

City of Banning: Election Non-Compliance

May 14, 2025



SUMMARY

Adhering to federal, state, and local laws is one of the essential foundations upon which our democratic form of government stands. Although not required, one of California's election procedures is that candidates can submit a statement informing voters of a candidate's life experiences, intent, and reason for running for office.

The California Election Code §13313(a) requires election officials to make candidate statements available for public review immediately after the nomination period ends. This review period lasts for 10 days. By opening candidate statements to public scrutiny, the public can identify and challenge any false or misleading statements made by candidates.

For the November 5, 2024, candidate nomination documents needed to be received by a municipality between July 15 and August 9, 2024. Municipalities were mandated to make candidate statements available for the public from August 10 to August 19, 2024, during normal business hours.

A Riverside County Civil Grand Jury (Civil Grand Jury) investigation revealed that the City of Banning was unprepared to comply with California Election Code §13313(a). The failure to make candidate statements available to the public at the beginning of the 10-day examination period undermined citizens' confidence in their local municipal election process. Additionally, the Civil Grand Jury found that the City of Banning processed candidate documents inconsistently and therefore has increased the likelihood of litigation. The city has not updated its election ordinances to comply with California election laws.

The Civil Grand Jury recommends that the City of Banning implement policies to ensure compliance with California Election Code §13313, train additional city employees for election duties, consistently process and date-stamp candidate documents, and revise election ordinances to align with current California laws.

BACKGROUND

Elections are governed by a complex and evolving set of federal, state, and local laws. These laws include voter registration requirements, voter rights laws, campaign finance regulations, voter accessibility standards, and transparency mandates.

Municipal elections can be either consolidated or stand-alone. In a consolidated election, the municipal election is held concurrently with another election, such as the Statewide Primary or General Election. In a stand-alone election, the city is solely responsible for conducting the election independently of any other elections.

Municipal elections are held to do the following:¹

1. Elect city officials and officers (e.g., City Councilmembers, Mayor, City Treasurer, Police or Fire Chief, and/or the City Clerk).
2. Submit measures to the voters that may include charter amendments and bond issues.
3. Consider a referendum, initiative action, or recall.

¹ City Clerks Association of California, Municipal Clerk Handbook, October 2024, p. 95. URL is located at https://cdn.ymaws.com/www.californiacityclerks.org/resource/resmgr/events/book_club/2024.10_municipal_clerks_hand.pdf. Accessed March 6, 2025.

4. Annex or de-annex (detach) inhabited territory.

Riverside County is comprised of 28 cities, each responsible for conducting its own municipal election. The Riverside County Registrar of Voters provides election services to these cities, ensuring that city personnel are informed about updated laws, regulations, and procedures for conducting municipal elections.²

City Clerks are instrumental in preparing for and conducting a municipal election. According to the City Clerks Association of California, City Clerks are responsible for creating a municipal election calendar that details the necessary actions before, during, and after an election. This calendar should specify each action and reference the relevant State code. A crucial part of this process is reviewing State code requirements to ensure any changes to State law are noted and their effective dates are followed accordingly.³

In the spring of 2024, residents of Banning, California raised concerns on three key issues about the upcoming municipal election on November 5, 2024. These concerns focused on:

1. Accessing candidate statements as required by California Election Code §13313(a).
2. Inconsistency of recording candidate nomination paperwork.
3. An incumbent city officer may have completed the necessary nomination paperwork after the nomination period had ended, as per California Election Code §10220.

Consequently, the Civil Grand Jury initiated an investigation into the City of Banning's election processes for the November 5, 2025, municipal election.

METHODOLOGY

The Civil Grand Jury obtained information for this report through the review of documents, testimony of officials, and site visitations. The Civil Grand Jury obtained information by the following means:

Interviews – The Civil Grand Jury conducted 21 interviews.

- 2024 Banning City Council Members
- 2024 City of Banning, City Manager
- 2024 City of Banning, Assistant City Manager
- 2024 City of Banning, Administrative City Clerk
- Candidates running for Banning City Council during the November 5, 2024, Election
- Candidates running for Banning City Treasurer during the November 5, 2024, Election
- City of Banning Staff

Documents

- Resolution 2020-67 - “Manual of Procedural Guidelines for the Conduct of City Council and Constituent Body/Commission Meetings for the City of Banning”

² County of Riverside, An Ordinance of the County of Riverside, Amending Ordinance No. 738 Establishing Elections Service Fees and Charges for Mandated and Contracted Elections and for Charges for Miscellaneous Services and Forms by the Registrar of Voters of the County of Riverside, 2005. URL is located at <https://rivcocob.org/sites/g/files/aldnop311/files/migrated/ords-700-738.2.pdf>. Accessed March 6, 2025.

³ City Clerks Association of California, Municipal Clerk Handbook, October 2024, p. 95. URL is located at https://cdn.ymaws.com/www.calclerks.org/resource/resmgr/events/book_club/2024.10_municipal_clerks_hand.pdf. Accessed March 6, 2025.

