

Not At City Hall: Prohibited Campaign Activity and Employee Campaign Contributions

Presented by:

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Use of Public Funds (GC 54964)



“An officer, employee, or consultant of a local agency may not expend or authorize the expenditure of any of the funds of the local agency to support or oppose the approval or rejection of a ballot measure, or the election or defeat of a candidate, by the voters.”

Use of Public Resources (GC 8314)

“It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.”

Mass Mailing (GC 89001)

**“No newsletter
or other mass
mailing shall be
sent at public
expense.”**



Employees Have a Right to Engage in 1st Amendment-Protected Activity

- The United States Supreme Court has stated, “the First Amendment ... [p]rohibit[s] ... restrictions distinguishing among different speakers, allowing speech by some but not others.” (*Citizens United v. FEC*)

Employees Have a Right to Engage in 1st Amendment-Protected Activity

- Pickering Test: Whether the relevant government entity had an adequate justification for treating the employee differently from any other member of the general public
- McCutcheon Test: A campaign contribution limitation can be sustained if the State demonstrates a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgement of associational freedoms.

Employees Have a Right to Engage in Political Activity (Labor Code 1101)

“No employer shall make, adopt, or enforce any rule, regulation, or policy:

(a) Forbidding or preventing employees from engaging or participating in politics or from becoming candidates for public office.

(b) Controlling or directing or tending to control or direct the political activities or affiliations of employees.”

Employees Have a Right to Engage in Political Activity (Labor Code 1102)

“No employer shall coerce or influence or attempt to coerce or influence his employees through or by means of threat of discharge or loss of employment to adopt or follow or refrain from adopting or following any particular course or line of political action or political activity.”

Employees Have a Right to Engage in Political Activity (Gov. Code 3203)

“Except as otherwise provided in this chapter, or as necessary to meet requirements of federal law as it pertains to a particular employee or employees, no restriction shall be placed on the political activities of any officer or employee of a state or local agency.”

Limitations on Employees' Political Activity (Gov. Code 3204)

“No one who holds ... any office or employment in a ... local agency shall ... use, promise, threaten or attempt to use, any office, authority, or influence ... to confer upon or secure for any individual person ... any position, nomination, confirmation, promotion, or change in compensation or position, within the ... local agency, upon consideration or condition that the vote or political influence or action of such person or another shall be given or used This prohibition shall apply to urging or discouraging the individual employee's action.”

Limitations on Employees’ Political Activity (Gov. Code 3206)

“No officer or employee of a local agency shall participate in political activities of any kind while in uniform.”

Limitations on Employees' Political Activity (Gov. Code 3207)

“... the governing body of any local agency ... by establishing rules and regulations, may prohibit or otherwise restrict the following:

- (a) Officers and employees engaging in political activity during working hours.
- (b) Political activities on the premises of the local agency.”

Rancho Cucamonga

Regulations Regarding Employee Political Activity



Sierra Madre

Regulations Regarding Employee Political Activity



Solicitation by Employees

(Gov. Code 3205)

“An officer or employee of a local agency shall not, directly or indirectly, solicit a political contribution from an officer or employee of that agency, or from a person on an employment list of that agency, with knowledge that the person from whom the contribution is solicited is an officer or employee of that agency.”

Progressive Democrats for Social Justice v. Bonta (2025) 73 F.4th 1118

Facts:

- Two public defenders for Santa Clara County sought to solicit campaign donations from fellow employees in support of Sajid Khan, a fellow county deputy public defender, in his campaign to become district attorney.
- A memo from the Santa Clara County counsel prohibited the solicitation based on Government Code section 3205
- They stated their intent to solicit donations outside work hours and without using government resources

Progressive Democrats for Social Justice v. Bonta (2025) 73 F.4th 1118

State's interests:

- Assuring that government employees are free from workplace pressure to support certain political causes and candidates
- Assuring that government employees perform their duties on behalf of the public rather than for partisan gain

Progressive Democrats for Social Justice v. Bonta (2025) 73 F.4th 1118

9th Circuit Court of Appeals held:

- “Unlike local employees, state government employees are allowed to solicit political contributions from their coworkers, but only as long as the solicitations do not occur during work hours or use state titles or resources.”
- “We do not doubt the State’s interests in combatting corruption and worker coercion. But we cannot, applying First Amendment precepts, countenance California’s ‘second-class treatment’ of local employees, absent any plausible reason for the distinction.”

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Regulations Regarding Employee Political Contribution Solicitation

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QUESTIONS?

THANK YOU

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