



DAVID CHIU  
City Attorney

## MEMORANDUM

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

FROM: DAVID CHIU, City Attorney

DATE: February 1, 2024

RE: Political Activity by City Officers and Employees

---

As we typically do every election year, the City Attorney's Office is providing this memorandum to remind you of and outline the basic legal rules restricting political activities by City commissions, departments, officers, and employees. In this memorandum we update and replace previous memoranda that we have issued on this topic. A further overview of political activity restrictions and other laws governing the conduct of City officers and employees is available in the Good Government Guide posted on the Good Government section of our [website](#). There is also information about political activities by City officers and employees on the Ethics Commission's [website](#).

This memorandum is a general guide to the rules regarding political activity and is not a substitute for legal advice. Please contact the City Attorney's Office or the Ethics Commission in advance with any questions related to participation in political activities.

As we discuss further below, the penalties for violating these rules can be significant. Notably, on August 20, 2020, the California Fair Political Practices Commission ("FPPC") entered a \$1.35 million settlement with Los Angeles County for violating political activity rules. Los Angeles County violated some of the rules described below by hiring a campaign consultant and distributing political advertisements to support a pending tax measure. More recently, in November 2023, the FPPC entered into a \$35,000 settlement with the City of Campbell for using public funds to pay for campaign advertisements and mailers regarding local ballot measures, among other violations. These examples highlight the importance of ensuring that neither you nor your staff are violating state or local political activity rules.

### SUMMARY

In this memorandum we address the most common legal issues that usually arise before elections. We answer frequently asked questions in seven areas:

**1. Use of City Resources:** No one—including City officers and employees and City volunteers and contractors—may use City resources to advocate for or against candidates or ballot measures. City resources include, without limitation, City employees' work time, City computers, City e-mail systems and City-owned or controlled property. Also, City commissions, departments, and advisory committees may not advocate for or endorse measures or candidates. But they may use City resources to analyze and provide information about the effects of proposed ballot measures on City operations, as long as the analysis is objective and avoids campaign slogans and other language typically associated with campaign literature.

## Memorandum

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 2

RE: Political Activity by City Officers and Employees

---

**2. Off-Duty Political Activity:** As a general rule, City officers and employees may support or oppose candidates and ballot measures in their personal capacities, while off duty and outside of City-owned or controlled property. City officers and employees may reference their City titles in campaign communications supporting their own candidacies. City officers and employees may also refer to their City titles in campaign materials (printed or electronic) endorsing other local candidates and ballot measures. In such instances, the City Attorney's Office recommends that a City officer or employee include an explicit notation stating that the reference to their City title is "for identification purposes only." But City officers and employees may not solicit political contributions from other City officers and employees, even while off duty.

**3. Mass Mailings Using City Funds:** With limited exceptions, the City may not prepare or send more than 200 pieces of similar mail featuring the name or image of a City elected official.

**4. Campaign Contributions To Elected Officials From City Contractors:** A City elected official may not solicit or accept campaign contributions from any person or entity seeking to enter a contract or grant worth \$100,000 or more with the City, if the contract or grant is subject to the elected official's approval or the approval of one of their appointees to the board of certain state agencies. This restriction applies from the submission of a contract proposal until either the negotiations are terminated (and no contract is awarded or no grant is approved), or 12 months have elapsed since the contract or grant approval. The restriction also extends to contributions from the party seeking the contract or grant and that party's directors, executives and owners, as well as any subcontractors listed in the contract or bid. Guidance for City contractors concerning these requirements is also available on the Ethics Commission's [website](#).

**5. Campaign Contributions To Certain Elected Officials From Persons With Financial Interests In Pending Land Use Matters:** The Mayor, the City Attorney, and members of the Board of Supervisors may not solicit or accept campaign contributions from any person with a financial interest in a land use matter pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure (also known as the Successor Agency Commission), Historic Preservation Commission, Planning Commission, Port Commission, or Treasure Island Development Authority Board of Directors. This prohibition applies from the commencement of a land use matter until 12 months after the City has made a final decision.

