accounts will not be required.

5. Candidate personal funds: Commingling personal funds with campaign contributions is prohibited. No contributions may be commingled with any personal funds. (BERA § 2.12.245.) For example, a candidate should not use his or her personal funds to purchase campaign supplies and seek reimbursement, but should instead make campaign purchases using campaign funds. If a candidate wishes to use personal funds for campaign purposes, he or she must make a contribution or loan to his or her committee which is run through the campaign bank account and recorded on the appropriate campaign report(s).
6. Legal name required: Contributions to be made in contributor's legal name. No contribution may be made by a person in a name other than that person's legal name. (BERA § 2.12.305.)
7. No intermediaries: No contribution may be made by a person on behalf of another person. (BERA § 2.12.310.)
8. Recording contributions: All contributions, regardless of amount, must be included in campaign statements. (BERA § 2.12.280.)
9. \$50 and more itemized: All contributions of \$50 or more must be disclosed and itemized on campaign statements with the contributor's full name and street address, occupation and employer, principal place of business if self-employed, the date on which the contribution was received, and the cumulative amount she/he has contributed for the election period. Itemization must take place once

the donor's contributions total \$50 or more within the cumulative period [i.e. the election cycle]. (BERA § 2.12.280.)

10. Written instrument: Monetary contributions of \$50 or more must be made by a written instrument (e.g., check, credit card or debit card) and include the donor's and recipient's names. (BERA §§ 2.12.300, 2.12.320.)
11. Anonymous contributions: No anonymous contributions of \$50 or more may be accepted by committee treasurers. (BERA § 2.12.320.)
12. The Designation Requirement: Committees which raise or spend money to support or oppose any Berkeley candidate and for any non-Berkeley candidate or for any measure, must receive written designations from donors who wish to contribute to a Berkeley candidate whenever an equal allocation of the contribution would result in a contribution in excess of the \$250 limit. (FCPC Reg. R2.12.415.)

Committees that receive contributions solely for non-Berkeley candidates or measures are not subject to the designation requirement. For those committees that are subject to the designation requirement, candidate contributions must be designated in one of two ways:

- a. the donor may include a designation in writing at the time the contribution is made and this document must be kept with campaign records; or,
 - b. the committee treasurer may verify a donor's designation orally (by telephone, for example) and send a letter of confirmation within 10 days of the date the verification is made and a copy of the letter must be kept with campaign records.
13. Late contributions: A late contribution of \$100 - \$999 must be reported within 48 hours of receipt, except when such reporting deadline falls on a Saturday, Sunday or holiday, in which case the contribution shall be deemed timely filed if reported by the next succeeding business day. (BERA § 2.12.295; FCPC Reg. R2.12.295.)

A late contribution of \$1000 or more must be reported within 24 hours. (Gov. Code § 84203(b); BERA § 2.12.295.)

Note: Except for contributions to ballot measure committees or contributions by a candidate to his or her own campaign, contributions may not exceed \$250 per candidate for a single election. (BERA § 2.12.415.)

14. Contributors to more than one committee supporting the same candidate must abide by CONTRIBUTION LIMITATIONS. (See Chapter VII.)
15. Gifts of service, food, etc:

- a. Services: An individual's gift of her or his service or labor is not a contribution, but supplies used in providing the service are considered nonmonetary contributions. For example, a professional photographer may donate his or her time to take a photograph of a candidate, but if the photographer pays for the film and/or processing, those costs would be considered nonmonetary contributions.
- b. Property, food and drink: Contributions do not include the use of personal or real property if the value of such use does not exceed \$50, or food or beverages for any one event if the value is no more than \$50. However, contributions of personal or real property or food or beverage for any one event of more than \$50 are considered nonmonetary contributions and must be reflected on campaign reports.

VI. REPORTING AND RECORD-KEEPING REQUIREMENTS: EXPENDITURES

An expenditure is a payment, pledge, or promise of payment for goods, services, materials or facilities for the purpose of influencing the voters. This differs from a contribution, which is generally an open-ended gift of money from the donor to the recipient.

Transfers of money, payments, gifts, loans (and the forgiving of loans) and promises of payment made by one committee to another are also expenditures. (BERA § 2.12.130.) State law permits any controlled committee to contribute to a committee for a Berkeley candidate or measure. However, candidate-controlled committees may not make independent expenditures to support or oppose Berkeley candidates. (Gov. Code § 85501.) Other committees are not subject to this restriction.

Contributions from controlled committees (and committees generally) are subject to the contribution and source limitations of BERA Sections 2.12.415 and 2.12.440, including the maximum candidate contribution limit of \$250. The committee treasurer is obligated to ensure the propriety of all campaign contributions. (See FCPC Regulation R2.12.440.)

THERE ARE STRICT REQUIREMENTS REGARDING THE MAKING AND REPORTING OF EXPENDITURES:

1. Campaign account: All expenditures must be made from a campaign checking account located in Alameda County. (BERA § 2.12.250.)
2. Separate accounts: Separate checking accounts may be required under certain circumstances. (FCPC Reg. R2.12.415.1.) See Chapter V.
3. Records: Candidates, treasurers and officeholders must keep detailed accounts, records, bills, and receipts of expenditures of \$25 or over including the date of payment, amount of payment, name of person paid and description of value received for each payment. The cumulative amount of expenditures must also be kept. (2 Cal.Code.Reg. § 18401.)

4. No cash expenditure of \$50 or more: All expenditures of \$50 or more must be made by check, credit card or debit card and the treasurer must retain vouchers and receipts documenting each such expenditure. (BERA § 2.12.250.)
5. Itemized expenditures: All expenditures of \$50 or more must be disclosed and itemized in campaign statements giving the following information: the amount of each expenditure, the full name and street address of each person or vendor to whom the expenditure was made, and a brief description of what was purchased or obtained. If the person to whom the payment is made is different from the person providing the goods or services being paid for, the full name and street address of the person or vendor actually providing the goods or services must be disclosed. (BERA § 2.12.280.H.)
6. Agent/Contractor Expenditures: Expenditures made by an agent or independent contractor of a candidate or committee must be reported as if made directly by the candidate or committee. The agent or independent contractor's overhead or normal operating expenses need not be reported. (BERA § 2.12.315.) See Ch. IX § 9 – Payments By An Agent or Independent Contractor – for further details.
7. Payee information required: A candidate must report the full name and street address of any committee, of which he or she has knowledge, which has received contributions or made expenditures on her/his behalf, and the full name and street address of the treasurer of such committee(s). This information may be reported on the Form 460 “Recipient Committee Campaign Statement Cover Page” – Part 2, No. 5, entitled “Related Committees Not Included in this Statement.” (BERA § 2.12.280.K.)
8. Multiple candidates/measures: Expenditures must be separately totaled and disclosed for each candidate or measure a committee supports or opposes. In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures made for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures for or against each candidate or measure since the beginning of the two or four year election cycle must be reported. (BERA § 2.12.280.I.)
9. Allocation of Expenditures (Multi-candidate or multi-measure committee): Expenditures for candidates and measures must be allocated under one of the following, mutually exclusive categories:
 - a. Contribution to another committee.
Expenditures which are contributions must be allocated equally among the candidates and/or ballot measure(s) being supported or opposed, unless the candidate directs otherwise in writing.
 - b. Expenditures for communications to support or oppose a candidate or measure.

