

## **California Election Year Activities:**

How 501(c)(4) Social Welfare Organizations, Labor Unions, and Trade Associations Can Support and Oppose Candidates in California

### **Organizations Are Permitted to Support and Oppose State-Level Candidates**

In California, 501(c)(4) social welfare organizations, labor unions, and trade associations (as well as for-profit businesses) are permitted to support and oppose state-level candidates, including candidates for Governor, Lieutenant Governor, Attorney General, Superintendent of Public Instruction, State Assembly, State Senate, Board of Equalization, and the State Public Employees Retirement Board (CalPERS). Examples of activities these organizations can engage in include:

- Conducting all of the nonpartisan voter education activities in which 501(c)(3) can engage
- Endorsing candidates
- Making monetary contributions (subject to the state’s [contribution limits](#)) directly to state-level candidates, either from the organization’s general treasury or from a Political Action Committee (PAC), including out-of-state PACs and Federal PACs
- Donating goods or services directly to state-level candidates (often described as “in-kind contributions”), either from the organization’s general treasury or from a PAC
- Distributing communications that advocate the election or defeat of a candidate to the organization’s members (called “member communications”)
- Paying for communications – including through GOTV activities, voter registration drives, billboards, broadcast ads – that expressly advocate for the public to vote for or against a particular candidate independently of the affected candidate (called “independent expenditures”)
- Distributing communications in close proximity to the election that do not expressly advocate for the election or defeat of the candidate, but refer to a candidate (often described as “electioneering communications”)

Although monetary and in-kind contributions to candidates are subject to [contribution limits](#), California campaign finance laws do not limit the amount of money organizations can spend on member communications, independent expenditures, or electioneering communications.

While election activity is permitted, whenever an organization spends money from either its general treasury or from a PAC, to support or oppose candidates for office (other than through member communications) or makes electioneering communications, the organization may need to file reports disclosing the amount of money spent and, in some cases, the source of that money – including the names and addresses of certain donors to the organization – and may need to include disclaimers on the communication identifying the organization as the sender for the communication. For more information on these rules, organizations can consult our [State Law Resources](#).

## **Local Campaign Ordinances May Limit Corporate and Union Activity**

Under California law, cities, counties, school districts and other local districts are permitted to adopt campaign finance laws that are more stringent than state law. As a result, many cities, counties, school districts, and other local districts have adopted campaign finance laws that limit or even prohibit some forms of corporate or labor union involvement in partisan electoral activities.

Local campaign finance ordinances cannot (as a result of the Supreme Court's decision in *Citizens United v. FEC*) prohibit 501(c)(4) organizations, labor unions or trade associations, from making independent expenditures that encourage the public to support or oppose state and local candidates. However, even after *Citizens United*, local ordinances can still prohibit these corporations and unions from making monetary or in-kind contributions to local candidates, and can require disclosure of member communications, independent expenditures, and electioneering communications.

A number of local jurisdictions regulate political activities by corporations and unions, including the Cities of Los Angeles and San Diego, as well as San Francisco and Ventura Counties. We encourage organizations to check with the local jurisdiction prior to making monetary or in-kind contributions to candidates for local office, engaging in member communications, paying for independent expenditures, or distributing electioneering communications.

## **Tax Law May Impact Organization's Planned Activities**

In addition to complying with California's campaign finance laws, organizations must also comply with federal tax law regulation of campaign activities of nonprofits.

Although California's campaign finance laws allow considerable involvement by 501(c)(4) social welfare organizations, labor unions, and trade associations, organizations must still comply with federal tax law. For 501(c)(4)s, supporting or opposing candidates cannot be the primary activity of the organization. Additionally, 501(c)(4)s, labor unions and trade associations may be subject to a tax on certain political activities. To the extent organizations engage in activities discussed above, they may be taxed.<sup>1</sup> The 527(f) tax is assessed on the lesser of an organization's investment income or expenses for election-related activities. If an organization does not have investment income, then its tax liability is zero. Investment income includes income from interest, dividends, rent, and royalties. An organization may avoid the 527(f) tax altogether by creating what is known as a PAC or separate segregated fund, a 527 political organization, under the tax code. If an organization conducts all of its partisan political activity out of a separate segregated fund, the organization will have no expenses for election-related activity on which to be taxed.

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<sup>1</sup> Not all activities described in this fact sheet will necessarily be subject to tax, including nonpartisan electoral activities and some electioneering communications. For more information on these rules, see our website.