

**CANDIDATE
HANDBOOK
AND RESOURCE GUIDE**

**SPECIAL MUNICIPAL ELECTION
MAY 28, 2024**

This page intentionally left blank.

Berkeley has PUBLIC FINANCING for Candidates!

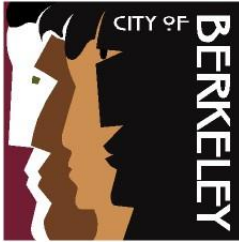
The Berkeley Fair Elections Act provides for public matching funds for participating candidates for City Council District 4 in the May 28 Special Election

**DEADLINE TO QUALIFY:
May 14, 2024**

More Information:

<https://berkeleyca.gov/your-government/elections/campaign-finance>

Call (510) 981-6908 to talk to staff about the program and ask questions.



City Clerk Department

February 29, 2024

Dear Potential Candidate:

There is no higher honor than serving the people as an elected official. Your interest in running for public office is commendable.

I am pleased to provide you with this comprehensive Candidate Handbook and Resource Guide, an invaluable tool for navigating through regulations and staying current on important campaign deadlines. I encourage you to carefully read through each section.

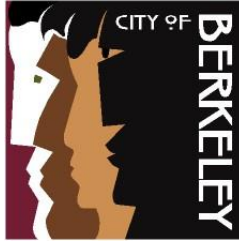
My staff has worked hard to prepare this guide and I am proud of their effort. I hope that you find the Candidate Handbook and Resource Guide helpful. Of course, we always seek new methods and ideas to improve our services to the public and we welcome any ideas you have for improvement.

After reading the Candidate Handbook and Resource Guide, you may have questions. Please do not hesitate to contact the Elections Unit at elections@berkeleyca.gov or (510) 981-6908. Our election staff is ready to assist you in order to make election rules, procedures, and laws a little easier to understand and follow. I wish you the best of luck in your campaign endeavors.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville
City Clerk



Mark Numainville
City Clerk

Phone: (510) 981-6908

Fax: (510) 981-6901

Email: elections@berkeleyca.gov

This Candidate Handbook and Resource Guide is intended to provide general information about the nomination and election of candidates, and does not have the force and effect of law, regulation, or rule. It is not the intent of the City of Berkeley to render legal advice. Accordingly, the guide is not a substitute for legal counsel for the individual, organization, or candidate using it. In case of any conflict, the law, regulation, or rule will apply.

This material is available in alternative formats upon request. Alternative formats include audio-format, braille, large print, electronic text, etc. Please contact the Disability Services Specialist and allow 7-10 days for production of the material in an alternative format.

Email: ada@berkeleyca.gov

Phone: 1 (510) 981-6418

TTY: 1 (510) 981-6347

TABLE OF CONTENTS

Special Election Calendar.....	Error! Bookmark not defined.
Candidate Filing Checklist	8
Qualifications for Office.....	9
Eligibility of Mayor, Auditor, Councilmember, and School Director	9
Holding Two Offices – All Offices	9
Ranked-Choice Voting.....	11
Compensation and Benefits for Office of City Council.....	12
Signatures In Lieu of Filing Fee	13
Nomination Documents & Filing Procedures.....	15
Filing Fee – Required.....	15
Nomination Papers – Required	15
Certificate of Residency for Council Candidates – Required	17
Code of Fair Campaign Practices – Optional.....	17
Public Review of Information.....	17
Web Posting Authorization	17
Name on Ballot & Ballot Designation	18
Name on Ballot – Candidates for All Offices.....	18
Random Alphabet Draw for Ballot Order	18
Ballot Designation – Candidates for All Offices	18
Withdrawal of Candidacy	20
Candidate Statement.....	21
Candidate Statement of Qualifications	21
Additional Charter Requirements for Candidate Statements	22
Candidate Statement General Information	22
Preparation of Candidate Statement	23
Required Translation, Federal Voting Rights Act.....	24
Word Counting	24
Campaign Disclosure Information	25
New Berkeley Election Reform Act (BERA) Regulations	25
Early deadlines in State Law	26
Additional Information	26
Campaign Statement Filing Schedule	28
Berkeley Election Reform Act (BERA).....	29
Assessing and Waiving Fines	31
Mass Mailings – FCPC Regulations and Certification	34
Voter Registration.....	38
Vote By Mail Information.....	39
Selected State Laws Governing Campaign Practices	40
Election Results.....	43
Contact Information and Telephone Numbers	44
Campaign Signs	45

CITY OF BERKELEY - SPECIAL ELECTION CALENDAR

May 28, 2024

Offices to be Elected: City Council District 4

<u>DAYS PRIOR TO ELECTION</u>	<u>DATE</u>	<u>ACTION TAKEN</u>
90	February 28, 2024	Late Contribution Disclosure Enforcement Period Begins (\$1000+)
90	February 28, 2024	Independent Expenditure Disclosure Enforcement Period Begins (\$1000+)
82 71	March 7, 2024 March 18, 2024	Signature In-Lieu of Filing Fee - Candidates may collect signatures during this period to offset the \$150 filing fee. Valid signatures are worth \$1 each. Charter Art. III, Sec. 6.5, BMC 2.16.020
78	March 11, 2024	FILING PERIOD OPENS - CANDIDATE NOMINATION PAPERS
60	March 29, 2024	Close of candidate filing period at 5pm.
60 50	March 29, 2024 April 8, 2024	Review period for nomination documents - candidate statements, Code of Fair Campaign Practices, and nomination petitions. (Nomination petitions may be viewed only, not copied)
57 14	April 1, 2024 May 14, 2024	Filing Period - Candidate Nomination Papers for Write-in Candidates. EC 8601
56	April 2, 2024	Secretary of State to conduct Random Alpha Draw for candidate name order on ballot. EC 13112 & 13113
40 21	April 18, 2024 May 7, 2024	Voter Information & Sample Ballot Pamphlet mailing period. EC §13303 - 13304, 13306
40	April 18, 2024	First Pre-Election Campaign Statement due. Covers 1/1/24 - 4/13/24
29 0	April 29, 2024 May 28, 2024	Vote-by-Mail Ballot period begins. All voters in District 4 will be sent a ballot in the mail.
29	April 29, 2024	End of In-lieu filing period for write-in candidates (started E-78)
16	May 12, 2024	Start of BERA Late Reporting Period - \$100-\$999 (Form 497s)
15	May 13, 2024	Last Day to Register to Vote. EC §§2102, 2107
14	May 14, 2024	Close of write-in candidate filing period
14	May 14, 2024	Last day to qualify for public financing program
12	May 16, 2024	Second Pre-Election Campaign Statement due. Covers period 4/14/24 - 5/11/24
7	May 21, 2024	Notice of campaign contributions published online and at designated physical locations. BMC 2.12.065
Election Day	May 28, 2024	Election Day – Charter Art. III, Section 4

CITY OF BERKELEY - SPECIAL ELECTION CALENDAR

May 28, 2024

<u>DAYS AFTER ELECTION</u>	<u>DATE</u>	<u>ACTION TAKEN</u>
15	June 12, 2024	Letter to committees regarding removal of campaign signs
30	June 27, 2024	Last day for County to certify election results to city. EC §15372
30	June 27, 2024	Deadline to submit matching funds requests
60	July 27, 2024	Deadline to return unspent campaign funds to the City (PubFi)
	July 31	Semi-Annual Campaign Report Due. Covers period 5/12/24 - 6/30/24
		Updated 2/29/2024

CANDIDATE FILING CHECKLIST

Nomination Papers and Forms

	Date Issued	Date Filed
\$150 – Filing Fee Non-Refundable Deposit – Receipt		_/_/_
Petition in Lieu of Filing Fee Form	_/_/_	_/_/_
Nomination Papers Checklist	_/_/_	_/_/_
Candidate Handbook and Resource Guide	_/_/_	
Verify Residence and Registration Status		_/_/_
Candidate Information for Public Review	_/_/_	_/_/_
Nomination Papers	_/_/_	_/_/_
Affidavit of Nominee (including Oath)	_/_/_	_/_/_
Ballot Designation Worksheet and State Regulations	_/_/_	_/_/_
Certificate of Residency for Council Candidates	_/_/_	_/_/_
Code of Fair Campaign Practices	_/_/_	_/_/_

Conflict of Interest

	Date Issued	Date Filed
Statement of Economic Interest – Form 700	_/_/_	_/_/_
Candidate Instruction Sheet & Disclosure Appendix	_/_/_	
Limitations & Restrictions on Gifts, Honoraria, Travel & Loans	_/_/_	
Form 700 Reference Pamphlet	_/_/_	

Candidate Statement of Qualifications

	Date Issued	Date Filed
Candidate Statement of Qualifications Form	_/_/_	_/_/_
Consent Forms for use of Endorser Names (20 forms)	_/_/_	_/_/_
Candidate Statement on City's Website Form	_/_/_	_/_/_
Photograph (physical copy and digital copy required)		_/_/_
USB flash drive with Statement Form and Consent Form	_/_/_	_/_/_

General Information

	Date Issued	Date Filed
Use of Signs and Posters (BMC Title 20)	_/_/_	
Memo from City Attorney Regarding Signs	_/_/_	
Use of Sound Equipment and Community Noise (BMC 13.40)	_/_/_	
Checklist for Return of Nomination Papers	_/_/_	_/_/_
District Maps	_/_/_	

Campaign Disclosure

	Date Issued	Date Filed
Candidate Intention Statement – Form 501	_/_/_	_/_/_
FPPC Statement of Organization – Form 410	_/_/_	_/_/_
Electronic Filing Instructions	_/_/_	
Public Financing Supplemental Guide	_/_/_	
FPPC Manual 2	_/_/_	
Berkeley Election Reform Act (BERA) BMC 2.12	_/_/_	
FCPC Regulations	_/_/_	
FCPC Campaign Filing Manual	_/_/_	
FPPC Campaign Advertising Disclosure	_/_/_	

**CITY OFFICES TO BE ELECTED
AT THE MAY 28, 2024 SPECIAL ELECTION**

OFFICE

Council

SEATS AVAILABLE

District 4

Term of office is for the unexpired term through November 30, 2026.
Election to the office of City Council requires a 50% + 1 majority vote threshold.

QUALIFICATIONS FOR OFFICE

Procedure for Holding Elections

Except as otherwise provided in the Charter, all elections shall be held in accordance with the provisions of the Elections Code of the State of California. (Charter Article III, §5)

ELIGIBILITY OF MAYOR, AUDITOR, COUNCILMEMBER, AND SCHOOL DIRECTOR

“To be eligible for the office of Mayor, Auditor, Councilmember, or School Director, a person must, at the time of filing nomination papers for the office, be a citizen of the United States and a qualified elector of the State of California and of the City of Berkeley.” (Charter Article V, §10)

“Each candidate for council must have resided in the District in which he or she is elected for a period of not less than thirty days immediately preceding the date he or she files a declaration of candidacy.” (Charter Article V, §9)

HOLDING TWO OFFICES – ALL OFFICES

Government Code Section 1099 prohibits the holding of incompatible, multiple offices.

1099. (a) A public officer, including, but not limited to, an appointed or elected member of a governmental board, commission, committee, or other body, shall not simultaneously hold two public offices that are incompatible. Offices are incompatible when any of the following circumstances are present, unless simultaneous holding of the particular offices is compelled or expressly authorized by law:

(1) Either of the offices may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over the other office or body.

(2) Based on the powers and jurisdiction of the offices, there is a possibility of a significant clash of duties or loyalties between the offices.

(3) Public policy considerations make it improper for one person to hold both offices.

(b) When two public offices are incompatible, a public officer shall be deemed to have forfeited the first office upon acceding to the second. This provision is enforceable pursuant to Section 803 of the Code of Civil Procedure.

(c) This section does not apply to a position of employment, including a civil service position.

(d) This section shall not apply to a governmental body that has only advisory powers.

(e) For purposes of paragraph (1) of subdivision (a), a member of a multimember body holds an office that may audit, overrule, remove members of, dismiss employees of, or exercise supervisory powers over another office when the body has any of these powers over the other office or over a multimember body that includes that other office.