**6. Campaign Contributions Solicited Or Accepted By Elected and Appointed Officials From Persons Involved in Proceedings Pending Before the Officials:** Elected and appointed City officials, including department heads and members of boards and commissions, may not solicit political contributions over \$250 from anyone appearing before them in pending proceedings. Such matters include proceedings regarding conditional use permits, rezoning of property parcels, zoning variances, tentative subdivision and parcel maps, building and development permits, and some contract approvals. Also, elected officials and appointed officials who are running for office may not participate in proceedings where the parties or participants have directly contributed over \$250 to the officials within the 12 months before the proceeding. These restrictions previously applied only to appointed officials, but state legislation that became operational on January 1, 2023 (SB 1439) expanded the scope of the applicable provisions to also cover elected officials.

**Memorandum**

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 3

RE: Political Activity by City Officers and Employees

---

**7. Campaign Contributions From Lobbyists.** Lobbyists may not contribute to the campaign of a City elected official or a candidate for City elective office if the lobbyist is currently registered to lobby the elected official's department or the department for which the candidate is seeking election, or has been registered to lobby such department within the previous 90 days.

**8. Political Activity Restrictions on City Elected Officials and Commissioners:** City elected officials and commissioners cannot ask their subordinate employees to volunteer on any candidate or ballot measure campaigns. Elected officials and commissioners may not give, offer, or promise to give or withhold their vote, influence or official action with respect to any pending matter in exchange for a campaign contribution. Commissioners may not fundraise for their appointing authority, their appointing authority's controlled campaign committees, or any candidates seeking the office held by their appointing authority.

**DISCUSSION****I. Misuse of City Resources**

State law prohibits City officers, employees and anyone else from using City resources to support or oppose a ballot measure or the election or defeat of a candidate at the federal, state, or local level. Local law also prohibits City officers and employees from engaging in political activity during work time, while in uniform, or on City-owned or City-controlled premises.

- **What is a misuse of City resources?**

Any use of City resources or City personnel for political activity is prohibited. This ban prohibits any use of City resource, including without limitation e-mail, telephones, cell phones, copiers, printers, computers, office supplies, vehicles or any other City resources for political purposes. City personnel's time and attention may not be diverted from their City duties for political purposes. Activities that fall within the scope of this ban include, without limitation: addressing envelopes for campaign mailers; circulating ballot petitions; making campaign telephone calls; attending campaign events; or engaging in similar types of campaign activity on City time or on City-owned or City-controlled property that the City does not make available to the general public to use for political purposes (such as a public plaza or sidewalk).

*Example:* On his lunch hour, a City employee uses his City computer to send invitations to a fundraiser for a candidate. The employee has misused City resources by using his City computer for political activity. The fact that he was on his lunch hour or used his personal e-mail account does not excuse this improper use of City resources.

*Example:* A City employee wishes to volunteer with a political campaign on a full-time basis in the weeks leading up to the general election. The employee may use any accrued vacation time, or other approved time-off, while the employee is volunteering for the campaign because an employee's vacation is not "City time" that must be devoted to the employee's official duties.

## Memorandum

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 4

RE: Political Activity by City Officers and Employees

---

*Example:* A City department has been asked to facilitate an event to support a statewide ballot measure that will appear on the ballot at the next election. The City department cannot allow the event to occur on City property that is not made available to the general public for political purposes, such as a public plaza or sidewalk. And City staff may not use any City resources to support the event – including staff time and any City equipment or systems.

The prohibition on using City resources for political activity also means members of City boards, commissions, and advisory committees may not use their meetings to influence elections. As a result, appointed boards, commissions, and advisory committees may not vote to endorse a measure or a candidate. The courts have allowed an exception to this rule for legislative bodies like the Board of Supervisors (the “Board”). The Board, acting as a body, may take a position on behalf of the City on a ballot measure, and the Mayor may take a public position on a measure. But no City officials, including the Mayor and members of the Board, may distribute campaign literature at City events or include campaign literature in official communications to City employees or members of the public.

*Example:* Members of a City commission feel strongly about the merits of a measure appearing on the ballot that relates to matters within their jurisdiction. The commission may not vote on a resolution to support or oppose the ballot measure. The commission may ask staff for information about the impact of the ballot measure on the City, and individual commissioners may support or oppose the measure on their own time using their own resources.

*Example:* Members of a City commission wish to support a bill pending in the state legislature that would further one of the commission’s policies. The commission may urge the Board of Supervisors or the City’s State Legislation Committee to adopt an official position on the pending legislation. Because the legislation is not before the voters, political activity rules do not prohibit the City from supporting it.

