



**Navigating the Post-*Citizens United* Landscape:
California Election Year Activities for
Social Welfare Organizations, Labor Unions and Trade Associations**

The January 2010 Supreme Court opinion in *Citizens United v. Federal Election Commission* impacts not only federal elections, but state and local elections as well. As a result of *Citizens United*, state and local campaign finance laws cannot prohibit certain activities by corporations or labor unions. Many nonprofits, labor unions and trade associations working in California are wondering how the *Citizens United* decision affects their day-to-day work. Keep in mind that *Citizens United* does not directly impact federal tax laws regulating campaign activities of nonprofits. For more information on these rules, visit our website at: <http://www.afj.org/connect-with-the-issues/citizens-united-overview.html>.

State-Level Candidates: California state law does not prohibit corporations or labor unions from using general treasury funds to make contributions, independent expenditures, or “electioneering communications” in support for or opposition to candidates for state-level office. As such, California will not need to make any changes to the state campaign finance laws in order to implement the Supreme Court’s decision in *Citizens United*. State-level candidates include candidates for Governor, Lieutenant Governor, Attorney General, Superintendent of Public Instruction, State Assembly, State Senate, Board of Equalization, and state public employee retirement board (CalPERS). Although no changes in California law are required to implement *Citizens United*, the state legislature has introduced a resolution expressing its opposition to the *Citizens United* decision.

Local Candidates: California state law does not prohibit corporations or labor unions from using general treasury funds to make contributions, independent expenditures, or electioneering communications in support for or opposition to candidates for local office. However, under California law, cities, counties, school districts and other local districts are permitted to adopt campaign finance laws that are more stringent than state law. As a result, many cities, counties, school districts, and other local districts have adopted campaign finance laws that prohibit some form of corporate or labor union involvement in partisan electoral activities. The cities of Los Angeles and San Diego have already responded to the *Citizens United* opinion¹, and *Citizens United* may also impact campaign ordinances in other cities and counties as well.²

City of Los Angeles: The Los Angeles Ethics Commission adopted a resolution clarifying that as a result of *Citizens United* it will no longer enforce Section

¹ Los Angeles and San Diego’s campaign finance ordinances both had provisions that directly conflicted with the *Citizens United* opinion.

² Note that even prior to *Citizens United*, the courts had prohibited enforcement of a number of California ordinances (including ordinances in San Francisco, San Jose, Oakland, and Irvine) that restricted certain coordinated independent expenditures.

49.7.26(A) of the Los Angeles Municipal Code. Municipal Code Section 49.7.26(A) banned for-profit business corporations and labor organizations from using general treasury funds to expressly advocate for the election or defeat of one or more candidates for Mayor, City Council and any other elective City office. The Ethics Commission also announced it will continue to enforce the City's disclaimer and disclosure laws. To read the resolution, click here: <http://tiny.cc/LBiDE>.

City of San Diego: Relying (in part) on the Supreme Court's decision in *Citizens United*, a federal district court recently adopted an order prohibiting the City of San Diego from enforcing several of the provisions of its campaign ordinance – though you may note this court order goes beyond what was strictly required under *Citizens United*. To review the City's response, click here: http://www.sandiego.gov/ethics/pdf/econotice_100224.pdf. The order impacts the City's ordinance in the following ways:

- Corporations and labor unions can now contribute an unlimited amount of money (subject to federal tax law limitations) to Political Action Committees (PACs) that make only "independent expenditures" to support or oppose candidates for City elective office in San Diego.
- Political parties may now make contributions to candidates for elective office in San Diego; however, the City may adopt limits on the amount of money political parties can contribute. The court did not rely upon *Citizens United* in making this conclusion, and instead looked at the Supreme Court's opinion in *Randall v. Sorrell* (2006) 548 U.S. 230, 236.
- The court's order does not impact the City's ban on contributions to candidates from corporations or labor unions or restrictions on the time period during which candidates are allowed to accept contributions.

The City of San Diego may make additional changes to the law a result of this litigation or appeal the decision.

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