(f) This section codifies the common law rule prohibiting an individual from holding incompatible public offices.

Employment Restrictions for Elected Officials

Government Code Section 53227(a) prohibits an elected official from being an employee of the local agency they represent.

53227. (a) An employee of a local agency may not be sworn into office as an elected or appointed member of the legislative body of that local agency unless he or she resigns as an employee. If the employee does not resign, the employment shall automatically terminate upon his or her being sworn into office.

Section 35 of the Berkeley City Charter has additional restrictions:

Charter § 35. Councilmembers to hold no other office.

No member of the Council shall hold any other position, office or employment, the compensation of which is paid by the City, except as otherwise provided in this Charter.

No member of the Council, during the term for which they have been elected or appointed, or within one year after the term's expiration, shall be appointed to the office of the City Manager or as a department head.

No member of the Council, during the term for which they have been elected or appointed, or within one year after the term's expiration, shall be appointed to any other position, office or employment the compensation of which is paid by the City, if such other position, office or employment was created or the compensation increased by the Council while they were a member.

This section shall not prevent the appointment of any member of the Council to any non-compensated position, office or employment or from being appointed to fill a vacancy in the office of Mayor.

RANKED-CHOICE VOTING

What is it?

Ranked-Choice Voting or "instant run-off voting," allows voters to rank up to five candidates, in order of preference, when marking their ballots. Ranked-Choice Voting (RCV) eliminates the need for run-off elections, and is currently approved for use in Berkeley, Oakland, San Leandro, and San Francisco.

Which Offices use RCV?

Berkeley voters use RCV to elect the Mayor, members of the City Council, and the City Auditor. In May 2024, the office of Council District 4 will use RCV.

How it Works

With RCV, if a candidate receives a majority (50%+1) of the first-choice votes cast for that office, that candidate will be elected. However, if no candidate receives a majority of the first-choice votes cast, an elimination process begins. The candidate who received the fewest first-choice votes is eliminated. Next, each ballot cast for the eliminated candidate will have the vote transferred to the next-ranked choice among the remaining candidates. This elimination process will continue until one candidate receives a majority and is deemed the winner.

The ranked-choice ballot card allows a voter to select a first-choice candidate in the first column, a second-choice candidate in the second column, and a third-choice candidate in the third column, etc. Voters will fill in the bubble next to the name of the candidate they choose in each column.

A voter's second choice is only counted if their first choice candidate is eliminated, and their third choice is only counted if their first and second choices are eliminated, and so on through their rankings.

Resources

Alameda County Registrar of Voters Office (510) 272-6933 – www.acvote.org/voting/rcv
Berkeley City Clerk (510) 981-6908 <https://berkeleyca.gov/your-government/elections/voting-information>

Basic Questions

Must I rank candidates in every column?

No. A voter may, but is not required to, rank a candidate for each column. A voter may rank any number of candidates they choose and may leave any remaining columns blank.

If I really want my first-choice candidate to win, should I rank the candidate as my 1st, 2nd, 3rd, 4th, and 5th choice?

No. Ranking a candidate more than once does not benefit the candidate. If a voter ranks one candidate as the voter's first, second and third choice, it is the same as if the voter leaves the second or third choice blank. In other words, if the candidate is eliminated that candidate is no longer eligible to receive second or third choice votes.

Can I give more than one candidate the same ranking?

No. If a voter gives more than one candidate the same ranking, the vote cannot be counted. Only one candidate can represent the voter's choice in each column.

Can I write-in a candidate's name on my ballot?

Yes. Your ballot provides space for qualified Write-In candidates. Only qualified Write-In candidates can receive votes. After writing the name of the qualified candidate, be sure to fill in the bubble for the write-in candidate.

COMPENSATION AND BENEFITS FOR OFFICE OF CITY COUNCIL

Compensation	\$6,987.75/month
Auto	None.
Mileage	Standard IRS mileage rate - \$0.655 per mile effective Jan. 1, 2024
Office Budget	\$302,850/year personnel and office costs \$293,210/year personnel only
Other	YMCA membership - City/employee split cost 75/25 (percent) Parking pass.
Transit	Annual free EasyPass for AC Transit; IRS 132(f) plan for transit vouchers up to \$315 per month for public transit with \$20 per month subsidy.
Medical	City pays up to the full Kaiser Premium for employees and eligible dependents. Employees with ongoing alternate medical coverage may receive reimbursement for out-of-pocket expenses.
Dental	City pays the full Delta Dental premium for employees and eligible dependents. Employees with ongoing alternate dental coverage may receive reimbursement for out-of-pocket expenses.
Vision	None.
Retirement	Election Officials are "Optional Members" and must opt into CalPERS and pay the employee contribution: 2.7% @ 55 (Classic) 2% @ 62 (New) Supplementary Retirement & Income Plan in lieu of Social Security
Medicare	City pays 1.45% and Employee pays 1.45% on all earnings
SDI	Employee paid
Deferred Comp	Employee option: \$23,000 per year. No City contribution.
Life Insurance	City-paid \$25,000 Life/AD&D
Other	City-paid long-term disability

SIGNATURES IN LIEU OF FILING FEE (March 7, 2024 – March 18, 2024)

As required under the Berkeley Charter, Article III, § 6.1, each candidate for elective office in Berkeley (city council, mayor, auditor, rent stabilization board commissioner, and school board director) shall pay a filing fee of \$150 to the City Clerk.

In order to offset the fee, a candidate may submit to the City Clerk a petition containing signatures of Berkeley registered voters. The filing fee will be reduced \$1 for each verified signature of a Berkeley registered voter.

In lieu petition forms are available starting Thursday, March 7, 2024.

Signature in lieu of filing fee petitions must be filed by 5:00 p.m. on Monday, March 18, 2024.

Some of the deadlines in Section 2.16.020 are superseded by the provisions of Article V, Section 12 of the City Charter regarding the filling of a vacancy on the City Council.

The submission of petitions in lieu of candidate filing fee is voluntary and is an option to reduce or eliminate the required \$150 candidate filing fee.

Berkeley Municipal Code Section 2.16.020 sets forth the procedure for obtaining, circulating, and filing signatures in lieu of filing fee petitions:

2.16.020 SIGNATURES IN LIEU OF FILING FEE.

A candidate for the office of Mayor, Councilmember, Auditor, Rent Stabilization Board Commissioner, or School Board Director may submit a petition containing signatures of registered voters in lieu of the filing fee as set forth in this section.

A. For all City offices the filing fee is one hundred fifty dollars (\$150.00). Each valid signature of a registered voter contained on a signature in lieu of filing fee petition shall offset one dollar (\$1.00) of the filing fee.

B. Any such submission of signatures in lieu of filing fees shall be in addition to the signatures otherwise required by the State of California Election Code to nominate a candidate, but may be of voters registered anywhere in the City.

C. A voter may sign both a candidate's nomination papers and their in lieu of filing fee petition.

D. The City Clerk shall furnish to each candidate, upon request, and without charge, signature in lieu of filing fee petition forms for securing signatures. The number of forms which the City Clerk shall furnish a candidate shall be a quantity that provides the candidate with spaces for enough signatures to allow the full offset of the filing fee, subject to subsection H of this section.

1. The City Clerk, rather than provide the candidate with the number of forms set forth in the preceding sentence, or upon the request of a candidate, may provide the candidate with a master form that may be duplicated by the candidate at the candidate's expense for the purpose of circulating additional petitions.

2. A candidate may authorize another person to obtain the signature in lieu of filing fee petition on their behalf. Such authorization must be in writing, must name the designated person by name (first and last), and must be signed by the candidate with an original signature only; no electronic or copied signatures are permitted.

3. Each in lieu petition form shall include spaces for the voter's signature, printed name and residence address. The residence shall include street and number in the City of Berkeley, or other adequate designation of residence so that the location may be readily ascertained. Across the top of each printed page there shall be printed in at least twelve (12) point boldface type the following: "Petition in Lieu of Candidate Filing Fee." The City Clerk shall complete information on the petition form that identifies the candidate, the office sought, and the date of the election, prior to releasing the form to the candidate or their representative for signature gathering. Each petition section shall bear an affidavit signed by the

circulator, in substantially the same form as set forth in the Elections Code. The City Clerk or designee shall sign and date the original petition form issued to the candidate.

E. All forms shall be made available commencing forty-five (45) days before the first day for circulating nomination papers.

1. In the event that the City Council orders a special election to be held to fill a vacancy or as the result of a successful recall petition, and the order is issued less than forty-five (45) days prior to start of the nomination period for said election, the signature in lieu forms shall be made available within five working days after the date the City Council orders the election.

F. No other form except the form furnished by the City Clerk, bearing the signature and date imprinted by the Clerk, or forms duplicated from a master form issued by the City Clerk, shall be used to secure signatures.

G. The substitution of signatures for fees shall be subject to the following provisions:

1. If a voter signs more candidates' petitions than there are offices to be filled, the voter's signatures shall be valid only on those petitions which, taken in the order they were filed, do not exceed the number of offices to be filled.

2. In lieu filing fee petitions shall be filed at least fifteen (15) days prior to the close of the nomination period. All petition sections must be filed at one time. In lieu filing fee petitions shall not be accepted after the nomination papers for that candidate have been filed. Within ten (10) days after receipt of a petition, the elections official shall notify the candidate of any deficiency. The candidate shall then, prior to the close of the nomination period, either submit a supplemental petition, or pay a pro rata portion of the filing fee to cover the deficiency. Signatures on the supplemental petition may only be used to offset deficient signatures in the original petition and may not be used to further offset the filing fee. Only one supplemental petition shall be issued by the City Clerk. Any deficiency found in the supplemental petition must be paid by cash or check prior to the close of the nomination period.

~~**3. Circulators of in lieu filing fee petitions shall be residents of the City of Berkeley and be qualified to register to vote in the City of Berkeley.~~

H. Each candidate may submit as many signatures as they wish to allow for subsequent losses due to invalidity of some signatures. The elections official shall not be required to determine the validity of a greater number of signatures than that required by this section.

I. All provisions of this section are applicable to write-in candidates for City elective offices. (Ord. 7112-NS § 1, 2009)

***BMC section 2.16.020 G 3 is superseded by State Law (EC § 104) which stipulates that circulators are required to be eighteen years old or older.*

NOMINATION DOCUMENTS & FILING PROCEDURES

(March 11, 2024 – March 29, 2024)

All candidates must make an appointment with the City Clerk Department in order to obtain or file nomination papers – no exceptions.

DOCUMENTS REQUIRED FOR CANDIDATE QUALIFICATION

- Non-Refundable Filing Fee Deposit
- Nomination Petition
- Form 700 – Statement of Economic Interest
- Certificate of Residency for Council Candidates

FILING FEE – REQUIRED

The City Clerk will issue nomination papers to a candidate upon the payment of a non-refundable deposit in the amount of \$150. If a candidate submits signatures in lieu of the filing fee, the required deposit will be pro-rated against the number of signatures submitted. Review the filing fee and signature in lieu of filing fee process on pages 13-14. (Charter Article III, § 6.1)

NOMINATION PAPERS – REQUIRED

Issuing Nomination Papers

The nomination period opens March 11, 2024. The nomination papers shall be obtained and filed with the City Clerk during regular business hours during the nomination period. The City Clerk, or designee, will affix their signature to the nomination papers when issued and will affix the following information on the top of the nomination papers: date issued; name and address of candidate; and office sought.

The nomination papers include the nomination petition. All nomination signatures shall be appended on the same sheet of paper. Once the nomination papers are filed, the papers may not be returned to the candidate to obtain additional signatures. If the nomination papers are determined to be insufficient or the candidate fails to obtain enough valid signatures, the City Clerk will issue one supplemental nomination petition on which the candidate may collect additional signatures. The supplemental petition shall be filed no later than the last day for filing the nomination papers. (EC §§ 10220, 10221, 10227)

A person (18 years or older) other than the candidate may obtain the nomination papers on behalf of the candidate. The person designated to obtain the nomination papers must be authorized in writing to obtain the forms. The authorization must name the designated person by name (first and last) and must be signed by the candidate – original signature only, no electronic or copied signatures are permitted. The person obtaining the nomination papers must receive and sign for the complete nomination packet and complete the full initial filing appointment (approximately one hour) in order to obtain the forms.