Expenditures for communications should be allocated equally among those candidates and/or ballot measures which are clearly identified in the communication. However, candidates may not use campaign funds to make *independent expenditures* to support or oppose other candidates.

“Communication expenditures” include all costs without which the communication would not have taken place, and includes, but is not limited to, the costs for salaries, postage, printing, broadcast time, etc.

However, allocation of expenditures to a candidate or measure only incidentally mentioned in a communication may be done by any reasonable accounting method.

- c. Expenditures for overhead, administration, and general operations and all other expenditures not assigned to a) or b) above.

Allocation for overhead expenditures includes such general expenditures such as those for rent, utilities, staffing, contribution allocation, fundraising events, etc. Allocation to each candidate or measure must bear a reasonable relationship to all expenditures for campaign communications in b) above.

- 10. Mass mailings: Any committee, candidate, officeholder, individual or organization with reporting obligations which makes expenditures supporting or opposing one or more candidates or ballot measures shall file both (a) a mass mailing certification form and (3) three copies of each mass mailing. (FCPC Regs. R2.12.325.1, R2.12.325.2.)

- 11. All records must be adequate to document the accuracy of the campaign statements.

All documents concerning receipts of \$50 or more and records of miscellaneous receipts of \$25 or more must be kept. Receipts must include the date, amount, source and description of value received. These records include but are not limited to receipts, interest from savings, designations of candidate contributions, loan agreements, etc.

RECORDS MUST BE KEPT FOR FOUR YEARS FROM THE DATE A FINAL REPORT IN CONNECTION WITH AN ELECTION IS FILED. (BERA § 2.12.250.E.)

UPON REQUEST, THE CAMPAIGN TREASURER MUST MAKE ALL RECORDS AVAILABLE to the Fair Campaign Practices Commission, the City Attorney, the District Attorney, the California Attorney General, or the California Secretary of State (BERA § 2.12.250.E.)

- 12. Post election: After payment has been made for all goods and services in relation to the campaign, if there is a balance in the checking account, the campaign treasurer must 1) certify that no further outstanding indebtedness remains and 2)

liquidate the account by paying the remaining balance to the candidate or committee for use in any lawful manner within 90 days after the date of election unless an extension is granted by the Commission. (BERA § 2.12.250.C.)
[However, see process for redesignation discussed below.]

13. Redesignation of campaign funds: Defeated candidates and individuals leaving office and planning to redesignate campaign funds for a future election must do so before such funds become surplus. Funds will become surplus at the end of the post-election reporting period following the defeat of a candidate for elective office or upon an individual leaving office, whichever occurs last (Gov. Code § 89519[a].)

To redesignate to the **same** elective office, the treasurer shall certify that to his or her knowledge there remains no further outstanding indebtedness in connection with the campaign. The defeated candidate or individual leaving office must then file an amended State Form No. 410 (Statement of Organization) to include the new election year, and an initial State Form No. 501 (Candidate Intention). The defeated candidate or individual leaving office shall also file a statement with the Commission that campaign account funds have been redesignated.

To redesignate to a **different** elective office, the treasurer shall likewise certify that to his or her knowledge there remains no further outstanding indebtedness in connection with the campaign. The defeated candidate or individual leaving office must then close the existing campaign bank account and open a new campaign bank account for the new elective office, and file initial State Forms No. 410 and 501.

14. Unpaid expenditures become contributions: Generally, when a committee receives goods or services but payment for the goods or services is made, if at all, not until a much later date, it is generally considered an extension of credit. Unless an exception applies under BERA Regulation, the extension of credit becomes a contribution as defined under BMC Section 2.12.100 and is subject to the contribution cap and contribution source limits of BMC Section 2.12.415 and BMC Section 2.12.440. (See FCPC Regulations, R.2.12.100.) There are limited exceptions to this general rule for payments made within a short period (generally 45 or 60 days) after the good or service is received and prior to the end date of the post-election reporting period. (See R.2.12.100(b).) There is also a limited exception for written extension of credit agreements as specified in R.2.12.100(c).

By way of example, if a candidate committee receives goods from a campaign supporter who owns a print shop consisting of printing of 5,000 pamphlets at a cost of \$500, but the committee does not pay the shop for the print services within 60 days of the invoice, the extension of credit becomes a nonmonetary contribution. As the contribution is from a business and exceeds \$250, the contribution would be in violation of BMC Sections 2.12.415 and 2.12.440.

VII. LIMITATIONS AND PROHIBITIONS

A. \$250 Limit On Contributions To Candidates

No person, other than a candidate to his or her own campaign, may contribute more than two hundred and fifty dollars (\$250) to support or oppose a single candidate with respect to a single election. (See BERA § 2.12.415; FCPC Reg. R2.12.415.2(a).)

- Separate four-year cumulative periods for elective offices of staggered four-year terms shall apply for each election for purposes of administering the \$250 per candidate contribution limitations. (FCPC Reg. 2.12.415.2(a).)
- The cumulative election period begins January 1st of the year immediately following the election and ends on December 31st of the fourth year of four-year terms.
- The \$250 contribution limitation applies to direct and indirect contributions to candidates. It therefore applies to contributions to controlled committees and independent committees formed to support a candidate. It does not apply to contributions to ballot measures.
- The \$250 contribution limit applies to nonmonetary contributions, such as payment for goods or services on behalf of a candidate committee.
- Both the contributor and the campaign treasurer are responsible for abiding by the contribution limitation. A contributor may not give more than \$250 to a single candidate during a four-year election period and a treasurer may not solicit or accept any contribution of more than \$250 from a single contributor for a single candidate during the cumulative election period.

Example:

In January of 2008, Ms. Jones contributed \$200 to the Friends of Smith, an ongoing committee organized for and controlled by Joe Smith, a Berkeley officeholder who is running for re-election in November 2008. In September of 2008, Ms. Jones wishes to contribute to the Friends of Smith once again. To comply with the \$250 contribution limitation per election period, Ms. Jones' donation may not exceed \$50. Both Ms. Jones and the Friends of Smith committee may be held responsible for a violation of Berkeley law if Ms. Jones contributes and the committee accepts a second (September) contribution in an amount greater than \$50. However, beginning January 1, 2009, Ms. Jones may again contribute up to \$250 to the Friends of Smith for the next election period.

- Contributions from the personal funds of an individual and contributions made by an entity when the same individual directs and controls the entity's contributions are considered aggregated for purposes of the \$250 contribution limitation.

