CAMPAIGN
LEGAL
CENTER

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Argemira Flórez Feng
Chair
San Francisco Ethics Commission

Yaman Salahi
Vice-Chair
San Francisco Ethics Commission

Dear Chair Flórez Feng, Vice-Chair Salahi, and Members of the Commission,

Campaign Legal Center (CLC) respectfully submits these comments to the San Francisco Ethics Commission (Commission) in support of the Commission's proposal to extend the city's contribution limits to candidate-controlled political committees.

CLC is a nonpartisan legal organization dedicated to solving the wide range of challenges facing American democracy. Since the organization's founding in 2002, CLC has participated in every major campaign finance case before the U.S. Supreme Court, as well as in numerous other federal and state court cases. CLC fights for every American's freedom to vote and participate meaningfully in the democratic process, particularly Americans who have faced political barriers because of race, ethnicity, or economic status.

CLC supports the Commission's proposals to extend contribution limits to candidate-controlled committees. Our comments first provide an overview of the proposed changes that extend San Francisco's contribution limits for candidate committees to other candidate-controlled committees. We then provide a summary of U.S. Supreme Court precedent regarding contribution limits and federal and state laws that similarly protect against corruption by prohibiting candidates from raising funds in excess of contribution limits through entities other than candidate committees. Finally, we recommend strengthening the proposal by extending San Francisco's corporate contribution ban to candidate-controlled committees and applying the city's contribution limits to committees controlled by elected officeholders, regardless of whether they are actively running for office.

I. The proposal strengthens San Francisco's contribution limits by applying those limits to additional candidate-controlled committees.

Contribution limits and source restrictions play a critical role in safeguarding our elections from the corrupting potential of large contributions by wealthy special interests. Allowing candidates to accept unlimited contributions through other types of committees they control—like ballot measure committees established by a candidate—creates an obvious risk of corruption and the appearance of corruption, as well as the possibility that large donors may use such committees to evade San Francisco's contribution limits to directly bankroll their preferred candidates.

Under current San Francisco law, "no person … shall make … and no campaign treasurer for a candidate committee shall solicit or accept" aggregate contributions "by such person to such candidate committee in an election" that exceed $500.[1] San Francisco law does not limit contributions to other types of committees, however, even when such committees are controlled by a candidate.[2] This disparity creates a loophole that allows wealthy donors to circumvent the $500 limit on contributions to candidate committees by routing larger donations to other committees controlled by their preferred candidates.

The proposal would close that loophole by extending the contribution limit applicable to candidate committees to other committees that are controlled by a candidate. The limits apply only to committees controlled by "candidates who are actively running for City elective office." The proposal specifies that the contribution limit for candidate-controlled committees would not apply to committees "primarily formed to support" a candidate for a qualified political party's county central committee or to a committee "primarily formed to oppose a recall measure in which the candidate is the subject of the recall."

As detailed below, the proposal would address serious concerns that San Francisco candidates and wealthy special interests backing them are utilizing other candidate-controlled committees to funnel big money to candidates. Indeed, the spending of these candidate-controlled committees not only blurs the line between the candidate's campaign and the supposed purpose of these other committees but also, in at least some cases, the large contributions supporting these committees are being actively encouraged as a way of supporting the candidates, themselves.

Importantly, the proposal is consistent with U.S. Supreme Court precedent upholding restrictions on candidate fundraising to prevent corruption and the appearance of corruption in government. Contribution limits are a cornerstone of campaign finance law at the federal, state, and local level across the country, and courts have routinely upheld reasonable contribution limits since *Buckley v. Valeo*.[3] These decisions recognize the common-sense fact that real and apparent corruption are "'inherent in a regime of large individual financial contributions,'" such that establishing reasonable contribution limits "ma[kes] perfect sense" in preventing either from undermining democratic governance.[4]

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[1] S.F., CAL., CAMPAIGN AND GOVERNMENTAL CONDUCT CODE § 1.114(a).