Nomination Deadline

The candidate must complete and return all nomination papers by the filing deadline – March 29, 2024. Candidates may withdraw their nomination papers up until the close of the nomination period. All nomination papers must be filed at the same time. (EC §§ 10224, 10225)

Nomination Signatures

The circulator of the nomination petition is responsible for obtaining the signatures of not less than twenty (20), nor more than thirty (30) registered voters who are eligible to vote for the candidate. No voter may sign more nomination petitions than there are seats available for that office. No voter may sign more than one (1) nomination petition for a Council District candidate. Individuals signing a council candidate's nomination petition must reside and be registered to vote in that district. The candidate may sign their own nomination petition. (EC § 10220, Charter Article III, § 6.1)

All signatures and addresses will be reviewed for validity by the Registrar of Voters. Candidates should try to obtain the required number of signatures as soon as possible in order for their nomination papers to be filed and examined for sufficiency well before the filing deadline.

Each signer shall at the time of signing the petition or paper *personally affix* their signature, printed name, and place of residence, including street and number, and if no street or number exists, then a designation of the place of residence which will enable the location to be readily ascertained. (EC §§ 100, 106, 10220)

Notwithstanding Elections Code Section 100, a voter who is unable to personally affix on a petition or paper the information required by Elections Code Section 100 may request another person to print the voter's name and place of residence on the appropriate spaces of the petition or paper, but the voter shall personally affix their mark or signature on the appropriate space of the petition or paper, which shall be witnessed by one person by subscribing their name thereon. (EC §§ 100.5, 354.5)

Affidavit of Circulator

This section must be completed and signed by the circulator. A person shall not circulate a nomination paper unless the person is 18 years of age or older. Only one person may circulate the nomination paper. (EC § 104, 10220)

Affidavit of Nominee

The name of the nominee, the office sought, the date of the election, the candidate's name as it is to appear on the ballot, the candidate's ballot designation, and the candidate's residence address are to be typed or printed in the space provided. The candidate must sign and date the affidavit. It is recommended that the candidate complete the Affidavit of Nominee in the presence of the City Clerk. (EC § 10223)

Name on Ballot & Ballot Designation

This designation is limited to no more than three (3) words which designate either the current principal profession, vocation or occupation of the candidate or the principal profession, vocation or occupation of the candidate during the calendar year immediately preceding the filing of nomination documents. If the candidate is currently serving in an elected office, the candidate may use words designating the elected office which the candidate holds or the word "Incumbent." Please refer to the excerpts of California Election Code §§ 13106, 13107 and 13107.5 on the following pages.

Pursuant to Elections Code Section 13107.3, all candidates who wish to have a ballot designation listed on the ballot must complete a **Ballot Designation Worksheet** provided by the City Clerk. The candidate must file the Ballot Designation Worksheet with the nomination papers. If a Ballot Designation Worksheet is not filed, no designation shall appear on the ballot.

Oath of Allegiance

This section must be left blank until the nomination paper is filed. The Oath will be administered by the City Clerk or designee and will be signed by the candidate in the presence of the City Clerk or designee at the time the filing is complete.

Nomination Papers References: EC §§ 200, 10220-10223, 10228; Charter Article III.

FORM 700 – STATEMENT OF ECONOMIC INTERESTS – REQUIRED

Candidates are required by state law to file a Form 700 disclosing their investments and interests in real property. The form must be filed by the final date for filing nomination documents (March 29). The reporting period includes the twelve months prior to the date of filing the nomination papers. This filing is separate from any other Form 700 that the candidate has filed (e.g. annual statements in April). A PDF fillable form is available on the Fair Political Practices Commission website: www.fppc.ca.gov.

SPECIAL NOTICE TO POTENTIAL CANDIDATES REGARDING CONFLICT OF INTEREST
RESOLUTION NO. 53,989 – N.S.

“The purpose of this notice is to alert you to State and local conflict of interest provisions. These provisions may prohibit you, members of your family, or your employer, from having any financial relationship -- such as a contract or consultant position -- with the City, the Berkeley Housing Authority, and the Berkeley Redevelopment Agency, during the term of your office; for members of the City Council such prohibition can extend in certain instances for a one-year period following the conclusion of the term of office.

If a prohibited interest exists, the financial relationship may have to be terminated; for example, a contract may not be renewed or created, a consultant position may have to be withdrawn, your employer or a family member may be required to cease conducting business with the City.

Statements of Economic Interest are required to be filed by elected officials and appointed members of boards and commissions. The information disclosed in such statements provides the public with information concerning the financial interests of those serving in a public or official capacity, as well as assisting in the determination of whether certain of the interests disclosed require appropriate further action. The specific prohibitions applicable to potential conflicts of interest are not deemed “satisfied” or “cured” simply by filing the economic interest statements and disclosing the relevant financial interests; such a filing is a state-mandated requirement and is separate and distinct from any prohibitions that may be imposed as a result of an existing or future financial relationship with the City.

If you are uncertain as to whether existing or future financial interests you, your family, or your employer may have with the City constitute a potential conflict which would require termination or other remedial action upon your assuming elective office or upon your appointment to a City board or commission, you are encouraged to seek further information from the City Attorney’s Office by providing a written description of your financial interest or relationship with the City and the elective or appointive position which you are seeking. It is your obligation to seek such advice and to bring any such potential conflicts to the City’s attention. The City will not independently investigate the background or financial statements of candidates for elective or appointive office in order to detect potential conflicts of interest.”

CERTIFICATE OF RESIDENCY FOR COUNCIL CANDIDATES – REQUIRED

Candidates for council seats must submit a certified statement that the candidate has been a qualified elector and resided within the district for a period of thirty (30) days preceding the date the nomination papers are filed. (Charter Article V, § 9)

CODE OF FAIR CAMPAIGN PRACTICES – OPTIONAL

“The purpose in creating the Code of Fair Campaign Practices is to give voters guidelines in determining fair play and to encourage candidates to discuss issues instead of untruths or distortions.” When candidates complete their nomination documents they may also complete the Code of Fair Campaign Practices. Completion of the form is optional; however, the form will be made available for public inspection. (EC § 20400)

PUBLIC REVIEW OF INFORMATION

When obtaining nomination papers, the candidate will be asked to complete a Public Review Information Sheet which will include the name of the candidate, address, phone number, occupation, and elective office being sought. Contact information designated by the candidate on the sheet and any other contact information contained in other public documents will be made available to the public upon request. Information regarding the date nomination papers and other candidacy documents were obtained or filed is posted online and updated daily during the nomination period.

WEB POSTING AUTHORIZATION

The candidate statement and related candidate information will be posted to the Candidate Information page on the City Clerk’s website (<https://berkeleyca.gov/your-government/elections/candidate-information>) after the close of the nomination period. Candidates may designate that certain information on their candidate statement be redacted from the version that is posted on the City website.

NAME ON BALLOT & BALLOT DESIGNATION

NAME ON BALLOT – CANDIDATES FOR ALL OFFICES

The candidate's name will be printed on the ballot exactly as written on the Affidavit of Nominee on the nomination papers. Candidates must use their full legal name; nicknames may be used, but must be listed in quotes; common shortened versions of first names do not require quotes. The Affidavit of Nominee cannot be changed after the nomination period has closed.

No title or degree shall appear on the same line on a ballot as a candidate's name, either before or after the candidate's name, in the case of any election to any office. (EC § 13106)

If the candidate changes his or her name within one year of any election, the new name will not appear on the ballot unless the change was made by marriage or by Decree of Court. (EC § 13104)

RANDOM ALPHABET DRAW FOR BALLOT ORDER

The Secretary of State will perform a random alphabet draw after the close of the nomination period to reorder the alphabet to determine the order in which candidates will appear on the ballot. (EC § 13112, 13113)

BALLOT DESIGNATION – CANDIDATES FOR ALL OFFICES

State law requires all candidates that submit a ballot designation to complete a Ballot Designation Worksheet and file the worksheet with the City Clerk. If a candidate does not submit a Ballot Designation Worksheet, they will not have a designation listed under their name on the official ballot. The Ballot Designation Worksheet is provided by the City Clerk. (EC § 13107.3)

Elections Code Sections Governing Ballot Designations EC § 13107.

(a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, unless the designation made by the candidate pursuant to Section 8002.5 must be listed immediately below the name of the candidate pursuant to Section 13105, and in that case immediately under the designation, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination documents to which the candidate was elected by vote of the people.

(2) The word "incumbent" if the candidate is a candidate for the same office which the candidate holds at the time of filing the nomination papers, and was elected to that office by a vote of the people. A candidate shall not use the word "incumbent" if the candidate was elected to their office in an at-large election and is a candidate in a district-based election.

(3) No more than three words designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents.

(4) The phrase "appointed incumbent" if the candidate holds an office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office which the candidate holds and to which the candidate was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326 and 5328 of the Education Code or Section 7228, 7423, 7673, 10229, or 10515 of this code.

- (b) (1) Except as specified in paragraph (2), for candidates for judicial office, immediately under the name of each candidate, and not separated from the name by any line, only one of the following designations may appear at the option of the candidate:
- (A) Words designating the city, county, district, state, or federal office held by the candidate at the time of filing the nomination documents.
 - (B) The word “incumbent” if the candidate is a candidate for the same office that the candidate holds at the time of filing the nomination papers.
 - (C) No more than three words designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents.
- (2) For a candidate for judicial office who is an active member of the State Bar employed by a city, county, district, state, or by the United States, the designation shall appear as one of the following:
- (A) Words designating the actual job title, as defined by statute, charter, or other governing instrument.
 - (B) One of the following ballot designations: “Attorney,” “Attorney at Law,” “Lawyer,” or “Counselor at Law.” The designations “Attorney” and “Lawyer” may be used in combination with one other current principal profession, vocation, or occupation of the candidate, or the principal profession, vocation, or occupation of the candidate during the calendar year immediately preceding the filing of nomination documents.
- (3) A designation made pursuant to subparagraph (A) of paragraph (1) or paragraph (2) shall also contain relevant qualifiers, as follows:
- (A) If the candidate is an official or employee of a city, the name of the city shall appear preceded by the words “City of.”
 - (B) If the candidate is an official or employee of a county, the name of the county shall appear preceded by the words “County of.”
 - (C) If the candidate is an official or employee of a city and county, the name of the city and county shall appear preceded by the words “City and County.”
 - (D) If the candidate performs quasi-judicial functions for a governmental agency, the full name of the agency shall be included.
- (c) A candidate for superior court judge who is an active member of the State Bar and practices law as one of the candidate’s principal professions shall use one of the following ballot designations as the candidate’s ballot designation: “Attorney,” “Attorney at Law,” “Lawyer,” or “Counselor at Law.” The designations “Attorney” and “Lawyer” may be used in combination with one other current principal profession, vocation, or occupation of the candidate, or the principal profession, vocation, or occupation of the candidate during the calendar year immediately preceding the filing of nomination documents.
- (d) For purposes of this section, all California geographical names shall be considered to be one word. Hyphenated words that appear in any generally available standard reference dictionary, published in the United States at any time within the 10 calendar years immediately preceding the election for which the words are counted, including a generally available standard reference dictionary published online, shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.
- (e) The Secretary of State and any other elections official shall not accept a designation of which any of the following would be true:
- (1) It would mislead the voter.
 - (2) It would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.
 - (3) It abbreviates the word “retired” or places it following any word or words which it modifies.
 - (4) It uses a word or prefix, such as “former” or “ex-,” which means a prior status. The only exception is the use of the word “retired.”
 - (5) It uses the name of any political party, whether or not it has qualified for the ballot.
 - (6) It uses a word or words referring to a racial, religious, or ethnic group.
 - (7) It refers to any activity prohibited by law.
- (f) If, upon checking the nomination documents and the ballot designation worksheet described in Section 13107.3, the elections official finds the designation to be in violation of any of the restrictions set forth in this section, the elections official shall notify the candidate by registered or certified mail

return receipt requested, addressed to the mailing address provided on the candidate's ballot designation worksheet.

