

Supporting or Opposing Ballot Measures in California: What Do You Need to Disclose?

Nonprofit organizations may support or oppose state and local ballot measures in California. However, those organizations may have reporting obligations under the California Political Reform Act (CPRA) and its implementing regulations. In 2014, Governor Jerry Brown signed a law (SB 27) that changed the rules for some nonprofits that influence ballot measures.¹ The changes mean that more nonprofits may be able to engage in ballot measure advocacy in California without having to file fairly complex reports or disclose certain donors.

The **Fair Political Practices Commission (FPPC)** is the state agency responsible for implementing and enforcing the CPRA.² The FPPC adopts regulations, investigates and prosecutes violations, issues advisory opinions and educates the public about the CPRA's reporting requirements.

Reporting Ballot Measure Activities

Not every organization that supports or opposes ballot measures in California has an obligation to report its ballot measure activity under state law. Organizations that raise or spend certain amounts of money on specific activities will qualify as a "committee" under state law. Therefore, if your organization raises or spends less than the thresholds, it will not have to report under the CPRA.

Only committees have CPRA reporting obligations. Committees must report expenditures they make and/or contributions they receive. The term "committee" is defined broadly to cover any person, group, organization or other entity that raises money for or spends money on activities covered by the CPRA, and there are many types of committees. An existing nonprofit can intentionally create a committee, either within its organization or separate from its organization. Alternately, a nonprofit automatically becomes a committee when it takes certain actions to support or oppose ballot measures. It's important to be aware of the definitions below to avoid becoming a committee by accident.

In the context of ballot measures, there are various types of committees.

Recipient Committees

If a nonprofit solicits or receives funds earmarked for a ballot measure **OR** spends a large amount of donor funds that are not earmarked to support or oppose the qualification or passage of a ballot measure, the nonprofit could become a Recipient Committee. Recipient Committees are a type of committee that must register and disclose expenditures, as well as publicly disclose certain donors. There are several types of Recipient Committees.³

¹ SB 27 applies to entities seeking to influence ballot measures, as well as candidate elections, including out-of-state PACs and PACs registered with the FEC. In this fact sheet, we focus on the implications for ballot measure advocacy only. Click here for our [fact sheet](#) discussing how 501(c)(4)s, unions, and trade associations can support and oppose California candidates.

² The CPRA also regulates lobbying on state legislation and regulations. For more information on the possible reporting requirements for state-level lobbying in California, see AFJ's publication, [Shaping the Future](#).

³ To learn more about other types of Recipient Committees, see AFJ's [California Campaign Finance and Ballot Measure Guide](#).

Standard Recipient Committee

- Most commonly, a Recipient Committee is any committee that **solicits or receives payments of \$2,000 or more** in a calendar year for supporting or opposing the qualification or passage of a ballot measure.⁴ If the entity raises earmarked ballot measure contributions of \$2,000 or more, it will need to register and report as a standard recipient committee, and it cannot qualify as a Major Donor Committee or an Independent Expenditure Committee, which are explained below.

Calendar Year Recipient Committee

- A nonprofit that does **not** raise earmarked donations, but spends significant money it received from donors may qualify as a **Calendar Year Recipient Committee**.⁵ Examples of funds received from donors include general support grants, funds from fundraisers, member dues, gifts, bequests, and other similar non-earmarked donor funds. A nonprofit will qualify in this category if it spends **more than \$50,000** of non-earmarked donor funds over 12 months, or **more than \$100,000** of non-earmarked donor funds in four consecutive calendar years to support or oppose the qualification or passage of ballot measures. In order to take advantage of this higher threshold, the nonprofit may **not** raise money specifically to influence a ballot measure. Calendar Year Recipient Committees are treated as committees only for a calendar year. If the committee wishes to stay open after the current calendar year, the entity must take affirmative steps to become a standard Recipient Committee. Even if it has not yet spent enough to qualify as a Calendar Year Recipient Committee, a nonprofit may still trigger reporting as a Major Donor Committee or Independent Expenditure Committee, discussed below.

Major Donor Committees

A Major Donor Committee is any committee that **contributes \$10,000 or more** in a calendar year to a Recipient Committee, but that does not receive payments to support or oppose the qualification or passage of a ballot measure. The contributions can be in the form of funds, staff time, goods, and/or services. A Major Donor Committee either spends funds that were not raised from donors (e.g., investment income, capital gains, income from providing goods or services) or does not spend enough of its non-earmarked donor funds to qualify as a Calendar Year Recipient Committee. It is possible for an entity to be required to file as a Major Donor Committee for a period of time, and after spending more, need to file as a Calendar Year Recipient Committee.

Independent Expenditure Committees

An Independent Expenditure Committee is any committee that **spends \$1,000 or more** in a calendar year on communications that are not made in coordination with a Recipient Committee but that “expressly advocate” for or against a “clearly identified” ballot measure. An Independent Expenditure Committee either spends funds that were not raised from donors or does not spend enough to qualify as a Calendar Year Recipient Committee. It is possible for an entity to be required to file as an Independent Expenditure Committee for a period of time, and after spending more, need to file as a Calendar Year Recipient Committee.

⁴ Donations earmarked for ballot measures or other lobbying are not tax-deductible to the donor. Public charities that solicit such contributions must inform donors that the contributions are not tax-deductible.

⁵ If a nonprofit uses only non-donor funds such as investment income or income from providing goods or services, the nonprofit will not qualify as either a standard Recipient Committee or a Calendar Year Recipient Committee.

The FPPC's website has more information about the definitions and reporting requirements for each type of committee at www.fppc.ca.gov/learn/campaign-rules.html.

Impact of Ballot Measure Reporting on a Nonprofit's Donors

Becoming a standard Recipient Committee or Calendar Year Recipient Committee has four major implications for an organization's donors:

1. A standard Recipient Committee must publicly disclose donors who contributed earmarked donations. Calendar Year Recipient Committees must publicly disclose donors whose funds were used to support the organization's ballot measure activities.
2. Some of a committee's donors may themselves be required to register as a Major Donor or Recipient Committee. In some circumstances, a nonprofit must notify its donors of their potential reporting obligation under the CPRA within a certain time period after it receives the contribution or identifies the donor. Donors who qualify as Major Donor Committees or Calendar Year Recipient Committees must register and file within a certain time period after receiving the notice, depending on how much time is left before the election.
3. A donor contributing \$50,000 or more to a Recipient Committee to support or oppose the qualification or passage of a ballot measure must have their name disclosed in campaign advertisements *if* the donor is one of the top two donors to the Recipient Committee. This disclosure will simply state that the donor provided major funding for the Recipient Committee.
4. If the donor is one of the top 10 contributors to a state ballot measure committee, and the committee raises \$1,000,000 or more for an election, the FPPC will list the donor as a "Top 10 Contributor" on its website.

Tax Law May Impact Organization's Planned Activities

The CPRA's primary purpose is to inform the public about political expenditures. **The CPRA does not seek to limit nonprofit participation in public policy, and does not restrict the lobbying activities of nonprofits.** 501(c)(3) public charities have annual limits on how much they can spend on lobbying, including supporting or opposing ballot measures. These limits come from federal tax law. For more information, see AFJ's [lobbying resources](#) for nonprofits.

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