- **May City officers and employees analyze a ballot measure’s effects?**

City officers and employees may lawfully use City resources (where budgeted for such a purpose and otherwise authorized) to investigate and evaluate objectively the potential impact of a ballot measure on City operations. The analysis must be available to the public.

*Example:* A City department wants to inform its commission about the potential impacts on the department if a ballot measure passes. If the department has money budgeted for the purpose, the department may research the potential impact of the measure and present objective information to the commission. The analysis must also be available to the public.

## Memorandum

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 5

RE: Political Activity by City Officers and Employees

---

**Example:** As required by the City’s Municipal Elections Code, the Department of Elections asks a City department to analyze a measure for the City’s Ballot Simplification Committee (the “Committee”), the body responsible for preparing the digests that appear in each election’s Voter Information Pamphlet. The department’s written analysis must present objective information and must be available to the public. Employees of the department may also appear at the Committee’s meetings to explain the effect of the measure or to answer the Committee’s questions, but their presentation must remain objective and impartial.

- **May City officers and employees respond to inquiries about a measure?**

City officers and employees may respond to public requests for information, including requests to participate in public discussions about ballot measures, if an officer’s or employee’s statements are limited to an *objective and impartial* presentation of relevant facts to aid the voters in reaching an informed judgment about a measure’s potential effects on the City. All statements must be accurate and fair. But City officers and employees should not participate in any campaign event on City time, even to provide an impartial informational presentation, if the purpose of the event is to support or oppose ballot measures or candidates.

**Example:** A community organization asks a department head to attend the organization’s meeting to provide information about a pending ballot measure. As long as the department head provides impartial and objective information, she can attend the meeting on City time. But if a candidate asks the department head to provide the same information at a campaign fundraiser or a political organization invites the department head to present at a meeting concerning the organization’s potential endorsements, the department head cannot attend on City time. If the community organization wishes to have the “Yes” and “No” sides of the pending ballot measure to be presented at a meeting, the department head can inform the organization who it may contact to present those respective positions.

**Example:** A department directly impacted by a pending ballot measure may post a Frequently Asked Questions page on its website about the measure, so long as the information is impartial and objective. The department may post this information if it expects to receive many inquiries about the measure, and the webpage would provide the public with uniform responses to those questions.

- **May a City department publicize its analysis of a ballot measure?**

If a City department prepares an objective and impartial analysis of a ballot measure, the department should make its analysis public and distribute or publicize it consistent with the department’s regular practice. But the department should not use special methods—such as methods associated with political campaigns—to distribute its analysis.

**Memorandum**

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 6

RE: Political Activity by City Officers and Employees

---

City officers and employees who wish to provide the public with an informational presentation regarding a ballot measure should consult in advance with the City Attorney's Office.

**Example:** If a City department regularly issues a newsletter to interested City residents, it may include an objective and impartial analysis of a pending ballot measure, but the department should not create a special, one-time-only newsletter to distribute its analysis. Similarly, City departments should not increase the frequency of distributing such newsletters as an election approaches.

- **What is an objective and impartial presentation?**

Courts evaluate materials prepared or distributed by a public entity in terms of whether they make a balanced presentation of facts designed to enhance the ability of the voters to exercise intelligently their right to vote, or whether the communications resemble campaign materials for or against a ballot measure. In its analysis of the effect of a proposed measure, a City department should present factual information, avoid one-sided rhetoric or campaign slogans, and not urge a vote in one way or another.

**Example:** A City department wants to prepare a PowerPoint presentation about a ballot measure explaining the department's view that the measure could have a significant negative impact on the department's operations. Any such presentation must be limited to an accurate, fair, and objective presentation of the relevant facts. It should not urge a Yes or No vote, and it should not use campaign slogans or rhetoric.

- **When do these rules apply?**

City measures may be placed on the ballot in three different ways: (1) by the Board acting as a body through majority vote of all of its members at a public meeting; (2) by the Mayor or four or more individual Board members submitting the measure directly; or (3) by the voters submitting an initiative petition with the sufficient number of valid signatures.