(1) The candidate shall, within three days, excluding Saturday, Sunday, and state holidays, from the date the candidate receives notice by registered or certified mail, or from the date the candidate receives actual notice of the violation, whichever occurs first, appear before the elections official or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide a designation that complies with subdivision (a) or (b).

(2) If a candidate fails to provide a designation that complies with subdivision (a) or (b) within the three-day period specified in paragraph (1), a designation shall not appear after the candidate's name.

(g) A designation given by a candidate shall not be changed by the candidate after the final date for filing nomination documents, except as specifically requested by the elections official as specified in subdivision (f) or as provided in subdivision (h). The elections official shall maintain a copy of the ballot designation worksheet for each candidate that appears on the ballot in the county for the same period of time as applied to nomination documents pursuant to Section 17100.

(h) The designation shall remain the same for all purposes of both primary and general elections, unless the candidate, at least 98 days before the general election, requests in writing a different designation which the candidate is entitled to use at the time of the request.

(i) In all cases, the words so used shall be printed in a manner consistent with the space requirements of Sections 13207 and 13211.

(j) If a foreign language translation of a candidate's designation is required under the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.), as amended, to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length. *(Amended by Stats. 2023, Ch. 479, Sec. 9. (AB 1762) Effective January 1, 2024.)*

Use of the term "Community Volunteer" as a Ballot Designation Elections Code § 13107.5

(a) A candidate's ballot designation as "community volunteer" shall constitute a valid principal vocation or occupation for purposes of subdivision (a) of Section 13107, if not otherwise in violation of any of the restrictions set forth in that section, and subject to the following conditions:

(1) A candidate's community volunteer activities constitute his or her principal profession, vocation, or occupation.

(2) A candidate is not engaged concurrently in another principal profession, vocation, or occupation.

(3) A candidate may not use the designation of "community volunteer" in combination with any other principal profession, vocation, or occupation designation.

(b) The Secretary of State shall by regulation define what constitutes a community volunteer for purposes of this section.

(Added by Stats. 2002, Ch. 364, Sec. 1. Effective January 1, 2003.)

WITHDRAWAL OF CANDIDACY

Withdrawal of Candidate

A candidate may withdraw his or her nomination papers until 5:00 p.m. on March 29. (EC §§10224)

CANDIDATE STATEMENT **(March 11, 2024 – March 29, 2024)**

CANDIDATE STATEMENT OF QUALIFICATIONS

This statement is optional and is printed at the expense of the City. The candidate statement will be printed in the voter information guide and mailed to registered voters within the council district for council candidates.

State law prohibits candidates from making any reference to any other candidate for that office in their candidate statement. If a statement does not comply with this provision it will not be accepted by the City Clerk.

Per Elections Code Section 13307, each candidate for nonpartisan elective office in any local agency may prepare a candidate's statement on an appropriate form provided by the elections official. The statement may include the name, age, and occupation of the candidate and a brief description, of no more than 200 words, of the candidate's education and qualifications expressed by the candidate.

The 200-word statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations.

The statement shall be filed in the office of the elections official at the same time the candidate's nomination papers are returned for filing. The statement shall be filed in the office of the elections official no later than the close of the nomination period.

The Elections Code does not make any statement, or the authors of any statement, free or exempt from any civil or criminal action or penalty because of any false, slanderous, or libelous statements offered for printing electronic distribution pursuant to this section or contained in the voter information guide.

Elections Code Section 13308 states that a candidate's statement shall be limited to a recitation of the candidate's own personal background and qualifications, and shall not in any way make reference to other candidates for that office or to another candidate's qualifications, character, or activities. The code further states that the City Clerk shall not cause to be printed, posted on the internet, or circulated any statement that includes any reference prohibited by law.

The statement must be typewritten or computer generated. It may be no more than 200 words. It will be printed as a single paragraph. NO **bold**, *italics*, Initial Capitalized, ALL CAPS, or underlining will be recognized by the printer. Refer to the enclosed Word Count Standards for how words are counted and keep within the 200-word maximum. Statements that exceed the word limit will end (i.e., be cut off) at the word limit.

If a candidate names any person or organization as an endorser within the text of the 200-word candidate statement, the candidate must obtain the written consent of the person or organization named on a **Consent Form** supplied by the City Clerk. All consent forms must be filed with the candidate statement and have a hand-written signature – no digital signatures are allowed. The hand-written signature may be a copy or scanned document. Endorsers named within the text of the 200-word candidate statement need not be residents of the City of Berkeley.

ADDITIONAL CHARTER REQUIREMENTS FOR CANDIDATE STATEMENTS

Charter Requirements

Article III, Section 6.1 of the Berkeley Charter requires that a candidate provide the following information, which shall be printed along with the candidate statement: name; office sought; residence; place of birth; present occupation; public offices held; record of community service; taxpayer status; endorsers; and a recent photograph.

Definition of "public office"

"An office which is necessarily public: that is, it must be concerned with, belong to, and be directly responsible to the people as a whole, and the community at large. Furthermore, it must include among the duties of the office some delegation of the sovereign authority, be it legislative, executive, or judicial. Public officers are to be distinguished from mere public employees, who, although responsible to the public, do not possess any sovereign authority. Furthermore, public officers are to be distinguished from all private citizens who, although possibly involved in community affairs, are not in fact responsible to the people as a whole and who also possess no sovereign authority or responsibility." (City Attorney Opinion dated March 15, 1984)

Note on "public office"

Employees of corporations, public entities, and political organizations are not considered as "holding public office." Members of political parties and organizations are not considered as "holding public office." A public officer is considered one who is responsible to the public, as a whole, and possesses sovereign authority.

Definition of "community service"

In the section entitled "Record of Community Service," each candidate may list instances of prior service, affiliation or membership in community organizations or any other organization to the end that the electors may be in a position to estimate their fitness to fill public office. However, the record of community service cannot exceed 25 words. (BMC 2.18.010)

List of Endorsers

The candidate shall provide not less than 5, nor more than 20, residents of the City to whom they refer. Endorser names shall be listed on the correct form in the order they are to appear, and must include any identification titles which are approved by the endorser. Each name listed must be accompanied by the **Consent Form** supplied by the City Clerk and completed by the endorser. All consent forms must be filed with the candidate statement and have a hand-written signature – no digital signatures are allowed. The hand-written signature may be a copy or scanned document.

Declaration of Candidate Statement

The candidate must include and complete a declaration affirming that each statement made as part of the candidate statement is true and correct. This declaration is to be signed in the presence of the City Clerk, their designee, or a Notary Public.

Photograph

The candidate shall provide a recent photograph, both in hard copy and electronically, for printing in the voter pamphlet at the time the statement is submitted. To ensure image clarity, the electronic file should be in .GIF or .JPEG format and be at least 300 dpi resolution.

CANDIDATE STATEMENT GENERAL INFORMATION

Time Period

The filing period for the candidate statement is March 11, 2024 – March 29, 2024. The candidate statement must be filed at the same time the nomination papers are filed. Once filed, candidate statements cannot be changed.

Cost

There is no cost to submit a candidate statement. (BMC § 2.16.010)

Withdrawal

Any candidate may withdraw their candidate statement, either in person or by a signed statement of withdrawal, no later than 5:00 p.m. of the next business day following the close of the nomination period (Monday, April 1, 2024). (EC § 13307)

Confidentiality

Statements filed pursuant to Section 13307 of the Elections Code shall remain confidential until expiration of the filing deadline. (EC § 13311)

Public Review

Candidates' statements are available for public examination in the City Clerk Department, during regular business hours, throughout the 10-calendar day review period. The review period starts March 29, 2024. During this period any voter of the jurisdiction in which the election is to be held, or the election official, may seek a writ of mandate or an injunction requiring any or all of the material in the statement to be amended or deleted. The venue for such a proceeding shall be the county in which the statement is filed.

PREPARATION OF CANDIDATE STATEMENT

Candidates **must** prepare their statement according to the following guidelines:

- Type your statement carefully - statements are printed exactly as submitted, *including errors*. Check for spelling, punctuation and grammar. Remember, statements cannot be edited after they are filed.
- Attach the printed copy of the candidate statement to the form provided to you by the City Clerk. A signed hard copy is required.
- Complete the website authorization form.
- Submit the required **Consent Forms** for each person listed as an endorser in your statement.
- Do **not** use words that are underlined, **bolded**, *italics*, Initial Capitalized or ALL CAPITALIZED.
- Do **not** use any unusual spacing, punctuation, indentations, "bullets" or an "outline" format.
- Confine the statement to 200 words or less.
- Do **not** include any information stating party affiliation or membership or activity in partisan political organizations in the 200-word statement.
- Do **not** make reference to other candidates for that office or to another candidate's qualifications, character, or activities.

In addition to hard copy, please provide an electronic version via CD, USB flash drive, or e-mail.

- Electronic version may be in MS Word (*.docx) or plain text (*.txt) format
- Send statements via e-mail to elections@berkeleyca.gov
- **For discrepancies between the hard copy and the electronic copy, the hard copy will prevail**

If a candidate submits a statement that is not in conformance with the guidelines provided, the City Clerk will instruct the printer to ignore any special formatting and typeset the statements utilizing a uniform format.

The "**present occupation**" listed on the Candidate's Statement Form is NOT governed by the laws and regulations pertaining to the ballot designation that appears underneath the candidate's name on the ballot. Therefore, "present occupation" may be different than the candidate's ballot designation.

REQUIRED TRANSLATION, FEDERAL VOTING RIGHTS ACT

In accordance with the Federal Voting Rights Act, all election information provided in English regarding voter registration, elections, and voting, including information provided in polling places and the voting booths, **must** be provided in the Chinese, Spanish, Tagalog, and Vietnamese languages to the extent needed to allow these voters to participate effectively in the electoral process and all voting related activities. Visit the Department of Justice's web site for more information: <https://www.justice.gov/crt/language-minority-citizens> (Section 203 of the Voting Rights Act)

WORD COUNTING

Elections Code § 9.

(a) Counting of words, for purposes of this code, shall be as follows:

- (1) Punctuation is not counted.
- (2) Each word shall be counted as one word except as specified in this section.
- (3) All proper nouns, including geographical names, shall be considered as one word; for example, "City and County of San Francisco" shall be counted as one word.
- (4) Each abbreviation for a word, phrase, or expression shall be counted as one word.
- (5) Hyphenated words that appear in any generally available standard reference dictionary, published in the United States at any time within the 10 calendar years immediately preceding the election for which the words are counted, including a generally available standard reference dictionary published online, shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.
- (6) Dates shall be counted as one word.
- (7) Any number consisting of a digit or digits shall be considered as one word. Any number which is spelled, such as "one," shall be considered as a separate word or words. "One" shall be counted as one word whereas "one hundred" shall be counted as two words. "100" shall be counted as one word.
- (8) Telephone numbers shall be counted as one word.
- (9) Internet website addresses shall be counted as one word.

(b) This section does not apply to counting words for ballot designations under Section 13107.
(Amended by Stats. 2023, Ch. 479, Sec. 1. (AB 1762) Effective January 1, 2024.)

Note on Word Limit

If the text exceeds the word limit, the author may edit the text prior to filing the candidate statement in order to meet the required word limit. If the author does not edit the text, the statement will end (i.e., be cut off) at the word limit.

CAMPAIGN DISCLOSURE INFORMATION

The Political Reform Act (PRA) is a state law that requires candidates for elective office and all committees supporting or opposing ballot measures or candidates to file campaign statements disclosing contributions received and expenditures made. The statutory requirements of the PRA are contained in Sections 81000 – 91015 of the California Government Code and enforced by the state's Fair Political Practices Commission (FPPC).