Example:

On September 30, 2008, City Council candidate Mary Jones gives from her personal bank account a contribution of \$200 to the committee Jane Smith for Mayor 2010. On October 5, 2008, Jones for City Council 2010, Mary Jones' candidate controlled committee, wants to contribute to Jane Smith for Mayor 2010. Ms. Jones' candidate controlled committee cannot give more than \$50 to Jane Smith for Mayor 2010, as the Ms. Jones controls her own committee and therefore the contributions are considered to come from the same source.

1. Contributions To An Independent Slate Committee

A donation to an independent committee supporting more than one candidate will not violate the contribution limitation as long as the amount contributed during the four-year general election period does not exceed \$250 multiplied by the number of candidates supported by the independent committee. A donor may allocate her/his contribution in a manner other than equally to each candidate if she/he does so in writing and does not violate the \$250 contribution limitation. (FCPC Reg. R2.12.415.)

Example:

Ms. Jones wants to contribute to the XYZ Committee, which supports four candidates for City Council. Ms. Jones may donate up to \$1,000 ($\250×4) to the XYZ Committee without violating the contribution limitation as long as she does not make any other contributions to these four candidates. If Ms. Jones contributes the full \$1000, any additional contributions by Ms. Jones to the XYZ Committee during the election cycle will result in contributions to one or more of the four candidates to exceed \$250. Additionally, Ms. Jones would not be permitted may any contributions to any other committee supporting the same candidates during the election cycle.

2. Contributions To More Than One Committee Supporting The Same Candidate

Donations to more than one committee supporting the same candidate will not be in violation of the \$250 contribution limitation as long as no individual contributes more than \$250 directly or indirectly to a single candidate within the election period. Contributions to more than one committee supporting the same candidate must simply be tallied so as not to break this simple rule. This is best illustrated by example.

Example:

Ms. Jones wants to contribute to the XYZ Committee, which supports four candidates for City Council, including Jane Doe. Ms. Jones also wants to contribute to the Friends of Jane Doe, a separate committee organized to support the candidacy of Jane Doe. Ms. Jones' total contribution to the XYZ Committee during the election period may not exceed \$1,000 (since a total of four candidates are supported

by this committee and $\$250 \times 4 = \$1,000$). Ms. Jones could choose, however, to contribute \$400 to the XYZ Committee (thereby automatically contributing \$100 to each of the four candidates XYZ supports) and \$150 to Friends of Jane Doe (thereby reaching the \$250 contribution limit for candidate Jane Doe).

Alternatively, Ms. Jones may designate in writing that she does not wish any of her \$400 contribution to XYZ Committee to go to Jane Doe. Ms. Jones would then be free to contribute \$250 to Jane Doe the candidate or to Friends of Jane Doe.

B. Candidate Contributions From Certain Organizations And Business Entities Prohibited

Direct or indirect contributions from a proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation (including non-profit corporations) or labor union to a candidate or a committee to support or oppose a candidate for Berkeley municipal office are prohibited. (See BERA § 2.12.440.)

REMEMBER:

1. The prohibition on contributions from the listed organization and business entities applies only to contributions to a candidate or a committee to support or oppose a candidate in a Berkeley municipal election. The limitation does not apply to ballot measures, with the exception of a ballot measure that recalls a candidate.
2. The prohibition on contributions from the listed organizations and business entities applies to direct as well as indirect contributions. If the contribution did not come from a prohibited source but can be traced to a prohibited source, it is a prohibited contribution. (FCPC Reg. R2.12.440.)

Example:

The Committee for Jane Doe, candidate for the Berkeley City Council, received a contribution from the California Women's Political Action Committee. The PAC receives contributions from Corporation F and from labor union #123 (and does not keep them separate from the contributions it receives from individuals). The PAC is prohibited from making the contribution and the Committee for Jane Doe may not accept the contribution. However, if the PAC keeps its corporate and labor union contributions separate from other contributions it receives, then the Committee of Jane Doe may accept a contribution from the PAC's non-corporate account.

3. It is the treasurer's responsibility to make sure a particular contribution is not from a prohibited source. The treasurer should keep all records of deposits and disbursements and should be able to demonstrate by a reasonable accounting method that these contributions are not from a prohibited source. (FCPC Reg. R2.12.440(b).)
4. A campaign treasurer for a candidate or a committee in support of or in opposition to a candidate in receipt of a contribution from a potentially prohibited source

should promptly request a written statement from the contributor indicating that the contributor is not a proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation (including non-profit corporations) or labor union and that the contributor does not receive contributions from such entities or has adequate accounting methods which demonstrate that the funds did not originate from such sources.

If the treasurer is unable to determine whether or not the contribution comes from a prohibited source, the treasurer must promptly return the contribution to the donor. (FCPC Reg. R2.12.440.)

Example:

A political action committee that receives both corporate and individual contributions may only contribute to a Berkeley candidate with funds that demonstrably did not come from a prohibited source.

(A state legislator who receives corporate contributions for her/his own campaign may use that money to contribute to Berkeley [non-recall] ballot measures.)

Contributions from political action committees must be identified on campaign statements in a manner that clearly demonstrates the source of the contribution as a campaign committee rather than a prohibited source, such as a union or business association. For example, when listing a contribution on a campaign filing from the California Association of Realtors PAC, the treasurer should include the term “PAC” or “Political Action Committee” and the FPPC committee number when listing the contribution.

VIII. COMMON QUESTIONS

A. Where do I get the necessary forms?

The campaign disclosure forms are available from the City Clerk at 2180 Milvia Street and can be downloaded from the State Fair Political Practices Commission (FPPC) website at www.fppc.ca.gov. If you are unclear as to which forms you must complete, contact Fair Campaign Practices Commission staff or the State FPPC (See Appendix B, Resource Directory, for contact information).

B. Where can I get advice regarding the interpretation of campaign disclosure laws?

Commission staff is available for technical assistance and advice on an informal basis. You may also request a formal opinion from the Commission with respect to your filing obligations or the interpretation of the Berkeley Election Reform Act (BERA) and FCPC Regulations. The Commission is required to issue the opinion within 14 days of receiving such a request. (BERA § 2.12.220.)

For advice with respect to your filing obligations under State law or the interpretation of the Political Reform Act, you may request a letter of formal advice from the State Fair

Political Practices Commission or call their technical assistance line for advice. (See Appendix B, Resource Directory, for contact information.)

C. Is a loan a contribution?

The Berkeley Election Reform Act includes a loan in the definition of a contribution. Therefore, a loan to a candidate or a committee supporting or opposing a candidate will be counted against the \$250 contribution limitation for the election period in which it is made.