[2] S.F. Ethics Comm'n, *Report & Discussion on Proposed Campaign Finance Reforms to Reinforce Contribution Limits and Ensure Accountability for Violations of City Law* 4 (Apr. 6, 2026), https://sfethics.org/wp-content/uploads/2026/04/Campaign-Finance-2026-Report-FINAL-Combined.pdf.

[3] 424 U.S. 1, 23-38 (1976). *See, e.g.*, *Nixon v. Shrink Mo. Gov't PAC*, 528 U.S. 377 (2000); *Lair v. Motl*, 873 F.3d 1170 (9th Cir. 2017).

[4] *Nixon v. Shrink Mo. Gov't PAC*, 528 U.S. 377, 390 (2000) (quoting *Buckley v Valeo*, 424 U.S. at 27).

A. Limits on contributions to candidate-controlled committees in San Francisco would prevent quid pro quo corruption and its appearance in city elections.

San Francisco elections have seen a large increase in city candidates controlling ballot measure committees.[5] Such arrangements create an obvious risk that ballot measure committees would become a vehicle through which wealthy special interests directly bankroll their preferred candidates, facilitating the potential corruption and the appearance of corruption that contribution limits are intended to prevent. In one example from San Francisco's 2024 mayoral election, a Commission investigation revealed that a candidate's staff explicitly solicited large donations to the candidate's ballot measure committee, telling donors that such unlimited contributions "would far and away be the most significant way you can impact our campaign."[6] The Commission found that the ballot measure committee subsequently used those funds to make excessive contributions to the candidate's campaign.[7] More broadly, recent reporting has shown that candidate-controlled ballot measure committees in California are regularly used by lobbyists and special interests to skirt contribution limits and curry favor with officials.[8]

As this reporting in San Francisco, and in California more broadly, illustrates, candidates have been using candidate-controlled ballot measure committees to blur the lines between their own campaigns and ballot measure campaigns, bolstered by the much larger contributions that flow into ballot measure committees. Regardless of how the money is ultimately spent, though, the fact that such funds are directed to and received by a candidate, even through an alternative committee, creates a substantial risk of corruption. By prohibiting candidates for San Francisco office from raising funds in excess of the $500 limit already established by city law for other committees a candidate controls, the proposal would put an end to this practice and would prevent candidates and wealthy donors from using those other candidate-controlled committees, such as ballot measure committees, to funnel huge amounts of money for the benefit of that candidate.

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[5] S.F. Ethics Comm'n, *Report & Discussion on Proposed Campaign Finance Reforms to Reinforce Contribution Limits and Ensure Accountability for Violations of City Law* 6 (Apr. 6, 2026), https://sfethics.org/wp-content/uploads/2026/04/Campaign-Finance-2026-Report-FINAL-Combined.pdf.

[6] S.F. Ethics Comm'n, *Stipulation, Decision and Order, In the Matter of Mayor Mark Farrell for Yes on Prop D, Mark Farrell for Mayor 2024, Mark Farrell, and Roy Herrera* 15 (Nov. 8, 2024), https://sfethicsstorage.blob.core.usgovcloudapi.net/case-resolutions/24-817-FarrellHerreraandCommittees-FinalSetttlementAgreement-FullySignedRedacted.pdf.

[7] *Id.* at 17.

[8] Nicole Nixon and Kate Wolffe, *No campaign? No problem. Inside California political elites' shadowy spending*, SACRAMENTO BEE (Jan. 12, 2026) https://www.sacbee.com/news/politics-government/capitol-alert/article314044368.html; J.D. Morris, *Mayor Breed's police ballot measure got $1 million in donations. Her opponent raised more than half*, S.F. CHRONICLE (Jan. 22, 2024) https://www.sfchronicle.com/sf/article/sf-march-ballot-breed-lurie-fundraising-police-18621604.php; *see also, Report: California lawmakers skirt contribution limits*, EAST BAY TIMES (Mar. 11, 2013) https://www.eastbaytimes.com/2013/03/11/report-california-lawmakers-skirt-contribution-limits/.