In addition to the requirements of the PRA, all campaign committees formed to support or oppose City of Berkeley ballot measures and candidates must also comply with the Berkeley Election Reform Act (BERA), Berkeley Municipal Code Chapter 2.12. BERA has different reporting requirements than state law and limitations on contributions that are specific to Berkeley candidates. The City of Berkeley provides a Campaign Filing Manual to assist with the process of conducting a campaign and disclosure campaign finances in compliance with BERA.

For general questions regarding the Political Reform Act, you may contact the Technical Assistance Division of the FPPC at advice@fppc.ca.gov, (916) 322-5660, 1-866-ASK-FPPC, or www.fppc.ca.gov.

For questions specific to BERA, contact the Secretary to the Fair Campaign Practices Commission (FCPC) at FCPC@berkeleyca.gov or (510) 981-6998; or the City Clerk at elections@berkeleyca.gov or (510) 981-6908.

NEW BERKELEY ELECTION REFORM ACT (BERA) REGULATIONS

Public Financing Program (BMC § 2.12.490 et al.)

In 2020, the Berkeley Fair Elections Act of 2016 was amended to include the offices of City Auditor, School Board, and Rent Stabilization Board. Participating candidates are eligible to receive a 6-to-1 match on qualifying contributions of up to \$60.

Participants in the public financing program are subject to additional restrictions and records-keeping requirements. It is imperative that candidates who are participating or considering participating in the program review the Public Financing Program Supplemental Guide prepared by the City Clerk Department before beginning any campaign-related activity.

Anonymous Contributions (BMC § 2.12.320)

Anonymous contributions of more than \$50 shall not be kept by the intended recipient but instead shall be promptly paid to the City of Berkeley for deposit in the Fair Elections Fund.

RECENT AMENDMENTS TO BERA

BMC 2.12.095 Committee

The definition of a campaign committee is changed from a \$250 threshold to a \$1,000 threshold for contributions and expenditures.

BMC 2.12.168 Qualifying Period

This amendment changes the deadline to qualify for the public financing program from the close of the nomination period to 14 days before the election.

BMC 2.12.255, 2.12.260, 2.12.265 Statement of Organization

Committees are no longer required to file a Berkeley Statement of Organization. The Berkeley Statement of Organization form has been eliminated.

BMC 2.12.505.H Return of Unspent Funds

This amendment sets a deadline for a public financing candidate that does not qualify for the ballot to return unspent funds.

BMC 2.12.505.J

Adds a deadline to submit matching funds requests after Election Day.

BMC 2.12.505.K

Prohibits a candidate from withdrawing from the Public Financing Program after they are approved for participation.

BMC 2.12.507 Return of Contributions by Participating Candidates

Clarifies the rules for participating candidates with regards to returning contributions.

BMC 2.12.510 Candidate Statement Notice

Due to the amendment that changed the qualifying period, the notice of candidate participation in the public financing program is changed from the voter guide to a posting on the City website.

BMC 2.12.545 Cost of Living Adjustments

Cost of living adjustments have been added for non-monetary contributions, non-qualified contributions, and the amount a participating candidate can contribute to their own committee.

EARLY DEADLINES IN STATE LAW**Late Contributions (BERA § 2.12.145, GC § 82036)**

Pursuant to state law, the reporting period for Late Contributions of \$1,000 or more aggregated from a single source begins 90 days prior to Election Day and includes Election Day. These Late Contributions are reported on Form 497 within 24 hours between February 28, 2024 – May 28, 2024. BERA further requires Late Contributions of \$100 - \$999 from a single source, to be reported within 48 hours during the last 16 days prior to Election Day and on Election Day. See the FCPC Manual for more information.

Late Independent Expenditures (BERA § 2.12.297, GC § 82036.5)

Pursuant to state law, the reporting period for Late Independent Expenditures of \$1,000 or more aggregated from a single source begins 90 days prior to Election Day and includes Election Day. Committees making Independent Expenditures of \$1,000 or more to support or oppose candidates or other ballot measures file Form 496 with the City Clerk within 24 hours between February 28, 2024 – May 28, 2024. Form 462 must also be filed within 10 days. The local BERA requirement that the person making the independent expenditure must also file three copies of the communication funded by the expenditure remains unchanged. See the FCPC Campaign Filing Manual for more information.

ADDITIONAL INFORMATION**Tax ID Numbers**

Some banks may require a committee to obtain a Tax ID Number before opening an account. Please contact the Internal Revenue Service (IRS) for further details. You may apply for an ID Number using IRS Form SS-4; or, you may apply online at www.irs.gov. Please note that the Committee ID Number issued to you by the Secretary of State is separate from the Tax ID Number you may obtain from the IRS. The two numbers are not interchangeable.

Candidate & Treasurer Workshops

The City will conduct a workshop for treasurers regarding the requirements in the Government Code for campaign committees and how BERA differs from state law. Detailed information regarding this important workshop will be provided to candidates and treasurers in advance.

The City Clerk Department also coordinates a general Candidate Education Forum for non-incumbents to learn about the City's budget, programs, and policies. Additional information regarding the next steps in the election process will also be presented.

The state FPPC offers workshops in their Sacramento office and online, as well as through webinars, and videos. For more information, visit <http://www.fppc.ca.gov/learn/training-and-outreach.html>. FPPC workshops cover state law only, so it is important for treasurers to attend the workshop in Berkeley.

**CITY OF BERKELEY CAMPAIGN STATEMENT FILING SCHEDULE
MAY 28, 2024 SPECIAL MUNICIPAL ELECTION**

All candidates running for office in the May 2024 special election are required to file pre-election campaign statements and late contribution reports in addition to semi-annual statements. Open committees not supporting/opposing candidates in the May 2024 election must only file semi-annual statements. ([Government Code §84100](#) et al. and [BMC 2.12](#))

HOW TO FILE: All committees that have raised or spent \$1,000 or more must file electronically. Committees that remain under the \$1,000 threshold may file in hard copy. Contact the City Clerk Department for information and training on electronic filing. All Public Financing candidates are required to file electronically.

Detailed information regarding [campaign filing requirements](#) is available in the FCPC Campaign Filing Guide and Public Financing Program Guide.

TYPE OF STATEMENT	PERIOD COVERED^{1/}	FILING DEADLINE^{2/}	WHO MUST FILE
First Pre-Election Statement for May Election	1/1/24 – 4/13/24	4/18/24	Officeholders, candidates, and committees supporting or opposing candidates on the 5/28/24 ballot. ^{3/} Candidates without a committee, file Form 470 only.
Second Pre-Election Statement for May Election	4/14/24 – 5/11/24	5/16/24	Officeholders, candidates, and committees supporting or opposing candidates on the 5/28/24 ballot. ^{3/}
Late Contribution Reports (Form 497)	2/28/2024 – 5/28/2024	24 HOURS AFTER receipt of any contribution of \$1,000 or more ^{4/}	Officeholders, candidates, or committees with single source contributions of \$1,000 or more during the reporting period.
	5/12/24 – 5/28/24	48 HOURS AFTER receipt of any contribution of \$100-\$999 ^{4/}	Officeholders, candidates, or committees with single source contributions between \$100 and \$999 during the reporting period.
First Semi-Annual/Post-Election Statement for May Election	5/12/24 – 6/30/24	7/31/24	All committees, <u>whether or not they had any campaign activity</u> ; all officeholders and candidates who have raised or spent \$1,000 or more for the calendar year. ^{3/}

Committees making **Independent Expenditures** of \$1,000 or more to support or oppose candidates file Form 496 within 24 hours between 2/28/24 – 5/28/24. Form 462 must also be filed within 10 days. In addition, three copies of the communication funded by the independent expenditure must be filed with the City Clerk pursuant to BMC §2.12.297.

- ^{1/} The period covered by any statement begins on the day after the closing date of the last statement filed. The period covered begins on Jan. 1st if no previous statement filed.
- ^{2/} Deadlines are extended to the next business day if they fall on a Saturday, Sunday, or an official [City holiday](#) for all reports **except** Late Independent Expenditure Reports and Late Contribution Reports due on the final Saturday or Sunday prior to Election Day.
- ^{3/} Candidates who have already filed a Form 470 for the first semi-annual period who do not receive or spend more than \$1,000 in a calendar year are not required to file another Form 470.
- ^{4/} The requirement does not exempt filers from the \$270 per candidate contribution limitation.

There is no provision in the law for extending filing deadlines. Late statements are subject to a \$10 per day fine.

BERKELEY ELECTION REFORM ACT (BERA)

REQUIRED FORMS, FILINGS, AND DIFFERENCES BETWEEN STATE AND LOCAL LAW REPORTING REQUIREMENTS

Berkeley's campaign disclosure requirements under BERA differ from State law requirements. As a campaign filer, you are responsible for knowing the differences between BERA and State law requirements and filing the proper reports. While Berkeley uses the state's campaign disclosure forms, local campaign filers must comply with BERA's disclosure requirements. Campaign filers should always consult the definitions and requirements provided in BERA, the Fair Campaign Practices Commission (FCPC) Campaign Filing Manual, and the FCPC Regulations when completing the state forms to ensure full compliance with local law.

The following are highlights of local reporting requirements. This overview should not be relied upon in place of the above-mentioned resources. Please refer to Appendix A of the FCPC Campaign Filing Manual for a detailed discussion of the differences between BERA and state law disclosure requirements.

Electronic Filing Requirements

Section 2.12.032 of the BMC requires Berkeley campaign committees that raise or spend \$1,000 or more to file their campaign statements electronically. However, all Public Financing candidates are required to file electronically even if they are under \$1,000. Additionally, it also designates the electronic statement as the filing of record, eliminating the need to file hard copies with original signatures for most types of filings. **Per Fair Political Practices Commission requirements, the Form 410 establishing, amending, or terminating a committee must still be filed with the State and a copy to the City.**

Form 410

Although State law defines a recipient committee as any individual, group of individuals, organization or other entity that receives or spends \$2,000 or more during a calendar year for purposes of filing a Form 410 Statement of Organization, Berkeley law defines a recipient committee as an individual, group of individuals, organization or other entity that directly or indirectly receives or spends \$1,000 **or more** in a calendar year. (BMC § 2.12.095)

In Berkeley, every committee must file a Form 410 and with the City Clerk Department **within 10 days** of the date of formation to comply with BERA. (BMC § 2.12.255.) The Form 410 does not need to be filed with the Secretary of State unless and until a committee spends or receives \$2,000. When the committee reaches the state threshold for qualification, an amended Form 410 must be filed. Whenever there is a change in any of the information contained in the Form 410, an amendment shall be filed within 10 days to reflect the change. In the last 16 days before the election, certain changes to Form 410 require the amended form to be filed within 24 hours.

State FPPC Regulation 18402 requires that the name of all candidate-controlled committees must contain the last name of the candidate, the office sought, and the year of the election. Similarly, committees primarily formed to support or oppose a candidate must include the last name(s) of the candidate(s) and whether or not they support or oppose the candidate(s).

Form 460: Recipient Committee Campaign Statement

Under state law, candidates, officeholders, ballot measure committees, primarily-formed and general purpose committees that spend or receive \$2,000 or more in a calendar year must file a Form 460. In Berkeley, candidates, officeholders, ballot measure committees, and independent committees that spend or receive \$1,000 **or more** in a calendar year must file a Form 460.

Under state law, contributions of money and non-monetary contributions; loans received, repaid, loans made and loan guarantors; expenditures supporting or opposing other candidates, measures and

committees; payments made and expenses accrued; payments made by an agent or independent contractor; accrued expenses, loans made, and miscellaneous increases of cash in the amount of \$100 or more must be both itemized and reported in the aggregate on the appropriate Schedules and summarized on the Summary Page.

However, in Berkeley, this information must be itemized at a **\$50 or more** threshold and must be reported on the proper schedule and summarized on the Summary Page. **Filers must also include the principal place of business (i.e., city) for all self-employed donors who contribute \$50 or more.**

The Form 460 must be filed semi-annually (January 31 and July 31) by all active campaign committees. If a committee makes expenditures directly tied to a candidate or measure in an election, the committee must also file at least two pre-election reports in addition to the semi-annual filings. A Form 460 must be filed when a committee is terminated.