D. What are permissible uses of surplus campaign funds?

State law prohibits the personal use of campaign funds and designates permissible uses of surplus funds. (Gov. Code § 89519.) These permissible uses include:

- The payment of outstanding campaign debts or elected officer expenses,
- Contributions to a political party or committee so long as the funds are not used to make contributions in support of or in opposition to a candidate for elective office, (although such funds may be used for partisan voter registration, partisan get-out-the-vote activities, and slate-mailers),
- Donations to any bona fide charitable, educational, civic, religious or similar tax-exempt, non-profit organization, where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer,
- The pro rata repayment of contributors,
- Payment for the cost of installing a home or office electronic security system of a candidate or elected officer who has received threats to his or her physical safety, provided that the threats arise from his or her activities, duties or status as a candidate or elected officer and have been reported to and verified by a law enforcement agency, up to a maximum of \$5,000 and reimbursed within 2 years,
- Payment of professional services, reasonably required by the committee to assist in the performance of its administrative functions.

E. How are contributions from a candidate's personal funds to her/his own campaign reported?

When a candidate uses her or his personal funds for campaign purposes, it must be reported on the campaign statement. However, a contribution from a candidate's personal funds for her/his own campaign is not subject to the \$250 contribution limitation. The State Fair Political Practices Commission recommends the following methods of reporting:

- Candidate makes a loan of personal funds to campaign account:
Report as loan received on Schedule B of State Form 460.
- Candidate makes a contribution of personal funds to campaign account:
Report as a contribution on Schedule A of State Form 460 as indicated below.
- A candidate may not pay a vendor directly:
Unlike a volunteer or paid employee of a candidate's controlled committee, a candidate cannot make direct expenditures for goods and services. This is true regardless of whether the candidate seeks reimbursement. Any contribution by a candidate must be made to a campaign bank account, and expenditures made from there. Thus, a contribution would be reported on Schedule A, and an expenditure on Schedule E of State Form 460.
- A candidate can forgive a loan of personal funds to his/her own campaign:
Report the debt forgiveness on Schedule B and simultaneously report the forgiven debt as a contribution on Schedule A of State Form 460.

F. Can a candidate or his or her committee transfer a contribution to another candidate?

Yes, with the following restrictions. State law permits any controlled committee to contribute to a committee for a Berkeley candidate or measure. State law however prohibits candidate-controlled committees from making independent expenditures or contributing funds to another committee for the purpose of making independent expenditures to support or oppose other candidates. Also, contributions from controlled committees (and committees generally) are subject to the contribution and source limitations of BERA Sections 2.12.415 and 2.12.440, including the maximum candidate contribution limit of \$250. The committee treasurer is obligated to ensure the propriety of all campaign contributions. (See FCPC Reg. R2.12.440.)

Further, contributions from the personal funds of an individual candidate and contributions made by the candidate's controlled committee are considered aggregated toward the same contribution limit of \$250 as the same individual (i.e. the candidate) directs and controls the entity's contributions.

G. May more than one individual make separate contributions using one check?

Yes. If two or more individuals wish to make separate contributions to a candidate or committee using one check, the check must be issued on a joint account of all of the individuals, and each individual must sign the check or submit to the candidate or committee treasurer a written statement signed by each individual who wishes to make the contribution which states that each individual is making a contribution. It will be assumed that each individual is contributing an equal part of the total amount of the check unless designated differently in writing by the contributors. (FCPC Regulation R2.12.415.3.)

H. When may I stop filing campaign disclosure statements?

An officeholder may NOT terminate her/his filing obligations while still in office. A candidate or recipient committee who is inactive (i.e., neither receiving contributions nor making expenditures and having no expectations of doing so in the future) may terminate Form 460 filing obligations if there are no surplus funds, no outstanding loans or unpaid bills (or there is inability to discharge any debt), and all required campaign disclosure statements have been filed. After closing the committee, the officeholder would instead file the short Form 470.

I. Must I file campaign disclosure statements in Berkeley if I support a county or state candidate or measure only?

No. Only committees and candidates supporting or opposing Berkeley candidates and/or measures need to file in accordance with Berkeley law.

J. What happens if a candidate or treasurer is not available to sign a campaign statement in time to meet the filing deadline?

An agent of the candidate or treasurer may sign the campaign statement and attach a note to the effect that as soon as the candidate or treasurer becomes available, she/he will verify and sign the statement, and that an amendment bearing the proper signature of the candidate or treasurer will be filed as soon as possible.

K. When is itemization required on a campaign disclosure statement?

Each campaign statement must contain the total amount of all receipts and expenditures during the period covered and the total cumulative amount to date. In addition, all cumulative contributions of \$50 or more from a single source must be itemized, giving the name, address, occupation and employer of each contributor as well as the date and amount of contributions. If the contributor is self-employed, the campaign statement must include the name of the business, pursuant to State law, as well as the principal place of business (i.e., the city), pursuant to BERA Section 2.12.280.G. And, all expenditures of \$50 or more during the period must be itemized, giving the name and address of the person from whom the goods or services were obtained and a brief description of the goods or services received for the expenditure.

L. If a candidate chooses to create a committee, can she/he designate her/himself as treasurer?

Yes. A candidate may be her or his own committee treasurer.

M. Does volunteer work in support of or in opposition to a candidate or measure constitute a reportable contribution?

No. The term “contribution” does not include a gift of service or labor to the candidate, officeholder or committee. However, if an employer donates the services of one of his/her employees to the campaign, this is considered a nonmonetary contribution if the

employee dedicates more than 10% of his/her compensated time to the campaign in a calendar month.

IX. SPECIAL CONSIDERATIONS

A. Loans

Loans are considered contributions but require special treatment under the law. (BERA § 2.12.100.) Loans have special disclosure requirements. The filer must report all loans made or received during the reporting period. Loans are reported on separate schedules (A, B, or H), which require disclosure of the name, address and occupation of the lender or recipient, and the interest rate, due date, amount and cumulative amount of all loans from the same lender or recipient.

Loans that are forgiven by the lender or repaid by a third party must be reported on Schedule A and Schedule B of State Form 460. Furthermore, officeholders, candidates and committees must report the status of all loans made or received on Schedule B (when campaign disclosure statements are due) until repaid or forgiven. **As loans are considered contributions, loans to a candidate committee, other than from the candidate's own personal funds, are subject to the \$250 contribution limit.**

B. Recall Elections

Candidate recall measures are subject to the \$250 contribution limitation as well as the prohibition on certain organization and business entity contributions.

C. Special Candidate Elections

The \$250 contribution limitation applies to special candidate elections (including recall measures), which are held during the period between the general municipal elections. The cumulative period for these elections ends on the closing date of the post-election statement. The City Clerk will make available the filing schedule for special elections.

D. Mass Mailings

"Mass mailing" means 200 or more identical or nearly identical pieces of mail sent within a calendar month, but does not include a form letter or other mail which is sent in response to a request, letter or other inquiry. (BERA § 2.12.150; FCPC Reg. R2.12.325.1(a).)