- City of Banning Election Forms – Candidate Manual November 4, 2024, California Legislative Information – Election Records
- Banning City Biennial Budgets (Fiscal Years 2022-23 and 2024-25)
- 2018-2019 Riverside County Civil Grand Jury Report, “City of Banning Council and City Manager Relationship”
- United States Census Bureau – Facts Regarding City of Banning
- Banning, California – Code of Ordinances/Title 2 – Administration/ Chapter 2.08 – City Manager/2.08.110 – City council to deal only with city manager
- California Government Code, Title 4, Division 1, §§34000 - 34102, General Law Cities
- California Election Code, Division 13, Chapter 4, §13313

Banning City Council Meetings (Remotely Accessed)

- City Council Meeting, January 9, 2024
- City Council Meeting, July 25, 2024
- City Council Meeting, December 10, 2024

Visits

- Multiple Banning City Hall visits, including on Election Day November 5, 2024
- Riverside County, Registrar of Voters Operations Center

Websites

- City of Banning, Official Website:
 - <https://www.ci.banning.ca.us/>
- City of Banning, Ordinance 1581, Redistricting Boundaries:
 - https://banningca.gov/DocumentCenter/View/10997/Banning_Ordinance-1581_Redistrict-Boundaries
- City of Banning, FY 2022-2023, and FY 2023-2024 Biennial Operating Budget:
 - <https://banningca.gov/DocumentCenter/View/10747/Att-8-Budget-and-Fund-Balance-Summary-FY-22-23-FY-23-24>
- City of Banning, FY 2024-2025, and FY 2025-2026 Biennial Operating Budget:
 - [Banning / FY 2024-25 & FY 2025-26 Biennial Budget](#)
- City of Banning, Ordinance 1581 – Adjusting the Boundaries of the Five City Council Districts:
 - [Banning Ordinance-1581 Redistrict-Boundaries](#)
- City of Banning, Title 2 – Administration and Personnel, City Manager:
 - <https://banningca.gov/DocumentCenter/View/11975/Att-2-BMC-208-City-Manager>
- County of Riverside, Registrar of Voters:
 - <https://voteinfo.net/>
- Legislative Information, California Legislative Information, Election Codes, §§1–23004: <https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=ELEC>
 Legislative Information, California Code Government Code, Title 4 - Government of Cities, §§34000–34102:
 - <https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=GOV&tocTitle+=Government+Code+-+GOV>
- County of Riverside, Riverside County Civil Grand Jury, “City of Banning Council and City Manager Relationship:”
 - <https://www.thebanninginformer.com/wp-content/uploads/2019/06/2019-Grand-Jury-Report-Banning.pdf>

Survey

- Surveyed all 28 Riverside County Cities regarding their Date Stamping Policy for Incoming Mail and/or Documents

DISCUSSION

The City of Banning operates under a council-manager form of government, with five elected city council members and an appointed city manager. The city manager supervises the city's departments, including an Administrative City Clerk who serves as the city's election official.

Candidate Nomination Period

The nomination period for municipal elections is the 113th day to the 88th day before a municipal election.⁴ The City of Banning acknowledges the nomination period in its Municipal Ordinance 1.12.050.⁵ During this period, candidates submit their nomination documents which include voluntary candidate statements.

According to California Election Code §13307, a candidate's statement, for a nonpartisan elective office like a city council position, "may include the name, age, and occupation of the candidate and a brief description, of no more than 200 words, of the candidate's own education and qualifications expressed by the candidate."

For California's November 5, 2024, Consolidated Election, the Administrative City Clerk distributed a "Candidate's Informational Packet for Municipal Election, November 5, 2024" to prospective municipal candidates. The packet included a municipal election calendar, nomination papers, rules about candidate statements, campaign disclosure requirements, Fair Political Practices Commission (FPPC) filing schedule, and FPPC campaign disclosure forms. For the November 5, 2024, election, a candidate's nomination documents had to be submitted between July 15, 2024, and August 9, 2024.

Public 10-Day Examination Period

According to California Election Code §13313, once the nomination period concludes, election officials must provide copies of candidate statements for public examination in their office, during normal business hours, for 10 calendar days following the filing deadline. For the municipal election scheduled on November 5, 2024, the 10-day examination period was from Saturday, August 10, 2024, to Monday, August 19, 2024.

Importance of the 10-Day Examination Period

There are three significant reasons for the 10-day examination period.

1. If there is clear and convincing proof that the material in a candidate's statement is false or misleading, a voter or an elections official can seek a writ of mandate or an injunction.

⁴ California Legislative Information, California Election Code §10220. URL is https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=10220.&lawCode=ELEC. Accessed April 14, 2025.

⁵ City of Banning, Municode Codification, Ordinance 1.12.050. URL is https://library.municode.com/ca/banning/codes/code_of_ordinances/450194?nodid=TIT1GEPR_CH1.12EL_1.12.050NO. Accessed April 15, 2025.

This legal remedy, available only upon showing such proof, is designed to prevent premature or disruptive legal actions that might interfere with the electoral process.