Form 461: Major Donor and Independent Expenditure Committee Campaign Statement

Form 461 must be filed by 1) An individual or entity that makes monetary or nonmonetary contributions (including loans) to state or local officeholders, candidates, and committees totaling \$10,000 or more in a calendar year; and/or 2) An individual or entity that makes independent expenditures totaling \$1,000 or more in a calendar year to support or oppose state or local candidates or ballot measures. Refer to the FPPC Campaign Disclosure Manuals 5 and 6 for important information about when and where to file Form 461. Those filing Form 461 for independent expenditures may also be required to file Form 462.

Form 470: Officeholder and Candidate Campaign Statement – Short Form

Under state law, the Form 470 is for use by candidates/officeholders who do not anticipate spending or receiving \$2,000 or more during a calendar year. However, in Berkeley, the Form 470 is for use by candidates/officeholders who do not anticipate **spending or receiving \$1,000 or more** in a calendar year. Candidates must file Form 470 no later than the due date for the first pre-election report. Officeholders that do not have an open campaign committee must also file the form annually, no later than July 31.

Form 496: Late Independent Expenditure Report

State law requires that candidates and committees making independent expenditures of \$1,000 or more aggregated from a single source during the last 90 days of the election file Form 496 within 24 hours. State law does not allow candidates to make independent expenditures for or against other candidates. Additionally, BERA requires that three copies of the communication funded by the independent expenditure must be filed with the City Clerk. (BMC 2.12.297)

Form 497: Late Contribution Report

State law requires that candidates and committees receiving or making a contribution of \$1,000 or more, aggregated from a single source, in the last 90 days of the election file Form 497 within 24 hours of receiving the contribution. BERA additionally requires a Form 497 to be filed within 48 hours for a contribution of \$100-\$999 received in the last 16 days of the election. For Berkeley candidates, remember to consult the rules on contribution limits, loans, and other regulations, including the public financing regulations.

Note that the candidate or committee is responsible for ensuring the filing is received by the City Clerk Department. Committees should check with City Clerk staff by telephone, email, or the City of Berkeley Electronic Filing System to confirm receipt of a late contribution report.

**OFFICE OF THE CITY CLERK
ADMINISTRATIVE POLICY**

**ASSESSING AND WAIVING FINES
FOR THE LATE FILING OF FPPC REGULATED DOCUMENTS**

PURPOSE

To establish a procedure for assessing and waiving fines for the late filing of statements of economic interests (Form 700) and campaign disclosure statements.

SCOPE

The Political Reform Act, contained in the California Government Code, mandates specific deadlines for the filing of statements of economic interests and campaign disclosure statements. Anyone filing a statement after a prescribed deadline may be fined. This procedure provides a guideline for the assessment and/or waiver of fines.

PROCEDURE

A. STATEMENTS OF ECONOMIC INTERESTS & CAMPAIGN STATEMENTS

1) General Provisions

Any person who does not file a statement of economic interests on time may incur a late penalty of \$10 for each day the statement is late, up to a maximum of \$100. (GC § 91013)

Any person who does not file a campaign statement on time may incur a late penalty of \$10 for each day the statement is late. (GC §91013) The liability for the penalty for late filing is limited to the cumulative amount of the contributions or expenditures for the period covered by the report or \$100, whichever is greater.

The City Clerk, as the filing officer, has the authority to waive or reduce fines for filers that submit a late report with a completed Request for Waiver of Liability. The waiver request must show good cause under the criteria listed below. The fine may be fully or partially waived if, on an impartial basis, it is determined that the late filing was not willful.

2) Notices – Statement of Economic Interests (Form 700)

The first Notice of Non-Filing will be sent within 5 calendar days from the filing deadline.

The second Notice of Non-Filing will be sent 30 calendar days after the first notice of Non-Filing. If a statement has not been filed by the deadline specified in the second Notice of Non-Filing, the non-filer will be referred to Fair Political Practices Commission (FPPC) for enforcement action, which may include additional fines and penalties beyond those imposed by the City Clerk Department.

3) Notices – Campaign Statements

The first Notice of Non-Filing, will be sent within 5 calendar days from the filing deadline.

The second Notice of Non-Filing will be sent 30 calendar days after the first Notice of Non-Filing. If a statement has not been filed by the deadline specified in the second Notice of Non-Filing, the non-filer will be referred to the Berkeley Fair Campaign Practices Commission (FCPC) for enforcement action, which may include additional fines and penalties beyond those imposed by the City Clerk Department.

For Campaign Reports, the late report must be filed within 10 days, or 5 days for a second pre-election statement, after the second Notice of Non-Filing is sent in order to qualify for a waiver. (GC § 91013)

B. ASSESSING AND WAIVING LATE FILING FINES

Full fines may be imposed upon persons who file a statement after the filing deadline and receive a Notice of Non-Filing from the City Clerk, unless they have qualified for a waiver.

Persons who file a completed Request for Waiver of Liability may have their fine waived or reduced if their reason for filing late falls within the "good cause" guidelines adopted by the Secretary of State.

When considering whether or not to waive or partially waive a fine, the filing officer will take into consideration any prior late filings. A filer who repeatedly files late greatly increases the chance of receiving a fine.

C. PAYMENT OF FINE AND COLLECTION OF UNPAID FINES

Upon the assessment of a fine by the City Clerk, a Notice of Penalty and Invoice will be sent to the filer or responsible party (Treasurer). A due date for payment will be included in the Notice of Penalty and the Invoice. Fines may be paid by cash, credit card or check at the City Clerk Department.

Failure to remit full payment by the deadline will result in the matter being referred to the City of Berkeley Finance Department for collection. Continued failure to pay may result in either a lien being placed on the filer's property or a small claims action. A judgment in small claims court is public and will be reflected on the filer's credit record.

The filing officer may enter into a payment plan with the filer or responsible party prior to the matter being referred to the Finance Department. This agreement must be initiated prior to the deadline stated in the Notice of Penalty.

SECRETARY OF STATE GOOD CAUSE GUIDELINES

WAIVER REQUEST

A request for waiver must be submitted on a Request for Waiver of Liability Form (Form PRD-1). The waiver request must be signed by the person(s) required to file the statement or report upon which the late filing fee was assessed.

There are two categories of "good cause" for waiving late filing fees. These causes must relate to the person required to file the report or statement.

1) FIRST CATEGORY OF GOOD CAUSE

Incapacitation for Medical Reasons

Adequate documentation consists of a doctor's, psychologist's, therapist's, chiropractor's, or other medical provider's statement giving the nature of the incapacitation, the date(s) thereof, and the individual's name.

Hospitalization

Adequate documentation consists of a copy of the hospital bill or doctor's statement showing the patient's name and the date(s) of the hospitalization.

Accident Involvement

If medical attention is provided and results in the late filing, a copy of the hospital bill, emergency room service, or doctor's statement, showing the patient's name and date(s) and time(s) of medical attention, is adequate documentation. If the accident involvement results in delay or vehicle disablement which causes the late filing, adequate documentation consists of a police report showing the individual's name, the date and time of the accident, and, if applicable, whether or not the vehicle was disabled.

Death

Adequate documentation consists of a copy of the death certificate or an obituary notice.

2) SECOND CATEGORY OF GOOD CAUSE

The second category is defined as other unique, unintentional factors beyond the filer's control not stemming from a negligent act or non-action. The factors are:

Loss or Unavailability of Records

The loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation shall consist of a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.

Unique Reasons

Other unique reasons. These include compelling reasons beyond the filer's control.

D. DEPOSIT OF LATE FINES

Late fines shall be deposited into the City of Berkeley Fair Elections Fund.

E. ADDITIONAL ENFORCEMENT

Assessment of penalties and fines by the City Clerk does not preclude the filer from further civil or criminal penalties from enforcement action taken by the Berkeley Fair Campaign Practices Commission (FCPC) or the State Fair Political Practices Commission (FPPC). The FCPC will be notified of all non-filing and penalty action taken by the City Clerk Department. Filers may also be referred for enforcement by the FPPC.

Under the Berkeley Election Reform Act, the FCPC may pursue action at law against the filer that may result in the forfeiture of office, termination of candidacy, and ineligibility to seek office at future elections.

MASS MAILINGS – FCPC REGULATIONS AND CERTIFICATION

R2.12.325.1 MASS MAILINGS; FILING

- (a) A mass mailing means two hundred or more identical or nearly identical pieces of mail, but does not include a form letter or other mail which is sent in response to a request, letter or other inquiry as defined in BMC Section 2.12.150 that has been sent within a calendar month.
- (b) Any committee, candidate, officeholder, individual or organization who
 - (1) Has local filing requirements pursuant to BERA, as it may be amended from time to time, and
 - (2) Makes expenditures supporting or opposing one or more candidates or ballot measures, shall file three copies of each mass mailing paid for by expenditures reported therein.

R2.12.325.2 Filing of Mass Mailings – Method of Filing

Three copies of all mailings as defined in BMC § 2.12.150 shall be filed with the City Clerk’s Office no later than one day of the date the mass mailing was first placed in the U.S. mail. Filing shall be made by hand-delivery to the City Clerk’s Office no later than one day after the mailing or by depositing three originals addressed to the City Clerk’s Office in the U.S. mail on the same day as the first pieces are deposited in the U.S. mail.

If neither of the conditions above can be met, then three copies of the mass mailing and the certification must be sent by guaranteed overnight delivery to comply with the requirement that they be filed with the City Clerk’s Office no later than one day after the date the mass mailing was first placed in the U.S. mail. Mass mailings may be filed with the City Clerk prior to the date of the actual mailing.

Each mass mailing required to be filed with the City Clerk pursuant to BMC § 2.12.325 shall be accompanied by a certification of the date the mass mailing was (or will be) deposited in the U.S. mail. The certification shall include the following information:

- (a) The name of the candidate, committee, officeholder, individual or organization with local filing requirements under BERA responsible for the mass mailing.
- (b) The campaign filing identification number, if any.
- (c) The date that the mass mailing was (or will be) deposited in the U.S. mail.
- (d) The signature of the candidate, committee, officeholder, individual or organization with local filing requirements under BERA responsible for the mass mailing. Where a committee or organization is responsible for the filing, the certification shall be signed by the committee or organization treasurer.

The certification may be hand- or type-written by the responsible candidate, committee, officeholder, individual, or organization with local filing obligations under BERA either directly on the mass mailing filed with the City Clerk’s Office, or on a separate piece of paper if the piece of paper is attached to the mass mailing by staple. The certification shall be in a form substantially similar to the following:

(complete and submit certificate below)

MASS MAILING CERTIFICATION

I, _____, hereby certify under penalty of perjury that 200 or more copies of the document entitled or described as follows:

were (or will be) mailed on _____ Filing ID Number: _____

Signed: _____ Date: _____

The filing of a mass mailing in accordance with this regulation shall satisfy the requirement in Berkeley Municipal Code Section 2.12.325 that all mass mailings be sent to the Commission.

CALIFORNIA GOVERNMENT CODE

**TITLE 9. POLITICAL REFORM
CHAPTER 4. CAMPAIGN DISCLOSURE
ARTICLE 3. PROHIBITIONS**

§ 84305. Mass mailings; requirements

(a) (1) Except as provided in subdivision (b), a candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass mailing unless the name, street address, and city of the candidate or committee are shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the candidate's, candidate controlled committee established for an elective office for the controlling candidate's, or political party committee's address is a matter of public record with the Secretary of State.

(2) Except as provided in subdivision (b), a committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass mailing that is not required to include a disclosure pursuant to Section 84504.2 unless the name, street address, and city of the committee is shown on the outside of each piece of mail in the mass mailing and on at least one of the inserts included within each piece of mail of the mailing in no less than 6-point type that is in a color or print that contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the committee's address is a matter of public record with the Secretary of State.

(b) If the sender of the mass mailing is a single candidate or committee, the name, street address, and city of the candidate or committee need only be shown on the outside of each piece of mail.