Berkeley law requires that a copy of every mass mailing shall be sent to the Commission. This requirement shall be deemed met either (1) by hand-delivering both the mass mailing certification form and three copies of the mass mailing to the City Clerk within one day after the day the mass mailing was first placed in the U.S. Mail or (2) by depositing in the U.S. Mail both the mass mailing certification form and three copies of the mass mailing addressed to the City Clerk's Office on the same day as the first pieces are deposited in the U.S. Mail. (BERA § 2.12.325; FCPC Regs. R2.12.325.1, R2.12.325.2.)

In addition, State law requires that mass mailings include the name and address of the sender. (Gov. Code § 84305.) Please consult the State FPPC (see Appendix B) for other State law requirements regarding mass mailings.

E. Contributions To Prior Cumulative Period To Help Retire A Campaign Debt

A candidate for elective office who has not received \$250 from a particular contributor for the most recent election may receive a contribution from that contributor for other than the current cumulative period. However, the candidate may do so only as necessary to retire a debt from a previous cumulative period. Furthermore, such additional contributions may not be accepted after the end of the second semi-annual filing period (i.e., December 31st) in the next even-numbered year following such election. For example, campaign debts for the November 2006 election must be retired no later than December 31, 2008.

Candidates should specify the election to which such a contribution is allocated in the “Per Election to Date” column in Schedule A of State Form 460.

F. Unpaid Bills

Payments for goods or services are considered expenditures and are thus not restricted by the \$250 per candidate contribution limitation. Unpaid bills must be listed on Schedule F (Accrued Expenses) of State Form 460 until repaid.

However, if bills are not paid within a reasonable period (45 to 60 days), they are considered extensions of credit. (See FCPC Regulations, R.2.12.100.) Unless an exception applies, the extension of credit becomes a contribution as defined under BMC Section 2.12.100 and is subject to the contribution cap and contribution source limits of BMC Section 2.12.415 and BMC Section 2.12.440. (See Chapter VI, Section 14 for a more detailed discussion of this topic.)

G. Fundraisers

If an individual holds a fundraiser for a candidate or committee, the candidate or committee must report it as an in-kind contribution to the extent that the personal or real property used or the value of food or beverages served exceeds \$50.

Persons who volunteer their services at the fundraiser need not have the value of their services reported.

A candidate or committee holding a fundraiser must report the money spent as an expenditure.

H. Redesignation Of Campaign Funds For A Future Election

If a defeated candidate or individual leaving office wishes to use funds raised during a campaign for a future election, they may do so but must redesignate the funds before they

become surplus. Funds will become surplus at the end of the post-election reporting period following the defeat of a candidate for elective office, or upon an individual leaving office, whichever occurs last. (Gov. Code § 89519[a].)

Defeated candidates or individuals leaving office wishing to redesignate funds for a future election under FCPC Regulation R2.12.250 have different obligations depending on whether the redesignation is to the same or a different elective office. (See Chapter VI, Section 13 for a detailed discussion of this topic.)

I. Payments By An Agent Or Independent Contractor

Under State law, payments made by an agent or independent contractor on behalf of a campaign committee become non-monetary contributions to the committee if not reimbursed within 45 days. (2 Cal.Code.Reg. § 18526.) BERA Sections 2.12.415 and 2.12.440 respectively limit candidate contributions to \$250 and prohibit business entities from contributing to candidates. Accordingly, any payment made on behalf of a candidate committee by a business entity in excess of \$250 that was not reimbursed within 45 days would constitute a violation of both BERA Sections 2.12.415 and 2.12.440.

J. Reporting Credit And Debit Card Contributions

For credit card and debit card transactions, the entire amount charged to a contributor's credit card is the amount of the contribution. Any service fee charged or retained by the company processing the credit or debit payment is considered an expenditure and must be separately reported by the committee as an expenditure which is incurred at the time the fees are deducted or charged.

For debit or credit card contributions received by electronic transaction (i.e. over the Internet), report the date the committee received or had control of the credit/debit account information, or the funds, whichever is earlier, as the date the committee received the contribution. However, if the committee utilizes an online company (such as PayPal) to process credit card and debit card contributions, the date that the online company obtains possession or control of either the payment information or the funds, whichever is earlier, is considered the date that the committee received the contribution for reporting purposes. (2 Cal.Code Reg. § 18421.1(f).)

APPENDIX A

DIFFERENCES BETWEEN BERA AND CALIFORNIA POLITICAL REFORM ACT

Outlined below are some of the differences between the Berkeley Election Reform Act of 1974 and the California Political Reform Act of 1974.

	BERKELEY	STATE
MAXIMUM CONTRIBUTION		
Individuals to a candidate or her/his committee	\$250 maximum	Not applicable to local candidates
Individuals to a noncandidate-controlled committee that supports or opposes a Berkeley candidate (does not include ballot measure committees)	\$250 maximum	Not applicable to local candidates
Cash contributions	\$50 or more must be by written instrument	\$100 or more must be by written instrument
DISCLOSURE REQUIREMENTS		
Contributor's name, address, and employer must be itemized	\$50 or more	\$100 or more
In-kind contribution must be itemized	\$50 or more	\$100 or more
Campaign expenditures must be itemized	\$50 of more	\$100 or more
Late contribution reports	\$100-\$999 within 48 hours; \$1000 or more within 24 hours	\$1000 or more within 24 hours
Late independent expenditure reports	Last 40 days before election; file three copies of communication funded by independent expenditure	\$1000 or more within 24 hours during last 16 days before election
Independent expenditure report required	\$250 or more is spent	\$1000 or more is spent
Anonymous contributions prohibited	\$50 or more	\$100 or more
Ballot measures	All committees making expenditures of \$250 or more for or against ballot measure file quarterly	Only ballot measure committees file quarterly
CERTAIN ORGANIZATION AND BUSINESS ENTITY CONTRIBUTIONS		
To candidate or her or his committee	Prohibited	No prohibition
To ballot measure committees	No prohibition	No prohibition

APPENDIX A

DIFFERENCES BETWEEN BERA AND CALIFORNIA POLITICAL REFORM ACT

	BERKELEY	STATE
MASS MAILINGS		
Copy filed with filing officer	Copies must be filed with City Clerk one day after mailing or dropped in mail on same day it was mailed and must be accompanied by a mass mailing certification	Not applicable
DEFINITIONS		
Committee	Any person or combination of persons including ongoing membership organizations, which receives contributions or makes expenditures of \$250 or more in a calendar year for the purpose of influencing votes in support of or in opposition to any ballot measure or candidate for Berkeley office	Any person or combination of persons who directly or individually does any of the following: (1) receives contributions totaling \$1000 or more in a calendar year; (2) makes independent expenditures totaling \$1000 or more in a calendar year; or (3) makes a contribution totaling \$10,000 or more in a year or at the behest of candidates or committees
In-kind contributions	Includes a gift, loan, advance, deposit, forgiveness of a debt, or promise of money or anything of value received by a candidate or committee for the purpose of influencing votes. It also includes the purchase of tickets for fundraising events, discounts for vendors, transfers of money, goods or services for other committees, including controlled committees	Includes the purchase of tickets for events; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for personal services or expenses of any other person if such services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration, the transfer of anything of value received by a committee, unless full and adequate consideration is received

