

ADVERTISEMENT DISCLOSURES

This chapter addresses common issues relating to political mailings and other advertisements that are nonmonetary contributions to a committee. For information on disclosures for political ads that are independent expenditures see Campaign Manual 6 for guidance.

A. Ads Prepared by Others

Candidate and political party committee ads: The Act does not require major donors to be identified in a disclosure when the ad is paid for by a candidate or a political party committee.

Ballot measure and general purpose committee ads: The Act requires primarily formed ballot measure and general purpose committees to specifically identify in a disclosure on the ad the top three contributors of \$50,000 or more. As a major donor, your name may appear in advertisements paid for by a ballot measure or general purpose committee.

Quick Tip

A major donor making independent expenditures to support or oppose a candidate must be identified in a disclosure. See Manual 6.

B. Ads Prepared by a Major Donor Committee

The following information addresses the disclosures required when a major donor pays for a political ad that has been coordinated with a candidate or a ballot measure committee. Payments for these ads (nonmonetary contributions) are reported on campaign statements by both the major donor and the candidate or ballot measure committee.

Please note that advertisements that are “online platform disclosed advertisements” have different disclosure requirements than other types of online advertisements. “Online platform disclosed advertisements” are either (1) electronic media advertisements made via an online platform that allows users to engage in discourse and post content, or any other type of social media, for which the committee pays the online platform or (2) electronic media advertisements that are in the form of a graphic, image, animated graphic, or animated image

Ex 3.1 – A corporation is a major donor committee and paid \$40,000 for a mass mailing to voters stating “Vote for Measure J.” Since the communication expressly advocates support for a clearly-identified measure and the corporation coordinated the mailing with the committee, the communication is a nonmonetary contribution and also requires identification of the corporation on the mailing as described in the following pages.

that an online platform hosting the advertisement does not allow to hyperlink to an internet website containing required disclosures for which the committee pays the online platform. An “online platform disclosed advertisement” does not include a video, audio, or email advertisement. For more information on “online platform disclosed advertisements” please refer to the “Online Platform Disclosed Advertisement Requirements” chart later in this chapter.

Electronic media advertisements that are not “online platform disclosed advertisements” shall follow disclosure requirements described in this chapter, other than those listed in the “Online Platform Disclosed Advertisement Requirements” chart.

What is the Disclosure?

“Ad paid for by *[committee’s name]*” is the basic disclosure on most campaign communications. The disclosure is required on campaign communications, including the following:

- Mailings, including emails
- Paid telephone calls
- Radio ads
- Television and video ads
- Electronic media ads, including audio only ads
- Newspaper ads
- Billboards
- Yard signs
- Door hangers
- Flyers

How Must the Disclosure Appear?

Disclosures on political ads must be shown clearly so they may be easily understood by the public. Written disclosures must be printed clearly and legibly. Spoken disclosures must be clearly audible and intelligible and spoken in a pitch and tone substantially similar to the rest of the advertisement. Disclosures must also be written or spoken in the same language used in the advertisement. Specific requirements for color contrast, print font size, placement location, and time appearing on screen are provided on the disclosure charts in this chapter.

The way in which disclosures must appear on communications depends on the source of the expenditure, the medium of communication, and whether it is an advertisement. These disclosures vary between various types of communications, such as mailings, door hangers, flyers, billboards, signs, radio & TV ads, etc. Specific requirements for wording, appearance, font, placement, and more can be found on the campaign disclosure charts later in this chapter.

When a major donor is required to be identified in a mass mailing or other advertisement, the legal name of the individual or entity as it appears on Form 461 must be disclosed. For example, “ABC Corporation” or “Dr. Jane Sommer,” and not “Business for Growth” or “Doctors Who Care.”

The FPPC’s regulatory authority ensures that the payor of the ad is identified. The Act does not regulate the truth or accuracy of the content of political communications given the broad First Amendment protection for political speech.

Is there a penalty for not including the proper disclosure?

Yes. The penalty for failing to comply is a fine of up to \$5,000 per violation. In addition, any person who violates the disclosure requirements may be liable for a fine of up to three times the cost of the advertisement, including placement costs.