(c) (1) A candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee shall not send a mass electronic mailing unless the name of the candidate or committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(2) A committee, other than a candidate controlled committee established for an elective office for the controlling candidate or a political party committee, shall not send a mass electronic mailing that is not required to include a disclosure pursuant to Section 84502 or 84504.3 unless the name of the committee is shown in the electronic mailing preceded by the words "Paid for by" in at least the same size font as a majority of the text in the electronic mailing.

(d) If the sender of a mass mailing is a controlled committee, the name of the person controlling the committee shall be included in addition to the information required by subdivision (a) or (c).

(e) For purposes of this section, the following terms have the following meanings:

(1) "Mass electronic mailing" means sending more than 200 substantially similar pieces of electronic mail within a calendar month. "Mass electronic mailing" does not include a communication that was solicited by the recipient, including, but not limited to, acknowledgments for contributions or information that the recipient communicated to the organization.

(2) "Sender" means the candidate, candidate controlled committee established for an elective office for the controlling candidate, or political party committee who pays for the largest portion of expenditures attributable to the designing, printing, and posting of the mailing which are reportable pursuant to Sections 84200 to 84216.5, inclusive.

(3) To "pay for" a share of the cost of a mass mailing means to make, to promise to make, or to incur an obligation to make, any payment: (A) to any person for the design, printing, postage, materials, or other costs of the mailing, including salaries, fees, or commissions, or (B) as a fee or other consideration for an endorsement or, in the case of a ballot measure, support or opposition, in the mailing.

(f) This section does not apply to a mass mailing or mass electronic mailing that is paid for by an independent expenditure.

(Amended by Stats. 2019, Ch. 558, Sec. 1. (AB 864) Effective January 1, 2020. Note: This section was added on June 4, 1974, by initiative Prop. 9.)

§ 84305.5. Slate mailers; requirements

(a) No slate mailer organization or committee primarily formed to support or oppose one or more ballot measures shall send a slate mailer unless:

(1) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures are shown on the outside of each piece of slate mail and on at least one of the inserts included with each piece of slate mail in no less than 8-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the street address of the slate mailer organization or the committee primarily formed to support or oppose one or more ballot measure is a matter of public record with the Secretary of State's Political Reform Division.

(2) At the top or bottom of the front side or surface of at least one insert or at the top or bottom of one side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. Appearance is paid for and authorized by each candidate and ballot measure which is designated by an *.

(3) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures as required by paragraph (1) and the notice required by paragraph (2) may appear on the same side or surface of an insert.

(4) Each candidate and each ballot measure that has paid to appear in the slate mailer is designated by an *. Any candidate or ballot measure that has not paid to appear in the slate mailer is not designated by an *.

The * required by this subdivision shall be of the same type size, type style, color or contrast, and legibility as is used for the name of the candidate or the ballot measure name or number and position advocated to which the * designation applies except that in no case shall the * be required to be larger than 10-point boldface type. The designation shall immediately follow the name of the candidate, or the name or number and position advocated on the ballot measure where the designation appears in the slate of candidates and measures. If there is no slate listing, the designation shall appear at least once in at least 8-point boldface type, immediately following the name of the candidate, or the name or number and position advocated on the ballot measure.

(5) The name of any candidate appearing in the slate mailer who is a member of a political party differing from the political party which the mailer appears by representation or indicia to represent is accompanied, immediately below the name, by the party designation of the candidate, in no less than 9-point roman type which shall be in a color or print that contrasts with the background so as to be easily legible. The designation shall not be required in the case of candidates for nonpartisan office.

(b) For purposes of the designations required by paragraph (4) of subdivision (a), the payment of any sum made reportable by subdivision (c) of Section 84219 by or at the behest of a candidate or committee, whose name or position appears in the mailer, to the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures, shall constitute a payment to

appear, requiring the * designation. The payment shall also be deemed to constitute authorization to appear in the mailer.

(Repealed and added by Stats. 2004, Ch. 478, Sec. 9. Effective September 10, 2004.)

State Fair Political Practices Commission Regulation on Mass Mailing
§ 18435. Definition of Mass Mailing and Sender.

- (a) A “mass mailing” has been made when over two hundred substantially similar pieces of mail have been sent within a calendar month.
- (b) The sender, as used in Government Code Section 84305, is the candidate or committee who pays for the largest portion of expenditures attributable to the designing, printing, and posting of the mailing which are reportable under Government Code Sections 84200-84217.
- (c) For purposes of this section to “pay for” a share of the cost of a mass mailing means to make, to promise to make, or to incur an obligation to make, any payment:
 - (1) To any person for the design, printing, postage, materials or other costs (including salaries, fees, or commissions) of the mailing; or
 - (2) As a fee or other consideration for an endorsement or, in the case of a ballot measure, support or opposition, in the mailing.
- (d) The identification required by Section 84305 shall be preceded by the words “Paid for by.” These words shall be presented in the same size and color as the identification required by Section 84305, and shall be immediately adjacent to and above or immediately adjacent to and in front of the required identification.
- (e) The requirements of Section 84305 to identify the name of the candidate or committee sending a mass mailing apply to over 200 substantially similar messages distributed to the public through electronic mail by a candidate or committee within a calendar month.

VOTER REGISTRATION

To vote in any election, a citizen must be properly registered **15 days** prior to the election date. For the May 28, 2024 election, **voters must be registered at their residence address by Monday, May 13, 2024.**

Voters may visit the Secretary of State website to check if they are registered to vote: <https://voterstatus.sos.ca.gov/>

In order to remain eligible to vote, voters must re-register whenever they:

- Change their residence address
- Change their name (first, middle or last name) and/or signature
- Change their political party affiliation

Postage-paid voter registration forms are available at the following locations in Alameda County:

- U.S. Post Offices
- Public libraries and colleges
- City Halls/City Administration Buildings
- Department of Motor Vehicles offices
- County Elections Office in Oakland
- City of Berkeley facilities with public access

In order to register and vote in California, a person must be:

- A United States citizen and a resident of California
- At least 18 years old by Election Day
- Not in a state or federal prison for the conviction of a felony
- Not currently found mentally incompetent to vote by a court

If you plan to conduct a voter registration drive, please obtain your forms from the Alameda County Registrar of Voters' office. The City Clerk Department does not maintain a large inventory and will only release up to five registration forms to any individual.

A person or entity who has received voter registration information pursuant to an application, shall following discovery or notification of a breach in the security of the storage of the information, disclose the breach in security to the Secretary of State. The disclosure shall be made in the most expedient time possible and without unreasonable delay. *(Added by Stats. 2018, Ch. 96, Sec. 2. (AB 1678) Effective July 16, 2018.)*

Spanish language assistance is available at (510) 272-6975

Chinese language assistance is available at (510) 208-9665

Viet language assistance is available at (510) 272-6956

Tagalog language assistance is available at (510) 272-6952

Hindi language assistance is available at (510) 272-5035

Japanese language assistance is available at (510) 272-5036

Khmer language assistance is available at (510) 272-5038

Korean language assistance is available at (510) 272-5037

VOTE BY MAIL INFORMATION

NOTE: Per Assembly Bill 37 (2021), all registered voters in District 4 will automatically receive a vote-by-mail ballot for the May 28, 2024 election.

Uniform Application for a Vote-by-Mail Ballot

If you plan to conduct a coordinated vote-by-mail campaign, please contact the Alameda County Registrar of Voters to obtain information on the required form, content, and handling of vote by mail request forms.

Voted Vote-by-Mail Ballots

After marking the ballot, the vote-by-mail voter must return the ballot by mail or in person to the Alameda County Registrar of Voters, a member of a precinct board at a vote center within the jurisdiction, or an official vote-by-mail drop-off location. A voter may, if they are unable to return the ballot, designate their spouse, child, parent, grandparent, grandchild, brother, sister, or a person residing in the same household as the voter to return the ballot to the ROV or a precinct board before the close of polls on Election Day. The ballot shall not be returned by a paid or volunteer worker of a general purpose committee, controlled committee, independent expenditure committee, political party, candidate's campaign committee, or any other group or organization at whose behest the individual designated to return the ballot is performing a service.

To be counted, ballots must be postmarked on or before Election Day. Mailed ballots can be received by the Registrar of Voters up to seven days after Election Day. Vote-by-mail ballots that are personally delivered must be delivered no later than the close of polls at 8:00 p.m. on Election Day.

Berkeley voters may return their vote-by-mail ballots via any of the following methods.

- Via U.S. Mail
- In a secure drop box at 2180 Milvia Street. The drop box near Sather Gate and the Architects & Engineers Building on the UC Berkeley campus may be open pending County approval.
- At the designated Vote Center in Berkeley
- Personally delivered to Registrar of Voter's Office in Oakland

SELECTED STATE LAWS GOVERNING CAMPAIGN PRACTICES

The following are selected laws from Divisions 18 and 20 of the California Elections Code, Title 9 of the Government Code (Political Reform Act) and accompanying regulations regarding campaign activities. For a complete listing of restrictions on campaign practices and accompanying regulations, please refer to the Divisions and Titles in their entirety.

CAMPAIGN LITERATURE AND SIMULATION OF THE BALLOT

Candidate Statement of Qualifications

Elections Code § 18351 states, "Any candidate in an election or incumbent in a recall election who knowingly makes a false statement of a material fact in a candidate's statement, prepared pursuant to Section 11327 or 13307, with the intent to mislead the voters in connection with his or her campaign for nomination or election to a nonpartisan office is punishable by a fine not to exceed one thousand dollars (\$1,000)."

Simulated Ballot

Elections Code § 20009 states, (a) Every simulated ballot or simulated county voter information guide shall bear on each surface or page thereof, in type or lettering at least half as large as the type or lettering of the statement or words or in 10-point roman type, whichever is larger, in a printed or drawn box and set apart from any other printed matter, the following statement:

"NOTICE TO VOTERS
"(Required by Law)

"This is not an official ballot or an official county voter information guide prepared by the county elections official or the Secretary of State.

"This is an unofficial, marked ballot prepared by ____ (insert name and address of the person or organization responsible for preparation thereof)."

This section shall not be construed as requiring this notice in any editorial or other statement appearing in a regularly published newspaper or magazine other than a paid political advertisement.

(b) A simulated ballot or simulated county voter information guide referred to in subdivision (a) shall not bear an official seal or the insignia of a public entity, and that seal or insignia shall not appear upon the envelope in which it is mailed or otherwise delivered.

(c) The superior court, in a case brought before it by a registered voter, may issue a temporary or permanent restraining order or injunction against the publication, printing, circulation, posting, or distribution of any matter in violation of this section, and all cases of this nature shall be in a preferred position for purposes of trial and appeal, so as to assure the speedy disposition of cases of this nature.

(Amended by Stats. 2016, Ch. 422, Sec. 84. (AB 2911) Effective January 1, 2017.)

Political Advertising

Elections Code § 20008 states, "Any paid political advertisement that refers to an election or to any candidate for state or local elective office and that is contained in or distributed with a newspaper, shall bear on each surface or page thereof, in type or lettering at least half as large as the type or lettering of the advertisement or in 10-point roman type, whichever is larger, the words **"Paid Political Advertisement."** The words shall be set apart from any other printed matter. As used in this section "paid political advertisement" shall mean and shall be limited to, published statements paid for by advertisers for purposes of supporting or defeating any person who has filed for an elective state or local office." Also consult Government Code Section 84513 as political advertisement disclosures now also include political advertising posted electronically by a third party paid by the committee.

Libel and Slander

“The provisions of Part 2 (commencing with Section 43) of Division 1 of the Civil Code, relating to libel and slander, are fully applicable to any campaign advertising or communication.” (EC § 20500)

“(a) A candidate or state measure proponent is liable for any slander or libel committed by a committee that is controlled by that candidate or state measure proponent as defined by Section 82016 of the Government Code if the candidate or state measure proponent willfully and knowingly directs or permits the libel or slander.