APPENDIX B

RESOURCE DIRECTORY

I. LOCAL

- A. FAIR CAMPAIGN PRACTICES COMMISSION (FCPC)
2180 Milvia Street, Fourth Floor
Berkeley, CA 94704
(510) 981-6998
FCPC@CityofBerkeley.info
<http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=12688>
- B. CITY CLERK
2180 Milvia Street, First Floor
Berkeley, CA 94704
(510) 981-6900
elections@cityofberkeley.info
<http://www.cityofberkeley.info/clerk>

II. STATE

- A. FAIR POLITICAL PRACTICES COMMISSION (FPPC)
428 J Street, Suite 800
Sacramento, CA 95814
(866) ASK-FPPC (275-3772) - Technical Assistance Division
www.fppc.ca.gov
- B. CALIFORNIA SECRETARY OF STATE
1500 11th Street
Sacramento, CA 95814
<http://www.sos.ca.gov/>
- a) ELECTIONS DIVISION - (916) 657-2166
b) CORPORATIONS UNIT- (916) 657-5448
c) POLITICAL REFORM DIVISION - (916) 653-6224
State Filing Number and Campaign Statements
- C. FRANCHISE TAX BOARD
1515 Clay Street, Suite 305
Oakland, CA 94612-1431
(800) 852-5711
www.ftb.ca.gov

APPENDIX B

RESOURCE DIRECTORY

III. FEDERAL

A. INTERNAL REVENUE SERVICE

1301 Clay Street
Oakland, CA 94612
(510) 637-2487
www.irs.gov

B. FEDERAL ELECTION COMMISSION

999 E Street - Northwest
Washington, D.C. 20463
(800) 424-9530
www.fec.gov

APPENDIX C

ESSENTIAL CHECKLIST FOR COMPLIANCE WITH BERA

1) Must I file?

YES, if you are a:

- a) Berkeley officeholder
- b) Candidate for Berkeley municipal election
- c) Committee

2) When must I file?

Consult Chapter IV, "When Must Campaign Statements Be Filed?"

Semi-annually if you are a candidate, committee or officeholder, until a statement of termination has been filed.

More frequently if you are supporting or opposing candidates or measures in the upcoming election.

3) What forms must I file?

Check the list of forms that appears in Appendix D, "Filling Out the Campaign Disclosure Forms." Mark which forms apply to your situation. If you are the treasurer of a committee, be sure to determine what type of committee you are as this affects which forms are required to be filed. See Chapter III, "Who Must File?" for definitions of committee types. For further assistance, contact the City Clerk's Office at (510) 981-6900 or FCPC staff at (510) 981-6998.

4) Where do I get the forms I need to file?

Pick up the forms from the City Clerk on the first floor at 2180 Milvia Street in Berkeley. All committees may now file their campaign reports online. For more information about electronic filing, please contact the City Clerk.

5) Are my forms correctly filled out?

- a) Forms must be reproducible, i.e., legibly printed in black ink or typewritten.
- b) One original and one legible copy of each form must be submitted.
- c) Forms must be verified, i.e., signed under penalty of perjury as true, complete and prepared with due diligence.

APPENDIX C

ESSENTIAL CHECKLIST FOR COMPLIANCE WITH BERA

- d) Signatures appear where required.
- e) Dated.
- f) Filing period covered must be specified.
- g) Mailing addresses must be accurate and complete.
- h) You have reported all contributions.
- i) You have reported all expenditures.
- j) You have itemized all contributions of \$50 or more by reporting:
 - Date of contribution
 - Amount of contribution
 - Name and address of contributor
 - Occupation and employer of contributor, or, if self-employed, name of business if applicable and principal place of business (i.e., city)
 - Type of contribution
- k) You have itemized all expenditures of \$50 or more by reporting:
 - Description of goods or services
 - Date of payments
 - Amount of payments
 - Name of payees
 - Address of persons providing goods or services if different from payee.
- l) All expenditures have been allocated to candidates and/or measures supported or opposed by the officeholder, candidate or committee.

APPENDIX C

ESSENTIAL CHECKLIST FOR COMPLIANCE WITH BERA

6) \$250 Contribution Limit

No person (other than a candidate contributing to her/his own campaign) may contribute more than \$250 within the cumulative election period to a single candidate with respect to a single Berkeley election.

7) Contribution Prohibitions

No direct or indirect contributions from certain designated organizations and business entities may be accepted by a candidate or committee supporting or opposing a candidate for Berkeley municipal election.

8) Record-Keeping Requirements

Check each item below to be sure that you have abided by the record-keeping requirements:

- a) Personal funds have not been commingled with campaign funds.
- b) Your campaign checking account is located in Alameda County.
- c) Complete and accurate records of all campaign receipts and expenditures are available on request, including miscellaneous receipts of \$25 or more (e.g., interest from savings) and miscellaneous documents (e.g., loan agreements, designations of campaign contributions, etc.)
- d) Municipal campaign monies are kept separate from non-municipal campaign monies.
- e) Records of all contributions contain:
 - Date and amount of contribution
 - Type of contribution (i.e., monetary, in-kind contribution, etc.)
 - Name and address of contributor
- f) Records of contributions of \$50 or more contain:
 - Date and amount of contribution
 - Type of contribution (i.e., monetary, in-kind contribution, etc.)
 - Name, address and occupation of contributor

APPENDIX C

ESSENTIAL CHECKLIST FOR COMPLIANCE WITH BERA

Name of contributor's employer

g) Records of all expenditures include:

Date and amount of payment

Name of payee

Description of item or service procured

h) Records of expenditures of \$50 or more include:

Date and amount of payment

Name of payee

Description of item or service procured

Address of person or vendor providing goods or services if different from payee

9) Late Contributions

A late contribution means any contribution as defined in BMC Section 2.12.145 and received **before** the election at which the candidate or measure for which the contribution is intended is to be voted on. A late contribution report must therefore be filed even if the filing deadline falls on or after Election Day.

Late contributions of \$100-\$999 must be reported within 48 hours of receipt of donation, unless the deadline falls on a Saturday, Sunday, or holiday in which case the report shall be deemed timely filed if received by the following business day.

Late contributions of \$1,000 or more must be reported within 24 hours of receipt of donation. Late contributions must again be disclosed on the next campaign statement.

10) Late Independent Expenditures

A late independent expenditure means any independent expenditure that is \$1000 or more in support of or opposition to a measure or candidate, or group of measures or candidates, **during the last 40 days** before the candidate(s) or measures(s) appear on the ballot. Notice must be filed with the City Clerk within 24 hours of the expenditure. The notice must be filed either by personal delivery, overnight mail, or fax. (BERA § 2.12.297)

APPENDIX C

ESSENTIAL CHECKLIST FOR COMPLIANCE WITH BERA

In addition to the Form 496, **three copies** of the communication funded by the independent expenditure must be provided to the City Clerk. Late independent expenditures are also disclosed on the next campaign statement.