- When the Board, acting as a body, considers placing a measure on the ballot, City officers and employees may use City resources to influence the Board's decision on whether to place the measure before the voters, but not to urge voters to vote for or against the measure. After the Board has taken its final vote to place the measure on the ballot, no additional City resources may be used to advocate for or against the measure.
- When the Mayor or four or more individual members of the Board have submitted a measure, the Charter requires the Board to hold a public hearing on the measure. City officers and employees may use City resources at this hearing to explain the effects, advantages or disadvantages of the measure, and to urge the Mayor or individual Board members to withdraw the measure from the

**Memorandum**

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 7

RE: Political Activity by City Officers and Employees

---

ballot, but not to urge voters to vote for or against the measure. In addition to this hearing, City resources may be used to convince Board members or the Mayor to withdraw their support for these measures, until the deadline for such withdrawal has passed. After this deadline, no City resources may be used to advocate for or against the measure.

- A voter may begin circulating a proposed ballot measure for signatures after receipt of a title and summary from the Department of Elections and City Attorney's Office. While the request for a title and summary is pending, City officers and employees may not use City resources to urge voters to support or oppose the potential measure. And once the initiative petition is circulating for signatures, no City resources may be used to advocate for or against it.

- **How do these rules apply to City grantees and contractors?**

Private individuals or entities that receive City grant funding or have other contracts with the City may not use City resources to engage in political activities. A grantee or contractor must ensure that none of the work they complete under a City agreement constitutes political activities. City departments must also ensure the scope of work for any grant or contract does not require the grantee or contractor to engage in political activities. Departments should monitor contractors' and grantees' expenditure of City funds for improper use, particularly grantees engaged in community-related services.

*Example:* A City department has a grant program to fund outreach and education to voters about the voter registration process. The use of City funds for this purpose is permissible. But the grant must not fund advocacy for any particular candidate or ballot measure in any local, state, or federal election, and the grantee may not use City funds to communicate with voters in a way that urges them to support or oppose a particular candidate, ballot measure, or political group. Some 501(c)(3) non-profit organizations that receive City grants also have affiliated 501(c)(4) organizations that engage in political activities, sometimes with staff who overlap between the two organizations. In these circumstances, the department must carefully monitor the grantee's expenditure of City funds to ensure the grantee has not misused City funds for political purposes.

## **II. Off-Duty Political Activities By City Officers and Employees**

City officers and employees have a First Amendment right to engage in political activities while off duty and outside of City-owned or City-controlled property. As a general rule, City officers and employees may take public positions, as private citizens, on candidates or ballot measures. Federal law may also restrict the political activities of local employees whose principal employment involves a federally-funded activity. The City also restricts the off-duty

## Memorandum

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 8

RE: Political Activity by City Officers and Employees

---

political activities of certain officers and employees, including the Ethics Commission and Election Commission and their employees, and the City Attorney. Finally, local law imposes some off-duty restrictions on all City officers and employees.

- **May City officers and employees use their official titles in campaign communications?**

As long as they are not otherwise using City resources to do so, City officers and employees may use their official title in campaign communications in support of their own election or re-election. But if they use their titles in endorsing other local candidates or ballot measures, it must be clear that the City officers or employees are making the communications in their personal capacity and are using their titles for identification purposes only. For example, the City Attorney's Office recommends that City officers and employees include in electronic and printed campaign materials an explicit notation stating that any reference to their City titles are "for identification purposes only."

- **May City officers and employees solicit campaign contributions from other City officers and employees?**

No. City officers and employees may not directly or indirectly solicit campaign contributions from other City officers or employees or from persons on City employment lists. A City officer or employee can request campaign contributions from other City officers or employees only if the request is part of a solicitation made to a significant segment of the public that may include officers or employees of the City. If the City officer or employee is aware that a distribution list includes other City officers or employees, the officer or employee should make reasonable efforts to remove those individuals from that distribution list, even if they are being contacted through a non-City, personal e-mail address. In no event can the requestor use City resources in making any solicitation.

*Example:* After work, a City employee sends an e-mail to her coworkers—from her personal e-mail account to the coworkers' personal e-mail accounts—soliciting contributions to a candidate for local office. Even though the employee used no City resources, the solicitation is not lawful because she solicited political contributions from other City employees.

*Example:* The same City employee sends an invitation to a fundraiser to a list of all graduates from the local college she attended. A number of City employees, who also happened to attend that college, receive invitations. Although the officer sent the solicitation to some City employees, the solicitation is lawful because it was made to a significant segment of the public that included some City employees. But this City employee should make reasonable efforts to delete or remove those other City employees from the distribution list.