(b) A person who is a sponsor of a sponsored committee, as defined by Section 82048.7 of the Government Code, is liable for any slander or libel committed by the sponsored committee if the sponsor willfully and knowingly directs or permits the libel or slander.” (EC § 20501)

Electioneering on Election Day

Elections Code § 18370 states, (a) A person shall not, on election day, or at any time that a voter may be casting a ballot, within the 100 foot limit specified in subdivision (b), do any of the following:

- (1) Circulate an initiative, referendum, recall, or nomination petition or any other petition.
- (2) Solicit a vote or speak to a voter on the subject of marking the voter’s ballot.
- (3) Place a sign relating to voters’ qualifications or speak to a voter on the subject of the voter’s qualifications except as provided in Section 14240.
- (4) Do any electioneering as defined by Section 319.5.

(b) The activities described in subdivision (a) are prohibited within 100 feet of either of the following:

- (1) The entrance to a building that contains a polling place as defined by Section 338.5, an elections official’s office, or a satellite location specified in Section 3018.
- (2) An outdoor site, including a curbside voting area, at which a voter may cast or drop off a ballot.

(c) A person shall not, on election day, or at any time that a voter may be casting a ballot, do any of the following within the immediate vicinity of a voter in line to cast a ballot or drop off a ballot:

- (1) Solicit a vote.
- (2) Speak to a voter about marking the voter’s ballot.
- (3) Disseminate visible or audible electioneering information.

(d) Any person who violates any of the provisions of this section is guilty of a misdemeanor.

Corruption of Voting and Intimidation of Voters

Elections Code § 18540 states, (a) Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

(b) Every person who hires or arranges for any other person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

(c) For purposes of this section, “voting at any election” includes, but is not limited to, voting in person at a polling place or at the office of the elections official, including satellite locations pursuant to Section 3018, and voting by mail and returning a voted ballot pursuant to subdivision (a) of Section 3017.

Elections Code § 18541 states:

(a) A person shall not, with the **intent of dissuading another person from voting**, within the 100 foot limit specified in subdivision (b), do any of the following:

- (1) Solicit a vote or speak to a voter on the subject of marking the voter’s ballot.
- (2) Place a sign relating to voters’ qualifications or speak to a voter on the subject of the voter’s qualifications except as provided in Section 14240.
- (3) Photograph, video record, or otherwise record a voter entering or exiting a polling place.
- (4) Obstruct ingress, egress, or parking.

(b) The activities described in subdivision (a) are prohibited within 100 feet of either of the following:

- (1) The entrance to a building that contains a polling place as defined by Section 338.5, an elections official’s office, or a satellite location specified in Section 3018.
- (2) An outdoor site, including a curbside voting area, at which a voter may cast or drop off a ballot.

(c) A person shall not, with the intent of dissuading another person from voting, do any of the following within the immediate vicinity of a voter in line to cast a ballot or drop off a ballot:

- (1) Solicit a vote.
- (2) Speak to a voter about marking the voter’s ballot.
- (3) Disseminate visible or audible electioneering information.

(d) A violation of this section is punishable by imprisonment in a county jail for not more than 12 months, or in state prison. Any person who conspires to violate this section is guilty of a felony.”

For purposes of §18541 (a)(3), the photographing, videotaping, or recording of a voter must be in order to dissuade the person from voting. This does not apply to situations where newspaper photographers are photographing a polling place for journalistic purposes.

Elections Code § 18543 states, “(a) Every person who knowingly **challenges a person’s right to vote** without probable cause or on fraudulent or spurious grounds, or who engages in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voters from voting or to delay the process of voting, or who fraudulently advises any person that he or she is not eligible to vote or is not registered to vote when in fact that person is eligible or is registered, or who violates Section 14240, is punishable by imprisonment in the county jail for not more than 12 months or in the state prison.

(b) Every person who conspires to violate subdivision (a) is guilty of a felony.”

In addition, §18403 also states, “Any person other than an elections official or a member of the precinct board who receives a voted ballot from a voter or who examines or solicits the voter to show their voted ballot is punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years, or in a county jail not exceeding one year, or by both that fine and imprisonment. This section does not apply to persons returning a vote by mail ballot pursuant to Section 3017 or persons assisting a voter pursuant to Section 14282.”

ELECTION RESULTS

Semifinal Official Canvass (Election Night Results)

The semifinal official canvass will commence immediately upon the close of the polls at 8:00 p.m., May 28, 2024. The counting of ballots by the Registrar of Voters (ROV) will commence when all polls are closed.

You may inquire about Election Night Semifinal results in two ways:

- View results as they are posted on the ROV website <https://www.acvote.org/>
- Call ROV main phone number (510) 272-6933

The Election Night Semifinal results will NOT provide precinct-by-precinct results or votes cast for write-in candidates. Those totals are only available in the Statement of the Vote which is released when the election is certified up to 30 days after the election.

Ranked-Choice Voting

The Ranked-Choice Voting algorithm may be run periodically during the canvass. The results may change as more ballots are processed and tabulated.

Final Official Canvass

Election results are not final until the canvass is complete (refer to Division 15 of the Elections Code for procedural requirements and timeframes). It typically takes about 30 days to complete the Official Canvass and certify the official results of the election. The Official Statement of the Vote, showing the Official Final Results (totals, precinct by precinct results, and votes for qualified write-in candidates) is available from the ROV upon certification.

City Council to Receive Certification of Results

After the ROV certifies the results, the City Clerk will prepare the required resolution for the City Council to officially adopt the certified results. This will occur at the first available meeting where Open Government Ordinance deadlines permit placement on the agenda.

Elected Officers to be Seated

Certificates of election will be issued by the City Clerk.

The newly elected officer may be sworn in by the City Clerk at a time convenient to the official after the election has been certified by the Registrar of Voters and the City Clerk.

The position of Vice-Mayor is determined by Council resolution.

CONTACT INFORMATION AND TELEPHONE NUMBERS

IMPORTANT TELEPHONE NUMBERS

City Clerk, City of Berkeley	(510) 981-6908
City Attorney, City of Berkeley	(510) 981-6950
Secretary to Fair Campaign Practices Commission	(510) 981-6998
Alameda County Registrar of Voters	(510) 272-6933
California Fair Political Practices Commission(toll-free advice line)	1-866-275-3772
California Fair Political Practices Commission (main line)	1-916-322-5660

General Information on Election or Campaign Filing Questions:

Contact the City Clerk Department for general questions. Candidates may also contact the Secretary of the Fair Campaign Practices Commission in the City Attorney's Office for specific questions regarding local regulations under the Berkeley Election Reform Act (BMC 2.12).

Lists of Registered Voters:

The voter roll may be obtained from the Alameda County Registrar of Voters Office at 1225 Fallon Street, Room G1, Basement Level, (Oak at 12th Street), Oakland, (510) 272-6933. There will be a cost associated with fulfilling the request.

CAMPAIGN SIGNS

Signs on Private Property

Political signs may not be placed on any private property (residential, commercial, or industrial) without the permission of the owner. State Penal Code Sections 556.1 and 593 govern this activity.

Penal Code Section 556.1

“It is a misdemeanor for any person to place or maintain or cause to be placed or maintained upon any property in which he has no estate or right of possession any sign, picture, transparency, advertisement, or mechanical device which is used for the purpose of advertising, or which advertises or brings to notice any person, article of merchandise, business or profession, or anything that is to be or has been sold, bartered, or given away, without the consent of the owner, lessee, or person in lawful possession of such property before such sign, picture, transparency, advertisement, or mechanical device is placed upon the property.”

Signs on Utility Poles

PG&E prohibits the attachment of campaign signs to PG&E utility poles or other facilities. The U.S. Supreme Court ruled that third parties have no right to use utility property to communicate messages to the public [Pacific Gas and Electric v. Public Utilities Commission, 475 U.E. 1 (1986)].

Signs on Light Poles

Placing signs on City-owned light poles is generally acceptable with certain restrictions. Signs may not create a traffic hazard by obstructing vision or interfere with any authorized sign.

Signs on State Right of Way

Caltrans has strict procedures for the allowance of temporary signs on the state right of way. On the following pages you will find an authorization form provided by Caltrans. Please use this form if you plan to place any signs in the state right-of-way. You may download a form from the Caltrans website by visiting the following page: <https://dot.ca.gov/programs/traffic-operations/oda/political-signs>

Signs on Medians

Political signs are prohibited in all street medians in Berkeley.

Signs on Parking Strips

Election signs are considered temporary signs, and currently they are allowed in the parking strip. The parking strip is the planted area between the curb and the sidewalk.

Other Sign Limitations in Berkeley

Berkeley Municipal Code Title 20, Sections 20.04 through 20.68, regulates the placement of temporary and permanent signs in the city. Please review these regulations carefully to avoid enforcement actions during your campaign. A copy of these regulations will be provided to you at the time of obtaining your Nomination Papers.

DEPARTMENT OF TRANSPORTATION

DIVISION OF TRAFFIC OPERATIONS
OUTDOOR ADVERTISING PROGRAM
P.O. BOX 942874, MS-36
SACRAMENTO, CA 94274-0001
PHONE (916) 654-6473
FAX (916) 651-9359
TTY 711
www.dot.ca.gov



*Making Conservation
a California Way of Life.*

Dear Candidate or Committee Member:

As a candidate or campaign worker for either office or a ballot measure, this reminder about State law governing campaign signs should be helpful to you.

Section 5405.3 of the State Outdoor Advertising Act exempts the placing of Temporary Political Signs from normal outdoor advertising display requirements.

A Temporary Political Sign meets the following criteria:

- A. Encourages a particular vote in a scheduled election.
- B. Is placed no sooner than 90 days prior to the scheduled election and is removed within 10 days after that election.
- C. Is no larger than 32 square feet.
- D. Has had a Statement of Responsibility filed with the Department certifying a person who will be responsible for removing the sign (Attached).

A completed Statement of Responsibility must be submitted to:

Division of Traffic Operations
Outdoor Advertising Program
P.O. Box 942874, MS-36
Sacramento, CA 94274-0001

Temporary Political Signs shall not be placed within the right-of-way of any highway, and be visible within 660 feet from the edge of the right-of-way of a classified "Landscaped freeway".

State law directs the Department of Transportation to remove unauthorized Temporary Political Signs and bill the responsible party for their removal. We are calling these provisions to your attention to avoid possible embarrassment or inconvenience to you and your supporters. Please share this information with those assisting in your campaign.

Should you have any questions, comments or need additional information, please call (916) 654-6473.

Enclosure

ODA-0027

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
**STATEMENT OF RESPONSIBILITY
FOR TEMPORARY POLITICAL SIGNS**
ODA-0027 (NEW 12/2018)

Election Date: _____ June _____ November Other: _____

Candidate's Name: _____

Office sought or Proposition Number: _____

County where sign(s) will be placed: _____

Number of signs to be placed: _____

RESPONSIBLE PARTY:

Name: _____

Address: _____

Phone Number (Include Area Code): _____

Email (Optional): _____

The undersigned hereby accepts responsibility for the removal of Temporary Political Signs placed pursuant to Section 5405.3 of the Outdoor Advertising Act for the above candidate or proposition.

It is understood and agreed that any Temporary Political Signs placed sooner than ninety (90) days prior to the election and/or not removed within ten (10) days after the election, may be removed by the Department and the responsible party will be billed for any associated removal costs.

Signature of Responsible Party

Date

Mail Statement of Responsibility to:

Department of Transportation
Division of Traffic Operations
Outdoor Advertising Program
P.O. Box 942874, MS-36
Sacramento, CA 94274-0001
Email: ODA@dot.ca.gov

ADA Notice For individuals with sensory disabilities, this document is available in alternate formats. For alternate format information, contact the Forms Management Unit at (916) 445-1233, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

This page intentionally left blank.

Help Wanted! Become a Poll Worker!

Apply to be a poll worker today!

You are eligible to be a poll worker if you are:

- **A registered voter in Alameda County, or**
- **A Lawful Permanent Resident or Green Card Holder, or**
- **A high school student enrolled in the High School Student Poll Worker Program**

Poll workers contribute to their community, participate in the election process, and earn up to \$200!

Apply on-line at

https://www.acgov.org/rovform_app/ewapply

or call (510) 272-6971.