11) Mass Mailings

“Mass mailing” means 200 or more identical or nearly identical pieces of mail sent within a calendar month, but does not include a form letter or other mail which is sent in response to a request, letter or other inquiry. (BERA § 2.12.150; FCPC Reg. R2.12.325.1(a).)

Berkeley law requires that a copy of every mass mailing shall be sent to the Commission. This requirement shall be deemed met either (1) by hand-delivering both the mass mailing certification form and three copies of the mass mailing to the City Clerk within one day after the day the mass mailing was first placed in the U.S. Mail or (2) by depositing both the mass mailing certification form and three copies of the mass mailing addressed to the City Clerk's Office in the U.S. Mail on the same day as the first pieces are deposited in the U.S. Mail. (BERA § 2.12.325; FCPC Regs. R2.12.325.1, R2.12.325.2.)

In addition, State law requires that mass mailings include the name and address of the sender. (Gov. Code § 84305.) Please consult the State FPPC (see Appendix B) for other State law requirements regarding mass mailings. Please also refer to FCPC Regulation R2.12.325.2 for further information regarding the filing of mass mailings with the City Clerk.

12) Changes In Filer's Address, Telephone Number Or Treasurer

Any changes in the candidate's, officeholder's or committee's address, telephone number or treasurer require amendment of the Form 410. An Amended Form 410 must be filed with the Secretary of State (original) and City Clerk's Office (copy) within 10 days of such a change.

APPENDIX D

FILLING OUT THE CAMPAIGN DISCLOSURE FORMS

A. Choosing The Correct Forms

With the exception of the “City of Berkeley Statement of Organization” form, Berkeley uses State campaign disclosure forms, but provides a FACT SHEET for quick reference to highlight Berkeley laws.

Please be aware that while Berkeley uses State forms, Berkeley's disclosure requirements may be more strict than the State's. For this reason, it is important that you consult the definitions provided in the Fair Campaign Practices Commission Campaign Filing Manual and be sure you use only the forms provided to you by the City Clerk (or downloaded from the State FPPC website). NOTE: When using the downloaded FPPC forms, please be sure to fill the forms out in consultation with the Berkeley Fact Sheet because Berkeley law differs in some respects from California law.

All forms can be picked up from and returned to the City Clerk at 2180 Milvia Street on the first floor. In addition, committees may now file their campaign reports online. For more information about electronic filing, please contact the City Clerk.

The following is a summary of the forms to be used by Berkeley officeholders, candidates and committees. It is recommended that you read the summary of each form listed below and check which forms you and/or your committee will need to file.

1. Candidates and Officeholders

a. Candidate and Officeholder Campaign Statement-Short Form (Form 470)

For use by candidates and officeholders who do not have a controlled committee and who have NOT raised or spent, or who do NOT ANTICIPATE raising or spending \$250 or more in a calendar year. NOTE: Unless otherwise required to complete and file Form 460, candidates and officeholders must continue to file Form 470 until their candidacy or officeholder status is terminated.

b. Officeholder and Candidate-Form 470 Supplement

An officeholder or candidate who has filed Form 470 in connection with an election and subsequently receives contributions (including monetary and non-monetary contributions, loans and the candidate's personal funds) totaling \$250 or more or makes expenditures totaling \$250 or more is required to send written notification within 48 hours of receipt of the contribution or making the expenditure. The Form 470 Supplement may be used as the written notification.

APPENDIX D

FILLING OUT THE CAMPAIGN DISCLOSURE FORMS

c. Candidate, Officeholder and Controlled Committee Campaign Statement-Long Form (Form 460)

For use by candidates and officeholders who have raised or spent, or who ANTICIPATE raising or spending, \$250 or more in a calendar year. (This differs from the State's \$1,000 threshold.) NOTE: Once a Form 460 has been filed, the candidates and officeholders must continue to file this form until their committee has been terminated by filing Form 410.

i. Campaign Disclosure Statement Summary Page and Accompanying Schedules A-I

The Summary Page summarizes the information disclosed in the accompanying schedules.

Please note that not all schedules may apply to your situation. It is not necessary to attach a blank schedule if there has been no reportable activity during the period, but it is necessary to enter a zero in the appropriate space on the Summary Page.

The Schedules are:

- A - Monetary Contributions Received
- B - Loans Received
- C - Non-Monetary Contributions Received
- D - Summary of Expenditures Supporting/Opposing Other Candidates, Measures, and Committees
- E - Payments Made
- F - Accrued Expenses (Unpaid Bills)
- G - Payments Made by an Agent or Independent Contractor
- H - Loans Made to Others
- I - Miscellaneous Increases to Cash

d. Amendment to Campaign Disclosure Statement

Amendments to campaign disclosure statements should be accomplished by using the same form that one is amending, and checking the

APPENDIX D

FILLING OUT THE CAMPAIGN DISCLOSURE FORMS

“amendment” box on the first page, noting the particular Schedule(s) being amended and attaching each amended form and/or Schedule.

e. Termination (Form 410)

For use by candidates whose recipient committees are no longer active. Recipient committees do not automatically terminate and may only terminate under the following circumstances:

- They have ceased to receive contributions or make expenditures and do not anticipate receiving contributions or making expenditures in the future; and
- They have eliminated or have declared that they have no intention or ability to discharge all their debts, loans received and other obligations; and
- They have no surplus funds; and
- They have filed all required campaign statements disclosing all reportable transactions.

Form 460 must also be filed showing that all funds have been expended and the committee has no cash on hand.

If, after filing a Form 410 to terminate a recipient committee, a recipient committee resumes raising or spending funds or receives the forgiveness of a loan, additional filing obligations will be incurred. The original Form 410 must be filed with the Secretary of State, with a copy filed with the City Clerk.

f. Late Contribution Report (Form 497)

For use by candidates and committees receiving or making a contribution of \$100 or more before the election and after the closing date of the last campaign statement required to be filed prior to an election. Late contributions of \$100 to \$999 from a single source must be reported within 48 hours. Late contributions of \$1,000 or more must be reported within 24 hours.

Reports may be personally delivered, sent by the U.S. Postal Service guaranteed overnight delivery service, or delivered by fax but NOT by regular mail. **Note that the candidate or committee is responsible for ensuring the filing was received by the City Clerk’s Office.**

APPENDIX D

FILLING OUT THE CAMPAIGN DISCLOSURE FORMS

Committees should check with the City Clerk by telephone or the City of Berkeley Electronic Filing System to confirm receipt of a late contribution report.

A late contribution report must be filed even if the filing deadline falls on or after Election Day.