2. If a candidate makes false statements in their candidate statement, it may be discovered in time to prevent the type of political chaos created by a candidate who won a congressional seat in the State of New York and was later expelled from the U.S. House of Representatives less than a year into office.⁶
3. Candidates, including incumbent city officers, who do not submit their completed nomination papers at least 88 days before the election will be disqualified from running for public office.⁷

California Election Code §13313(a) Allegations

A citizen of Banning alleged that the City of Banning violated Election Code section §13313(a) by failing to make candidate statements available to the public on the first business day of the 10-day examination period. During its investigation, the Civil Grand Jury found evidence supporting this allegation. The Administrative City Clerk's work schedule consisted of a four-day work week, with weekends and Mondays as scheduled days off. Consequently, the first day of the 10-day examination period fell on a Monday (i.e., Monday, August 12, 2024). The Civil Grand Jury also determined that no malice or ill will was intended, and the violation occurred partially due to the employee's work schedule.

Other citizen criticisms involved: (1) having to wait for over two hours to access candidate statements and (2) difficulties in obtaining copies of candidate statements. The Civil Grand Jury found that during the Administrative City Clerk absence, other city employees were unsure of the necessary actions to take on election issues, resulting in inconveniences to the public.

Another grievance involved the allegation that an incumbent city officer did not complete the required paperwork before the August 9, 2024, deadline. If true, then the incumbent city officer was ineligible to be on the November 5, 2024, election ballot.

The Civil Grand Jury found insufficient evidence to support this allegation. However, inconsistencies in the processing of candidate documents were discovered. For example, one applicant's paperwork was date-stamped, while another applicant's paperwork was not.

Some applicants claimed that the Administrative City Clerk was not available to answer questions or to receive paperwork. This led citizens to suspect that the municipal election was not conducted fairly or impartially. The Civil Grand Jury determined that these inconsistencies increased the likelihood of the city facing a lawsuit.

⁶ CBS News, "Why was George Santos expelled from the House? Here are the charges and allegations against him," by Caitlin Yilek, December 1, 2023. URL is <https://www.cbsnews.com/news/george-santos-charges-allegations/> Accessed April 14, 2025.

⁷ California Legislative Information, California Election Code §10225. URL is https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=10225.&lawCode=ELEC. Accessed April 14, 2025.

City of Banning's City Ordinances

During its investigation, the Civil Grand Jury found that the City of Banning has not updated its election ordinances to align with current election laws. For instance, the California Election Code §13313 was amended in 2002 to provide a legal recourse for inaccuracies in candidate statements and to standardize copying and handling fees, ensuring that public costs do not exceed the actual expenses incurred by the elections official.⁸ The City of Banning's election ordinances do not include the 2002 California Election Code §13313 amended provisions.⁹

FINDINGS

- F-1 The City of Banning violated California Election Code §13313 by failing to ensure that its employees were prepared to provide voters with candidate statements on the first day of the 10-day examination period
- F-2 The City of Banning processed candidate documents inconsistently.
- F-3 The City of Banning "date-stamped" candidate documents inconsistently.
- F-4 The City of Banning has not updated its election ordinances to align with current California election laws.

RECOMMENDATIONS

- R-1 The Riverside County Civil Grand Jury recommends that the City of Banning establish and implement a policy that mandates compliance with all provisions of California Election Code §13313 no later than December 1, 2025.
Based on Findings: F-1
Financial Impact: Minimal
- R-2 The Riverside County Civil Grand Jury recommends that the City of Banning train additional city employees to manage the Administrative City Clerk's election duties when the Administrative City Clerk is unavailable to assist the public no later than December 1, 2025.
Based on Findings: F-1, F-2, and F-3
Financial Impact: Minimal
- R-3 The Riverside County Civil Grand Jury recommends that the City of Banning establish and implement a policy requiring city personnel to process candidate documents consistently and date-stamp all candidate documents no later than December 1, 2025.
Based on Findings: F-1, F-2, and F-3
Financial Impact: Minimal

⁸ Statutes of California and Digest of Measures, 2002, Volume 1, Chapter 228, Section 12, p.1021. URL is https://clerk.assembly.ca.gov/sites/clerk.assembly.ca.gov/files/archive/Statutes/2002/2002_Statutes_1667_Vol_1.pdf#page=427. Accessed April 15, 2025.

⁹ City of Banning, Municode Codification, Ordinances, Title 1 – General Provisions, Chapter 1.12. URL is https://library.municode.com/ca/banning/codes/code_of_ordinances/450194?nodid=TIT1GEPR_CH1.12EL. Accessed on April 15, 2025.

R-4 The Riverside County Civil Grand Jury recommends that the City of Banning review and revise all election ordinances to conform to current California election laws no later than June 30, 2026.
Based on Findings: F-4
Financial Impact: Minimal

REQUIRED RESPONSES

According to California Penal Code §933, governing bodies, such as the Banning City Council, have 90 days to respond to Grand Jury report findings and recommendations. The California Penal Code §933.05 outlines the limits within which governing bodies are allowable to respond.

Banning City Council

Findings: F-1, F-2, F-3, and F-4
Recommendations: R-1, R-2, R-3, and R-4

Report Issued Date: 5-20-2025
Report Public Date: 5-23-2025
Response Due Date: 8-23-2025