- **May City officers and employees engage in political activities on City premises?**

City officers and employees may not participate in political activities of any kind while on City-owned or City-controlled property, other than property that the City makes available to



**Memorandum**

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 9

RE: Political Activity by City Officers and Employees

---

the general public to use for political purposes (such as a public plaza or sidewalk), whether or not they are off-duty at the time.

*Example:* A City employee seeks endorsements for the employee's candidacy for a political party's central committee in the hallway of her City department's office. This activity violates the ban on political activity on City premises because it is being done inside City property that is not available to the general public for political purposes.

• **May City officers and employees engage in political activities while in uniform?**

No. City officers and employees may not participate in political activities of any kind while in uniform. City officers or employees are in uniform any time they are wearing all or any part of a uniform that they are required or authorized to wear when engaged in official duties.

**III. Mass Mailings at Public Expense**

In addition to the general prohibition against using City resources or personnel to engage in political activity, a City official or employee cannot use City funds to print or send non-political newsletters or mass mailings that feature or make reference to an elected official. A non-political newsletter or mass mailing is prohibited if all of the following four requirements are met:

- **Sent or delivered.** The item is sent or delivered by any means to the recipient at a residence, place of employment or business, or post office box.
- **Features an elected official.** The item either features a City elected official, or includes the name, office, photograph, or other reference to a City elected official.
- **Paid for with City funds.** Any City funds are used to pay for distribution, or more than \$50 of such funds are used to pay for design, production and printing.
- **More than 200 items in a single month.** More than 200 substantially similar items are sent in a single calendar month.

Certain types of mailings are exempt from the mass mailing prohibition. For example, the prohibition does not apply to e-mails, text messages, or postings on websites. Because some of the exceptions are complicated and strict, officials should check with the City Attorney's Office or the Ethics Commission in advance with any questions about the mass mailing rule, especially if the mailings would be sent within 60 days of an election in which the officials will appear on the ballot.

**IV. Campaign Contributions to Elected Officials from City Contractors**

Local law prohibits City elected officials from soliciting or accepting contributions from any person or entity seeking to enter into a contract or grant worth \$100,000 or more with the City, if the contract or grant requires their approval, approval by the office for which the official is running (if different from their current office), the approval of a board on which the official serves, or the approval of their appointees to the board of a state agency. This restriction applies to the party seeking the contract or grant, the party's board of directors, chairperson, chief executive officer, chief financial officer, chief operating officer, other principal officers, any

## Memorandum

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 10

RE: Political Activity by City Officers and Employees

---

person with an ownership interest greater than ten percent, and any political committees controlled or sponsored by the party, as well as any subcontractors listed in the contract or bid. The law both prohibits the donor from giving contributions *and* prohibits the elected official from soliciting or accepting them.

City departments and City elected officials are subject to certain reporting requirements arising from this prohibition. Please contact the Ethics Commission, or visit its [website](#) for more information about these requirements.

- **May a City contractor make a campaign contribution to a City elected official who approves the contract?**

A person or entity that contracts with the City may not make a campaign contribution to an elected official if the contract would require approval by that official, the office for which the official is currently running (if different from their current office), a board on which the official serves, or a board of a state agency on which an appointee of the official sits. The people and entities listed in the preceding paragraph may not make a campaign contribution to the elected official at any time from the submission of a proposal for a contract until either: (1) negotiations are terminated and no contract is awarded or no grant is approved; or (2) twelve months have elapsed since the award of the contract or approval of the grant.

- **May a City elected official solicit or accept a campaign contribution from a City contractor?**

A City elected official may not solicit or accept a campaign contribution from an individual, business or entity contracting or seeking a contract with the City, including all of the associated people and entities listed above in the first paragraph of this Section IV, if that elected official, a board on which the official serves, or a board of a state agency on which an appointee of the official sits must approve the contract. This rule also applies to any City officer or employee who is running for City elective office and prohibits soliciting or accepting contributions from any City contractor whose contract requires approval by the office for which the person is running. This prohibition applies to the official at any time from the submission of a proposal for a contract to that official until either: (1) negotiations are terminated and no contract is awarded; or (2) twelve months have elapsed since the award of the contract.