Late contributions are to be reported again on the next campaign disclosure statement.

g. Independent Expenditure and Major Donor Committee Campaign Statement (Form 461)

For use by Independent Expenditure Committees making independent expenditures totaling \$1000 or more in a calendar year, and Major Donor Committees making monetary and non-monetary contributions to officeholders, candidates and committees totaling \$10,000 in a calendar year.

h. Supplemental Independent Expenditure Report (Form 465)

For use by any person or organization which does not fall within the definition of Government Code section 82013 (b) and (c), and makes an independent expenditure totaling \$250 or more during the period covered by a campaign statement to support or oppose a single Berkeley candidate or measure, or the qualification of a single Berkeley measure.¹ However, candidate committees may not make independent expenditures to support or oppose a candidate.

This form is also for use by committees, candidates and officeholders making independent expenditures of \$1000 or more and is filed at the same time the candidates or committee being supported or opposed by the independent expenditure files.

i. Supplemental Pre-Election Campaign Statement (Form 495)

For use by officeholders, candidates and recipient committees as an attachment to a campaign disclosure statement (Forms 450 or 460) if the officeholder, candidate or committee makes contributions totaling \$10,000 or more to any number of candidates or measures being voted upon in one jurisdiction on the same day in the period beginning six months prior to the election and ending 17 days before the election, and if the filer is not required to file pre-election statements in connection with that election.

¹ Government Code Section 82013 (b) and (c) respectively define a committee as one that makes independent expenditures of \$1000 or more in a calendar year, or makes contributions of \$10,000 or more in a calendar year to or at the behest of candidates or committees.

APPENDIX D

FILLING OUT THE CAMPAIGN DISCLOSURE FORMS

j. Late Independent Expenditure Form (Form 496)

For use by candidates and committees making independent expenditures of \$1,000 or more during the last 40 days before the election. (Note that state law does not allow candidates to make independent expenditures for or against other candidates.)

2. Committees

a. Statement of Organization (City of Berkeley Form and State Form 410)

For use by committees within 10 days after they are formed. Under Berkeley law, a committee is "formed" after it has raised or spent \$250 or more. (BMC § 2.12.095.)

Please note that the State requires the filing of a separate Statement of Organization (State Form 410), which must be filed directly with the Secretary of State with a copy to the City Clerk within 10 days of the receipt of \$1,000 or more.

The State has also imposed name identification requirements on sponsored committees and committees that are primarily formed to support or oppose ballot measures. Consult the State Filing Manual for more information or the Fair Political Practices Commission for further assistance.

b. Amended Statement of Organization (City of Berkeley Form and State Form 410)

Any changes to the information provided on the Statement of Organization must be reported **within 10 days** on the same form with "AMENDMENT" clearly designated at the top of the City of Berkeley form. The State Form 410 has an "Amendment" box that must be checked to designate amendments.

c. Recipient Committee Campaign Statement - Long Form (Form 460)

For use by committees which anticipate spending or receiving more than \$250 per year and contributions of \$50 or more from a single source during the period covered by the campaign statement. (This differs from the State's \$100 threshold.)

APPENDIX D

FILLING OUT THE CAMPAIGN DISCLOSURE FORMS

d. Recipient Committee Campaign Statement - Short Form (Form 450)

For use by committees which have not received \$50 or more from a single source during the period covered by the campaign statement and which have no unpaid bills, outstanding loans or unpaid pledges.

e. Semi-Annual Statement of No Activity (Form 425)

For use by recipient committees who are not controlled and which have not received any contributions nor made any expenditures during the period covered by the semi-annual campaign statement.

f. Candidate, Officeholder and Controlled Committee Campaign Statement (Form 460)

For use by officeholders, candidates and committees controlled by officeholders or candidates.

g. Campaign Disclosure Statement Summary Page and Accompanying Schedules A - I

For use with Form 460. (See this Appendix, Section A.1.c for further detail.)

h. Late Contribution Report (Form 497)

For use by candidates and committees receiving or making a contribution of \$100 or more before the election and after the closing date of the last campaign statement required to be filed prior to the election. See this Appendix Section A.1.g for further requirements and detail.

i. Supplemental Independent Expenditure Report (Form 465)

For use by any person or organization which does not fall within the definition of Government Code Section 82013 (b) and (c), and makes an independent expenditure totaling \$250 or more during the period covered by a campaign statement to support or oppose a single Berkeley candidate or measure, or the qualification of a single Berkeley measure.²

This form is also for use by committees, candidates and officeholders making independent expenditures of \$1000 or more and is filed at the

² Government Code Section 82013 (b) and (c) respectively define a committee as one that makes independent expenditures of \$1000 or more in a calendar year, or makes contributions of \$10,000 or more in a calendar year to or at the behest of candidates or committees.

APPENDIX D

FILLING OUT THE CAMPAIGN DISCLOSURE FORMS

same time the candidates or committee being supported or opposed by the independent expenditure files.

j. Supplemental Pre-Election Campaign Statement (Form 495)

For use by officeholders, candidates and recipient committees as an attachment to a campaign disclosure statement (Forms 450 or 460) if the officeholder, candidate or committee makes contributions totaling \$10,000 or more to any number of candidates or measures being voted upon in one jurisdiction on the same day in the period beginning six months prior to the election and ending 17 days before the election, and if the filer is not required to file pre-election statements in connection with that election.

k. Termination of Committee (Form 410)

For use by recipient committees which are no longer active and have disbursed all surplus funds. Recipient committees may only terminate under certain circumstances. See this Appendix Section A.1.e. for requirements and further detail.

l. Late Independent Expenditure Form (Form 496)

For use by candidates and committees making independent expenditures of \$1,000 or more during the last 40 days before the election.

B. Completing The Forms

The instructions for completing the State forms that Berkeley uses are attached to the forms available from the City Clerk's office. However, we recommend that you consult the BERA Fact Sheet and this Manual before completing the forms to ensure that you understand the major substantive differences between Berkeley's campaign disclosure laws and the State's. Most notable of these differences is that Berkeley prohibits direct or indirect contributions from certain organizations and business entities that support or oppose a Berkeley candidate. Another primary difference is that no person may contribute more than \$250 to a Berkeley candidate within any two-year general election period.

Also, many of the State forms are now interactive. Consult the State FPPC web site for details at www.fppc.ca.gov. In addition, all committees may now file their campaign reports online. Filers enter their financial transactions into an online database and use the electronic filing system to generate the campaign forms in the proper format. For more information about electronic filing, please contact the City Clerk.

APPENDIX D

FILLING OUT THE CAMPAIGN DISCLOSURE FORMS

FILERS ARE ALSO RESPONSIBLE FOR THE FOLLOWING:

- All forms must be suitable for reproduction.
- The original forms with original signature, date and verification must be turned in.
- The correct filing period must be designated.

This means that all forms must be signed under penalty of perjury, that the signer must use all reasonable diligence in their preparation, and to the best of her/his knowledge, the signer must verify that all dates and statements appearing on the forms are true and complete.

A report filed by a committee must be signed and verified by its treasurer. Controlled committees must have their forms and statements signed and verified by the candidates who control them.