

Campaign Finance Reform Amendment Act of 2018

This comprehensive bill builds on B22-0008, B22-0032, B22-0047, and B22-0051 to reduce the influence of money in D.C. politics. Responds to concerns about the undue influence of wealthy developers and corporations in D.C. politics by prohibiting contractors from contributing to candidates. Creates a new, standalone, five-member Campaign Finance Board (“CFB”) to oversee the administration and enforcement of the District’s campaign finance laws. Ensures D.C. has meaningful contribution limits but prohibiting coordination between candidates and outside spenders.

Tackling Pay-to-Play

Responds to concerns about pay-to-play politics in the District and the undue influence of contractor contributions. Brings D.C. in line with the federal government and 17 other states and municipalities by establishing pay-to-play restrictions.

- Bars “**covered contractors**” from donating to “**prohibited recipient**” during “**prohibited period**”
 - “**Covered contractor**”- any business entity^[1], including its principals, seeking or holding a contract(s), with an aggregate value of \$250,000 or more with the District government
 - “**Contract**” is defined broadly including: goods, services, construction, tax abatements, land deals, loans and licensing agreements
 - “**Prohibited recipient**”- can apply to the incumbent Mayor, AG, Councilmembers, their challengers, political committees and CSFs depending on contract oversight and approval. *For example, if a contractor is seeking a contract overseen by the Mayor, the contractor is prohibited from contributing to the Mayor but may still give to other District candidates.*
 - “**Prohibited period**”- during the bidding period and 1 year after end of contract.
- Prohibits District agencies from awarding contracts to covered contractors if they have contributed
 - Two way street for enforcement with onus on contractor, contracting agency and Office of Campaign Finance, *not* campaign
 - Requires contracting authorities to maintain a publicly available list of covered contractors
- Covered contractor found to have violated the pay-to-play law may be considered in breach of an existing contract

Reforming Agency Oversight of the District’s Campaign Finance Laws

Establishes the Campaign Finance Board to oversee administration and enforcement of D.C.’s campaign finance laws. An independent board with subject-matter expertise is critical as the District launches its new Fair Elections Program. A specialized board will provide the guidance and expertise necessary to support and effective campaign finance agency.

Campaign Finance Board:

- 5 members, appointed by Mayor and approved by Council with similar requirements of membership to BOE and the Board of Government Ethics and Accountability (“BEGA”)
- Allows the new CFB members to be compensated for their service, like BOE and BEGA members

^[1] “Business entity” = “any corporation, partnership, sole proprietorship, firm, nonprofit corporation, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted, whether for profit or not.”

- CFB members must have demonstrated expertise in campaign finance law or administration
- Director of the OCF will present potential violations to CFB who will decide on merits
- CFB can also issue advisory opinions
- All CFB reports must be available online
 - contributions and expenditures must be sortable by address, city, state, and zip code

Addressing Improper Coordination

Campaigns coordinating with outside groups seriously undermines contribution limits. The need for effective coordination laws is heightened in a public financing system: Public financing programs like Fair Elections, seek to amplify the role of small donors and reduce the influence of wealthy special interests; publicly financed candidates should not continue to rely on special interests through illicit coordinated spending.

- Expenditures coordinated with a candidate are considered a contribution to that candidate.
- There is a rebuttable presumption that an expenditure is coordinated with a candidate when:
 - The candidate provides information to the spender about campaign needs or plans
 - The candidate and spender retain services of a common vendor for professional services related to campaign or fundraising strategy
 - The organization making the expenditure was established or is run by the candidates former staff or a member of the candidates family
 - The candidate has fundraised for the spender making expenditures to support the candidate

Enhancing Disclosure Requirements and Training

- Independent Expenditure Disclosure
 - Outside groups making independent expenditures must disclose what they are spending and provide information about where the money for these expenditures comes from
 - Name of outside group and top 5 contributors must be listed on advertisements, including digital ads
- Contribution reports must include employers in addition to occupation
- Simplifies the schedule for reporting contributions and expenditures by political committees
 - Adds pre-election report 8 days before primary, general or special election
- PACs, and IECs: Moves up the maximum cut-off date for which contributions and expenditure reporting from 5 to 10 days before the reporting date (CFB has discretion on cut-off)
- Lowers threshold for reporting of bundled contributions from \$10,000 to \$5,000
- Requires all board and commission members to take BEGA's ethics training within 90 days
- Mandatory training for candidates and treasurers will discuss the Fair Elections Program, pay-play-regulations and accepting donations from businesses
 - CFB is required to post on its website the names of those who haven't done the training

Reducing the Influence of Money in Politics

- Prohibits lobbyists from bundling contributions to campaigns
 - reducing actual and perceived corruption and special treatment for the well connected
- Requires prompt retirement of campaign debts to limit fundraising by current officeholders
 - Especially problematic when campaign owes money to the candidate/official
 - Limits repayment of personal loans by campaign funds to \$25K
- Equal contribution limits (\$2,000) for inaugural, legal defense and transition committees
- Clarifies that legal defense committees can only be used to pay for specific legal fees arising out of status as a public official, numerous localities have similar provisions
- Applies existing contribution limits to PACs in non-election years (\$5,000 per PAC per election)

Updating DC Campaign Finance Law Based on Recent Case Law

- Allows PACs to make non-contribution accounts in order to make independent expenditures, per *Carey v. FEC*
- Repeals aggregate contribution limits, per *McCutcheon v. FEC*

Additional Provisions

- Allows AG to have transition committee, currently just Mayor and Chairman
- Clarifies the Hatch Act requirement that government employees may only use *annual or unpaid* leave when they're fundraising for a candidate and must be listed on BEGA's website