V. **Campaign Contributions to Elected Officials from Persons with Financial Interests in Pending Land Use Matters**

Local law prohibits the Mayor, the City Attorney, Board members, and candidates for these offices from soliciting or accepting contributions from any person with a financial interest in certain pending land use matters.

- **What is a “land use matter” under this restriction?**

A “land use matter” refers to:

- any request to a City elected official for a Planning Code or Zoning Map amendment, or

### Memorandum

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 11

RE: Political Activity by City Officers and Employees

---

- any application for an entitlement that requires a board or commission to make a discretionary decision at a public hearing, such as a conditional use permit or Large Project Authorization.

“Land use matters” do not include Discretionary Review hearings by the Planning Commission.

A land use matter triggers this restriction if it is pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or Treasure Island Development Authority Board of Directors. The restriction applies even if the Mayor, the City Attorney, and the Board will not consider or approve the land use matter.

- **What constitutes a “financial interest” for this restriction?**

A person has a “financial interest” in a land use matter if the person:

- has an ownership interest of \$5 million or more in the project or property that is the subject of the land use matter;
- holds the position of director or principal officer, including but not limited to President, Vice-President, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Executive Director, Deputy Director, or member of the Board of Directors, in an entity with an ownership interest of \$5 million or more in the project or property that is the subject of the land use matter; or
- is the developer of a project with an estimated construction cost of \$5 million or more that is the subject of the land use matter.

- **Who is subject to this restriction and how long does it apply?**

This restriction applies to the person with a financial interest in the pending land use matter, and any business entity controlled, directed or majority-owned by that same person. Those persons cannot make campaign contributions to the Mayor, the City Attorney, Board members, and candidates for those offices. The restriction also prohibits these elected officials and other candidates for those offices from soliciting or accepting such campaign contributions.

The campaign contribution restriction applies from the commencement of a land use matter until 12 months after the City has made its final decision.

#### **VI. Campaign Contributions Solicited or Accepted By Elected and Appointed Officials From Persons Involved in Proceedings Pending Before the Officials**

Section 84308 of the California Government Code prohibits elected and appointed officials from soliciting contributions of more than \$250—for any candidate or campaign—from any party or participant in a proceeding pending before the appointed official or from anyone with a pending contract subject to the elected or appointed official's approval. It also disqualifies elected and appointed officials from participating in decisions that involve persons who have contributed \$250 or more directly to them within the past 12 months. In December 2022, the Ethics Commission in consultation with the City Attorney’s Office issued a notice concerning the expansion of these rules to local elected officials, available [here](#).

## Memorandum

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 12

RE: Political Activity by City Officers and Employees

---

- **May elected and appointed officials solicit contributions from persons in a proceeding pending before them?**

Elected and appointed officials may not solicit, accept or direct campaign contributions of more than \$250 from any party to or participant in certain proceedings pending before the official. This prohibition also applies to a paid agent of a party or participant who communicates with the agency to influence the outcome of the proceeding. The prohibition applies during the proceeding and for 12 months after the agency renders a final decision.

This rule applies whether the contributions are sought for the official or for someone else, including contributions for candidates or ballot measures in federal, state, or local elections. Contributions are aggregated in certain circumstances to determine if the \$250 threshold has been exceeded. For example, contributions from the person who has filed the permit or license application would be aggregated with contributions from a person paid to communicate with the agency on the applicant's behalf.

An official does not violate this rule if the official makes a request for contributions in a mass mailing sent to members of the public, to a public gathering, in a newspaper, on radio or television, or in any other mass medium, provided the solicitation is not targeted to persons who appear before the board or commission. An official does not engage in a solicitation solely because the official's name is printed with other names on stationery or letterhead used to ask for contributions.

- **Which officials are subject to these restrictions?**

The restrictions apply to elected officials, appointed members of boards and commissions, and appointed department heads.

- **What proceedings are covered by this prohibition?**

Section 84308 applies to "use entitlement proceedings," which are actions to grant, deny, revoke, restrict or modify certain contracts or business, professional, trade or land use licenses, permits, or other entitlements to use property or engage in business. Examples of the types of decisions covered by the law include decisions on professional license revocations, conditional use permits, rezoning of property parcels, zoning variances, tentative subdivision and parcel maps, cable television franchises, building and development permits and private development plans. It also includes all contracts other than labor or personal employment contracts and competitively bid contracts where the City is required to select the lowest responsible bidder.