B. U.S. Supreme Court precedent firmly supports the proposal.

Although there are no federal ballot measures, federal law's restrictions on so-called "soft money"—which the U.S. Supreme Court has upheld—are analogous to the Commission's proposal. Prior to passage of the Bipartisan Campaign Reform Act of 2002 (BCRA), federal law only regulated funds given to political parties that were used for influencing federal elections, or "hard" money; money given to political parties "solely for the purpose of influencing state or local elections," known as "soft" money, was unregulated by federal law.[9] "As a result, ... federal law permitted corporations and unions"—otherwise barred from making contributions to federal candidates and political parties—"as well as individuals who had already made the maximum permissible contributions to federal candidates, to contribute" unlimited soft money to political parties.[10] Over time, due in part to the Federal Election Commission's (FEC) permissive allowances for the uses of soft money, soft money contributions to the parties ballooned, accounting for nearly $500 million of the two major parties' spending in 2000.[11]

Indeed, notwithstanding the permissible uses of soft money by the parties, the Court noted large soft money contributions—often "dramatically larger than the contributions of hard money permitted by" federal law—were both "designed to gain access to federal candidates" and "in many cases solicited by the candidates themselves."[12] In short, "[t]he solicitation, transfer, and use of soft money thus enabled parties and candidates to circumvent FECA's limitations on the source and amount of contributions in connection with federal elections."[13]

BCRA put an end to these practices by enacting a "soft money" ban, which, among other things, prohibits both national party committees and federal candidates and officeholders, their agents, and any entities they directly or indirectly establish, finance, maintain, or control from soliciting, receiving, directing, transferring, or spending funds raised in connection with any election—including state and local elections—unless such funds are raised in compliance with federal law's contribution limits, source restrictions, and reporting requirements.[14] Like the Commission's proposal, the federal soft money ban prevents donors from evading contribution limits by routing unlimited donations to other entities controlled by candidates and officeholders, even when such funds may ultimately be spent on non-federal elections. Importantly, the Supreme Court upheld these restrictions because it recognized that unregulated funds raised by "federal candidates and officeholders, their agents, or entities established or controlled by them ... *regardless of the ends to which those funds are ultimately*

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[9] *McConnell v. FEC*, 540 U.S. 93, 122 (2003).

[10] *Id.* at 123.

[11] *Id.* at 123-24.

[12] *Id.* at 125; *see id.* at 129-32 (detailing Senate investigation outlining how "both parties promised and provided special access to candidates and senior Government officials in exchange for large soft-money contributions").

[13] *Id.* at 126.

[14] *See generally*, 52 U.S.C. § 30125; 11 C.F.R. part 300.

put … pose a substantial threat of corruption."[15]

Since BCRA was passed, the FEC has repeatedly interpreted federal law's soft money ban to apply to funds raised by state and local ballot measure committees controlled by federal candidates. For example, in a 2003 advisory opinion, the FEC advised a federal candidate that, while he was permitted by federal law to raise funds for a state ballot measure committee he "established, financed, maintained or controlled," both he and the committee were subject to federal law's contribution limits and source restrictions for contributions to candidates.[16] Even as the FEC has recently sought to unduly limit the application of federal law's soft money provisions, its interpretations have not disturbed the soft money ban's application to committees established, financed, maintained or controlled by federal candidates.[17] Accordingly, the proposal would largely put local candidates on the same footing as federal candidates: Candidates may control ballot measure committees but contributions to those candidate-controlled committees are limited to the same extent as contributions to the candidate's campaign committee.

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Contributions to committees controlled by candidates—in addition to their candidate committees—can constitutionally be limited to prevent candidates and donors from evading valid contribution limits. Large contributions to committees controlled by a candidate, regardless of the committee's ostensible purpose, clearly "pose a substantial threat of corruption." Limiting such contributions is both a necessary and permissible means of preventing corruption and the circumvention of existing contribution limits.

