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Elections

University of the Pacific; McGeorge School of Law

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Elections

Elections; campaign practices

Elections Code §§12500, 12510, 12511, 12512, 12513, 12520, 12522, 12523, 12524, 12525, 12526 (new and repealed).

SB 1484 (Boatwright); STATS. 1982, Ch 855

Support: Department of Finance

Chapter 855 creates a Code of Fair Campaign Practices¹ (hereinafter referred to as the Code)² for the purposes of giving the voters guidelines to determine fair play in electoral contests and encouraging candidates to discuss issues rather than untruths or distortions.³ Any candidate for public office,⁴ a candidate's controlled committee,⁵ or a committee making independent political expenditures⁶ may subscribe to the Code at the time of filing a declaration of candidacy, nomination papers, or any other paper evidencing an intention to be a candidate for public office.⁷ Chapter 855 emphasizes that endorsement of the Code is strictly voluntary.⁸ The clerk must inform candidates of this at the time they file any candidacy papers.⁹

The provisions of Chapter 855 state that any candidate who subscribes to the Code pledges to conduct an open campaign¹⁰ and criticize the record and policies of opponents or political parties without the use of character defamation, whispering campaigns, or scurrilous attacks on any candidate's character, personal or family life.¹¹ Additionally, candidates who subscribe to the Code must promise not to appeal to negative prejudice based on race, sex, religion, national origin, physical health, or age;¹² not to engage in unethical acts that corrupt or under-

1. CAL. ELEC. CODE §12520.

2. *Id.* §12513.

3. *Id.* §12500.

4. Candidates for public office are specifically defined as individuals who have qualified to have their names listed on the ballot of any election, or who have qualified to have written votes on their behalf counted by election officials, for nomination for, or any election to, any state, regional, county, municipal, or district office which is filled at an election. The provisions of this chapter do not apply to candidates for federal office. *Id.* §12512.

5. CAL. GOV'T. CODE §82016 (definition of controlled committee).

6. *Id.* §82031 (definition of independent expenditure).

7. CAL. ELEC. CODE §12520.

8. *See id.* §12525.

9. *Id.* §12520.

10. *Id.* §12520(1).

11. *Id.* §12520(2).

12. *Id.* §12520(3).

mine the American system of free elections or acts intended to prevent any eligible person from registering to vote, enrolling to vote, or voting;¹³ and not to coerce election help or campaign contributions from the candidate's employees.¹⁴ Finally, subscribing candidates promise to immediately and publicly repudiate support from any individual or group who engages in tactics that the candidate has condemned and to take firm action against any subordinate who violates any provision of this Code or the laws governing elections.¹⁵

All copies of the Code that have been subscribed to by candidates are public record¹⁶ and will be retained by the county clerk or Secretary of State until 30 days after the election.¹⁷ This chapter will be automatically repealed on January 1, 1989.¹⁸

13. *Id.* §12520(4).

14. *Id.* §12520(5).

15. *Id.* §12520(6).

16. *Id.* §12524.

17. *Id.* §12523.

18. *Id.* §12526.

Elections; statement of candidate

Elections Code §29451 (new).

AB 1021 (Rogers); STATS. 1982, Ch 57

Support: Department of Finance

Existing law allows a candidate for nonpartisan elective office in a local agency and an incumbent in a recall election¹ to prepare and file with the county clerk a brief statement describing the candidate's education and qualifications.² In an attempt to prevent candidates from willfully misleading the voter,³ Chapter 57 provides that any candidate for nonpartisan elective office, or an incumbent in a recall election, who knowingly makes a misrepresentation of material fact in the statement, with the intent to mislead the voters, will be punished by a fine not to exceed \$1000.⁴

1. Existing law excludes incumbents in city recall elections from this provision of law. CAL. ELEC. CODE §27317.

2. *Id.* §§10012, 27317.

3. Assemblyman Don Rogers, Newsletter, August 20, 1981 (copy on file at the *Pacific Law Journal*). See generally *Loza v. Panish*, 102 Cal. App. 3d 821, 162 Cal. Rptr. 596 (1980) (held that the United States and California constitutional protections of freedom of expression prohibit the county clerk from rejecting or censoring any candidate's statement even if it is obscene, defamatory, or inciting).

4. CAL. ELEC. CODE §29451.