Political Advertising Disclosures

Unless otherwise covered below, all mass mailings of more than 200 similar pieces must contain:

- The words “Paid for by” immediately adjacent to and either above or in front of the committee’s name and address on the outside of the mailing and on at least one of the inserts
- in no less than 6-point type and in a color or print that contrasts with the background

If the sender is a single committee, the name and address need only be shown on the outside of each piece of mail

Unless otherwise covered below, all mass emails of more than 200 similar pieces must contain:

- the name of the committee sending the email preceded by the words “**Paid for by**” in at least the same size font as the majority of the text

For mailings that are advertisements, please see charts below:

Communication	Disclosure and Manner of Display
<p>Print ads designed to be individually distributed including mailings, door hangers, flyers, faxes, posters, newspaper and magazine ads, and oversized campaign buttons and bumper stickers (buttons 10 inches in diameter or larger and stickers 60 square inches or larger)</p>	<ul style="list-style-type: none"> • “Ad paid for by [committee’s name]” (on file with Form 461) (Note: a printed letter ad may use “Paid for by” instead of “Ad paid for by”). • Disclosure Format: All text must be in Arial equivalent font, in at least 10-point size, in a contrasting color, centered horizontally and the “not authorized” disclosure underlined. All text must appear in a printed or drawn box with a solid white background at the bottom of at least one page and set apart from other printed matter.
<p>Print ads larger than those designed to be individually distributed, such as billboards and signs (including yard signs)</p>	<ul style="list-style-type: none"> • “Ad paid for by [committee’s name]” (on file with Form 461). • Disclosure Format: All text must be in contrasting color and in Arial equivalent font. The font must be a height of at least five percent of the advertisement, meaning that each line must be at least five percent of the advertisement, in a printed or drawn box with a solid white background on the bottom of the advertisement that is set apart from any other printed matter and shall not be condensed to be narrower than a normal non-condensed Arial equivalent type.
<p>Radio ads, telephone calls and audio only electronic media ads</p>	<ul style="list-style-type: none"> • “Ad paid for by [committee’s name]” (on file with Form 461). • Disclosure Format: Must be spoken clearly for at least three seconds at the beginning or end of the ad or call, in a pitch and tone substantially similar to the rest of the advertisement.
<p>Television and video ads (including those disseminated over the Internet)</p>	<ul style="list-style-type: none"> • “Ad paid for by [committee’s name]” (on file with Form 461). • Disclosure Format: All text must be centered horizontally in the disclosure area, in a contrasting color, in Arial equivalent type. <p>The size for the smallest letters must be four percent of the height of the display screen and must be displayed at the beginning or end of the ad for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast longer than 30 seconds. If a video is distributed as an electronic media advertisement and is longer than 30 seconds, the disclosures must be displayed at the beginning of the advertisement. If the television or video ad is shorter than the required disclosure display time, the disclosure may be displayed for the length of the advertisement.</p> <p>Disclosure must appear on a solid black background on the entire bottom one-fourth of the display screen.</p>

Communication	Disclosure and Manner of Display
<p>Electronic media ads that are a graphic, image, animated graphic, or animated image that an online platform hosting the ad allows to link to an internet website not covered below (except video ads, see above)</p>	<ul style="list-style-type: none"> • “Who funded this ad?” or “Paid for by” or “Ad paid for by” text included or displayed as a hyperlink, icon, button or tab in a contrasting color and font size that is easily readable by the average viewer for the duration of the advertisement.* <ul style="list-style-type: none"> ◦ Must link to a website containing the “Ad paid for by” disclosure in a contrasting color and in no less than 8-point font. ◦ An internet website that is hyperlinked to the ad shall remain online and available to the public until 30 days after the date of the election. <p>* This text is not required if including it in 8-point font would take up more than one-third of the graphic or image. In such circumstances the ad need only include a hyperlink to a website containing the website disclosures.</p>
<p>Social media ads</p>	<ul style="list-style-type: none"> • “Ad paid for by” disclosures in a contrasting color that is easily readable by the average viewer and in no less than 10-point font on the cover or header photo of the committee’s profile, landing page, or similar location; disclosure is not required on each individual post or comment. • The disclosure must be visible on the cover or header photo when the profile, landing page, or similar location is viewed from any electronic device that is commonly used to view this form of electronic media including, but not limited to, a computer screen, laptop, tablet or smart phone. If this is impracticable only a hyperlink, icon, button, or tab to an internet website containing the required “Ad paid for by,” disclosure is permissible. <ul style="list-style-type: none"> ◦ Not required when the only expense or cost of the communication is compensated staff time unless the social media account was created only for the purpose of advertisements under the Act.
<p>Website and email</p>	<ul style="list-style-type: none"> • “Paid for by disclosure printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email and every publicly accessible page of the website.
<p>Electronic media ads that are audio only</p>	<ul style="list-style-type: none"> • See disclosure requirements for radio ads above.