II. Recommendations.

CLC recommends two changes to strengthen the Commission's proposal. First, in addition to extending San Francisco's limit on contributions to candidate committees to other candidate-controlled committees, we recommend extending the city's corporate contribution ban to candidate-controlled committees in the same manner. Second, we recommend applying the city's contribution limits to candidate-controlled committees regardless of whether the controlling candidate is on the ballot.

A. Extend San Francisco's corporate contribution ban to candidate-controlled committees.

Applying San Francisco's corporate contribution ban to candidate-controlled committees would serve the city's important interests in preventing corruption and its

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[15] *McConnell*, 540 U.S. at 182 (emphasis added).

[16] FEC AO 2003-12 (Flake)*; see also* FEC AO 2006-04 (Tancredo).

[17] *See, e.g.*, FEC AO 2024-05 (NFRF)*; see also*, Saurav Ghosh, *The FEC Needs to Take a Harder Line on Soft Money*, CAMPAIGN LEGAL CTR. (Feb. 28, 2023) https://campaignlegal.org/update/fec-needs-take-harder-line-soft-money.

appearance in government, and preventing circumvention of the contribution limits.[18] By prohibiting corporate contributions to candidate-controlled committees, the proposal would follow the federal soft money ban, which bars federal candidates and committees they control from raising and spending funds in excess of federal contribution limits and "from sources prohibited … from making contributions in connection with an election for Federal office."[19]

Similar to San Francisco's corporate contribution ban,[20] federal law prohibits corporations, among others, from making contributions to candidates.[21] Extending both San Francisco's contribution limits and its source restrictions to candidate-controlled committees would more comprehensively address the threat of corruption posed by contributions raised outside of the city's existing restrictions.

B. Apply San Francisco's contribution limits to committees controlled by elected officials regardless of their status as candidates.

San Francisco's contribution limits should also apply equally to committees controlled by elected officeholders even when they are not "actively running for office." As the U.S. Supreme Court explained in upholding federal law's soft money ban, donations to both federal candidates and federal officeholders, "regardless of the ends to which those funds are ultimately put … pose a substantial threat of corruption."[22] The threat of such corruption persists even when an officeholder is not, at the time of a contribution, actively running for office. Indeed, the opportunities for real and apparent corruption are even more pronounced when sitting officeholders can readily reward large contributors for financially supporting other committees they control. Limiting contributions to committees controlled by San Francisco officeholders—regardless of whether those funds are used for an officeholder's own campaign—would serve to curb such corruption and its appearance.

In addition to the federal soft money ban, which applies to both federal candidates and officeholders, Maine law provides another example of lawful restrictions on contributions to political committees controlled by elected officials, regardless of whether such officials are actively running for office. Under Maine law, lobbyists are prohibited from making contributions to state officials while the legislature is in session.[23] The ban extends to contributions "solicited or accepted by or given, offered or promised to a political action committee, ballot question committee or party committee of which" the official or the official's staff are "a treasurer, officer or primary fund-raiser or decision maker."[24] In other words, Maine law recognizes that the goals of the in-session lobbyist contribution ban—preventing

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[18] *See FEC v. Beaumont*, 539 U.S. 146, 155 (2003).

[19] 52 U.S.C. 30125(e)(1)(B).

[20] S.F., CAL., CAMPAIGN AND GOVERNMENTAL CONDUCT CODE § 1.114(b).

[21] 52 U.S.C. 30118(a).

[22] *McConnell*, 540 U.S. at 182.

[23] Me. Stat. tit. 1, § 1015-A(2)(A) & (B).

[24] *Id.*, § 1015-A(2)(C).

corruption and the appearance of corruption—are best served by prohibiting those contributions to any committee controlled by an officeholder, not just their campaign committee.

III. Conclusion.

Thank you for your consideration of CLC's comments and recommendations for this important proposal. We would be happy to answer questions or provide additional information to assist the Commission in finalizing the proposal.

Respectfully submitted,

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