The law does not cover proceedings where general policy decisions or rules are made or where the interests affected are many and diverse, such as general building or development standards and other rules of general application.

- **Who is a "party," "participant," or "agent"?**

A "party" is a person, including a business entity, who files an application for, or is the subject of a use entitlement proceeding. A "participant" is any person who is not a party to a proceeding but who: (1) actively supports or opposes a particular decision (*e.g.*, lobbies the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence the decision of the officers of the agency); and (2) has a financial interest in the

**Memorandum**

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 13

RE: Political Activity by City Officers and Employees

---

decision. An “agent” is an individual or entity that represents a party or participant in a proceeding for compensation.

- **When is an elected or appointed official disqualified from proceedings involving a contributor?**

An elected or appointed official may not participate in any use entitlement proceeding involving a party or participant (or the party’s or participant’s agent) from whom the official received contributions totaling more than \$250 in the 12 months before the proceeding. Disqualification is required only if the official received a contribution to the official’s own campaign. Soliciting contributions before a proceeding begins does not, by itself, require disqualification, if the official has not directly received contributions as a result of the solicitation.

An elected or appointed official may avoid disqualification if the official returns the contribution (or the portion exceeding \$250) within 30 days of learning of the contribution and the proceeding involving the contributor.

Whether the elected or appointed official is disqualified as a result of the contribution, the official always must disclose on the record all campaign contributions totaling more than \$250 received in the preceding 12 months from parties to or participants in the proceeding.

## **VII. Political Activity Restrictions on City Elected Officials and Commissioners**

- **May City elected officials and commissioners ask their subordinate employees to volunteer on campaigns?**

No. City elected officials and commissioners cannot ask their subordinate employees to volunteer on any candidate or ballot measure campaigns. A “subordinate employee” means any employee for whom you have the responsibility of directing or evaluating the employee’s performance or any of that employee’s supervisors. For a commissioner that oversees a department head, a “subordinate employee” would be any employee of the department that the commissioner oversees.

- **May commissioners fundraise for their appointing authorities?**

No. Commissioners cannot fundraise for their appointing authority, their appointing authority’s controlled committees, or any candidates seeking the office held by their appointing authority. This prohibition applies to a commissioner’s fundraising from others, but commissioners can continue to make their own contributions to their appointing authorities.

For the purpose of this rule, a commissioner’s “appointing authority” is the person currently holding the office in question. For example, if a commissioner was appointed by Mayor Lee, this rule would now prohibit any fundraising to benefit Mayor Breed, Mayor Breed’s controlled campaign committees, or any other candidate running for the office of Mayor.

**Memorandum**

TO: ALL ELECTED CITY OFFICIALS  
ALL CITY BOARD AND COMMISSION MEMBERS  
ALL CITY DEPARTMENT HEADS

DATE: February 1, 2024

PAGE: 14

RE: Political Activity by City Officers and Employees

---

- **May City elected officials and commissioners exchange official actions for campaign contributions?**

No. Local law prohibits elected officials and commissioners from, directly or indirectly, giving, offering, promising to give, withholding, or offering or promising to withhold their vote or influence, or promising to take or refrain from taking official action with respect to any proposed or pending matter in exchange for any other person making or refraining from making a campaign contribution.

**VIII. Penalties**

State and local enforcement agencies and the courts may impose considerable penalties for violating the laws discussed in this memorandum. Individuals who violate these rules could face criminal fines or imprisonment, orders to repay the City for the misused funds, or civil and administrative penalties of up to \$5,000 per violation. Misappropriation of City funds for political activities also may be official misconduct under the City's Charter that justifies removing a public officer (other than the Mayor) and restricting that person's ability to hold public office in the future, and it may also be cause to discipline or fire a public employee.

The conduct of City officers and employees also could result in fines or liability for the City. For example, the California Fair Political Practices Commission has fined local government agencies – such as Los Angeles County and the City of Campbell – for using public funds to prepare and distribute campaign materials.

**ADDITIONAL INFORMATION**

Again, for more information about these rules, see the City Attorney's Good Government Guide, which you may find on the Good Government section of the City Attorney's [website](#). Please also visit the Ethics Commission's [website](#) for further information. If you have any questions, please contact the City Attorney's Office or the Ethics Commission.