Communication	Disclosure and Manner of Display
<p>Paid Spokesperson: Payment of \$5,000 or more to an individual for individual's appearance in a ballot measure ad</p> <p>Paid Spokesperson: Payment of <i>any amount</i> to an individual portraying a member of a licensed or certified occupation (e.g., nurse, firefighter, lawyer)</p> <p><i>Exception:</i> If the paid individual is actually a member of the occupation portrayed, the committee may omit this disclosure. The committee must maintain documentation of the individual's license or certification.</p>	<ul style="list-style-type: none"> • In addition to other disclosures, include: “(spokesperson’s name) is being paid by this campaign or its donors”. • Printed, televised or video ad: shown continuously in highly visible font except when the disclosure for television and video ads above is being shown. • Radio broadcast or phone message: spoken in clearly audible format. <ul style="list-style-type: none"> • In addition to the disclosure above, include: “Persons portraying members of an occupation in this advertisement are compensated spokespersons not necessarily employed in those occupations.” • Printed or televised ad: shown continuously in highly visible font. • Radio broadcast or phone message: spoken in clearly audible format.
<p>Text messages sent using mass distribution technology</p>	<ul style="list-style-type: none"> • “Paid for by” or “With” followed by the name of the committee, or a hyperlink or URL for an internet website containing the following disclosures: <ul style="list-style-type: none"> ◦ “Paid for by” or “With” [committee’s name]” (on file with Form 461). ◦ The text of the disclosures on the internet website shall be in a color that reasonably contrasts with the background on which it appears and in no less than 8-point font. • If “With” is used: <ul style="list-style-type: none"> ◦ The individual sending the text shall identify themselves by including: “(name of the individual) with (name of committee or hyperlink or URL).” ◦ A disclosure using “With” may appear anywhere in the text message, including conversational content, and need not appear as a separate statement apart from the content of the message.

Communication	Disclosure and Manner of Display
	<ul style="list-style-type: none"><li data-bbox="483 220 1490 289">• An internet website that is hyperlinked shall remain online and available to the public until 30 days after the election.<li data-bbox="483 310 1490 436">• For text message exchanges consisting of a sequence of multiple text messages sent on the same day the disclosure is only required on the first text message in the sequence that supports or opposes a candidate or measure.<li data-bbox="483 457 1490 552">• Text required to be included in a text message must be in a color that reasonably contrasts with the background on which it appears and in a font size that is readable by the average viewer.

C. Online Platform Disclosed Advertisements

“Online platform disclosed advertisements” are either (1) electronic media advertisements made via an online platform that allows users to engage in discourse and post content, or any other type of social media, for which the committee pays the online platform or (2) electronic media advertisements that are in the form of a graphic, image, animated graphic, or animated image that an online platform hosting the advertisement does not allow to hyperlink to an internet website containing required disclosures, for which the committee pays the online platform. An “online platform disclosed advertisement” does not include a video, audio, or email advertisement.

Electronic media advertisements that are not “online platform disclosed advertisements” shall follow disclosure requirements described previously in this chapter.

Online Platform Disclosed Advertisement Requirements

Communication	Disclosure and Manner of Display
<p>Type of Advertisement Law Applies To:</p>	<p>Either (1) electronic media advertisements made via an online platform that allows users to engage in discourse and post content, or any other type of social media, for which the committee pays the online platform or (2) electronic media advertisements that are in the form of a graphic, image, animated graphic, or animated image that an online platform hosting the advertisement does not allow to hyperlink to an internet website containing required disclosures, for which the committee pays the online platform.</p>
<p>Ad Disclosure that Online Platform is Required to Place on Advertisement:</p>	<p>An Online Platform Must Do One of the Following:</p> <ol style="list-style-type: none"> 1) Display “Paid for by” or “Ad Paid for by” followed by the name of the committee easily readable to the average viewer located adjacent to any statement the communication is an advertisement (or is promoted or sponsored). The online platform may display only one hundred or more characters of the committee’s name if it is followed by a “...” that is clearly clickable and that links to a page that provides the committee’s full name. The ad may instead link to a website that the committee has created pursuant to other provisions of the Act that contains the committee’s name and whether the ad was authorized by a candidate for independent expenditure ads on candidates. 2) Display a hyperlink, icon, button, or tab with the text “Who funded this ad?,” “Paid for by,” or “Ad Paid for by” that is clearly clickable and links to a page that provides the committee’s name. This text must be easily readable to the average viewer, in the same or similar font and in at least the same font size as the online platform’s text stating that the communication is an advertisement (or is promoted or sponsored). The ad may instead link to a website that the committee has created pursuant to other provisions of the Act that contains the committee’s name and whether the ad was authorized by a candidate for independent expenditure ads on candidates. <p>The Online Platform Must Also:</p> <p>Display a prominent button, icon, tab, or hyperlink with the text “View Ads” or similar text. The button, icon, tab, or hyperlink shall link to a page containing the records required to be displayed in the publicly available online database in one of the following locations:</p> <ol style="list-style-type: none"> 1) Near the top of a profile, landing page, or similar location of a committee that paid for an advertisement in a position that the average viewer will readily see it upon viewing that page. 2) On a page that displays the committee’s profile information or biographical information. 3) On a page on which the average viewer would normally navigate to view additional information about a committee.

Communication	Disclosure and Manner of Display
<p>Information Committee Paying for Advertisement is Required to Provide to Online Platform:</p>	<p>Upon requesting the dissemination of the advertisement, committee must do all of the following:</p> <ol style="list-style-type: none"> 1) Expressly notify the online platform that the advertisement is one that falls under the Act. 2) Provide the online platform with committee's top contributors and the committee's name and identification number. 3) Provide the online platform with the name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers. 4) Update the online platform with any change in the name of the committee or its top three contributors within 5 business days.
<p>Records Required to be Kept and Provided to the Public in Online Platform's Public Database:</p>	<p>For all committees that purchased online platform disclosed ads and paid for five hundred dollars (\$500) or more in advertisements to the online platform during the preceding 12 months the database must contain:</p> <ol style="list-style-type: none"> 1) A digital copy of the advertisement. 2) The approximate number of views generated from the advertisement and the date and time that the advertisement was first displayed and last displayed. 3) Information regarding the range charged or the total amount spent on the advertisement. 4) The name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, as applicable, or number or letter of the ballot measure and the jurisdiction to which the advertisement refers. 5) The name and identification number of the committee that paid for the advertisement, if the committee is assigned an identification number. <p>These records are required to be made available by the online platform as soon as practicable and must be retained by the online platform for 4 years.</p>

D. Valuing a Mailing and Internet Activity

Multiple Candidates/Measures: If a mailing (including emails) supports or opposes more than one candidate or measure, the fair market value attributable to each may be calculated by prorating the costs based on the amount of space allotted to each candidate or measure supported or opposed in the mailing.

Political and Non-Political Material: The cost of a mailing containing both express advocacy supporting or opposing a ballot measure or candidate as well as non-political material may be prorated. Costs directly associated with the political message are reportable, including staff time of more than 10 percent in a calendar month.

Individual Internet Activity: An individual who is not being paid by a campaign sends communications that expressly advocate a candidate or measure over the Internet, such as emails, social networking, blogging, website postings, and hyperlinks, does not incur reporting obligations.

Communications Identifying State Candidates (No Express Advocacy)

A major donor committee that makes a payment or promise of payment totaling \$50,000 or more for a communication that 1) clearly identifies a state candidate; but 2) does not expressly advocate the election or defeat of the candidate; and 3) is disseminated, broadcast, or otherwise published within 45 days of an election, is required to file Form E-530. (See Chapter 4.) These payments are not required to be reported on the major donor committee campaign statement (Form 461).

Ex 3.2 – If a candidate’s neighbor sends emails to his family and friends and posts on his personal social networking site support of the campaign, the communications are not reportable even though the candidate may have provided the neighbor with campaign materials. However, an electronic communication is a contribution or expenditure if an individual receives compensation for the messages and a majority of his or her advertisement revenue is from a single candidate or committee.

Ex 3.3 – One month before a state general election, a major donor pays for several billboard ads that state: “Assemblymember Jones, thank you for supporting AB 1010, low cost prescriptions for seniors!” A Form E-530 must be filed.

A. Could we, as a major donor committee, be identified on any advertisements we are not responsible for producing?

Yes. If contributions totaling \$50,000 or more are made to a recipient committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, the name of the top contributor must be included in the committee's advertisements if the top contributor is one of the three highest contributors to the committee. However, radio and prerecorded telephone ads must disclose only the top two contributors of \$50,000 or more unless the ad lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor must be disclosed. Additionally, newspaper, magazine or other print advertisements that are 20 square inches or less must only disclose the single top contributor of \$50,000 or more.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

- 82015 Contribution.
- 82031 Independent Expenditure.
- 82041.5 Mass Mailing.
- 84305 Requirements for Mass Mailing.
- 84310 Identification Requirements for Telephone Calls.
- 84501 Advertisement.
- 84502 Disclosure; Committee Name.
- 84503 Top Contributor Disclosure.
- 84504 Disclosure; Radio and Telephone Ads.
- 84504.1 Disclosure; Video and Television Ads.
- 84504.2 Disclosure; Print Ads.
- 84504.3 Disclosure; Electronic Media Ads.
- 84504.6 Disclosure; Online Platform.
- 84504.7 Disclosure; Text Messages.
- 84511 Ballot Measure Ads; Paid Spokesperson Disclosure.
- 85310 Communications Identifying State Candidates.

Title 2 Regulations

- 18215.2 Uncompensated Internet Activity by Individuals that is not a Contribution or Expenditure.
- 18225.7 Made at the Behest of; Independent verses Coordinated Expenditures.
- 18435 Definition of Mass Mailing.
- 18440 Telephone Advocacy.
- 18450.1 Definitions. Advertisement Disclosure.
- 18450.2 Definitions. Authorized and Paid For.
- 18450.4 Video and Television Advertisement Disclosure.
- 18450.11 Spokesperson Disclosure.
- 18531.10 Communications Identifying State Candidates.