



Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

A Fact Sheet For

- Local Elected Officers and Candidates for Local Elective Offices
- Local Officials Specified in Government Code Section 87200
- Judicial Candidates
- Designated Employees of Local Government Agencies

California Fair Political Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC
Web site: www.fppc.ca.gov

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Introduction

The Political Reform Act¹ (the "Act") imposes limits on gifts, prohibits honoraria payments, and imposes limits and other restrictions on the receipt of travel payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200,² excluding judges;³
- Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency's conflict of interest code); and
- Candidates⁴ for any of these offices or positions and judicial candidates. (Sections 89502 and 89503.)

The Act also imposes limits and other restrictions on personal loans received by certain local officials.

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. You should not, however, rely on the fact sheet alone to ensure compliance with the Act. If you have any questions, contact the Fair Political Practices Commission at (866) 275-3772 or advice@fppc.ca.gov or visit our website at www.fppc.ca.gov. Commission advice letters are available on our website. You may also be subject to local restrictions on gifts, honoraria, or travel.

Ethics Training

Most local agency officials are required to complete an ethics training course. Contact your agency for course information. Also see the FPPC website for a link to local agency ethics training.

Enforcement

Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may result in monetary penalties of up to \$5,000 per violation. (Section 83116.)

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Local officials specified in Government Code Section 87200 include: members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, court commissioners and public officials who manage public investments.

³ The gift limits and honoraria ban in the Political Reform Act do not apply to a person in his or her capacity as judge. However, candidates for judicial offices are subject to the restrictions contained in the Political Reform Act. (Sections 89502 and 89503.)

⁴ For purposes of the gift limit and honoraria prohibition, you become a "candidate" when you file a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If you are an unsuccessful candidate, you will no longer be subject to the gift limit and honoraria prohibition when you have terminated your campaign filing obligations, or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)

Gifts

Limitations

If you are a local elected officer, a candidate for local elective office, a local official specified in Government Code Section 87200, or a judicial candidate, you may not accept gifts from any single source totaling more than \$420 in a calendar year. (Section 89503.)⁵

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept gifts from any single source totaling more than \$420 in a calendar year if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89503(c).)

What is a "Gift"?

A "gift" is any payment or other benefit provided to you that confers a personal benefit for which you do not provide payment or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public. (Section 82028.) (See FPPC Regulation 18946 for valuation guidelines.)

Except as discussed below, you have "received" or "accepted" a gift when you know that you have actual possession of the gift or when you take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (Regulation 18941.)

In some cases, a gift to an official's family member* is considered a gift to the official. (See Regulation 18944, effective February 10, 2009.) This rule prevents donors from avoiding the restrictions on gifts to an official by giving gifts to the official's family members instead. Under the rule, when a donor gives a single gift, such as a painting for the home, to an official and family member, it is a gift to the official in its full amount. (Wedding gifts are treated differently, see below.)

Under certain circumstances, a gift made to a family member of an official is considered a gift to the official. (See Regulation 18943.) Anything given to a family member (spouse or child) is presumed to be a gift to the official if: (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift or; (2) if the donor is someone who lobbies the official's agency, is involved in an action before the official's agency in which the official may foreseeably participate, or engages in business with the agency in which the official will foreseeably participate.

*For purposes of this rule, an official's "family member" includes: the official's spouse; registered domestic partner; any minor child of the official who the official can claim as a dependent for federal tax purposes; and a child of the official who is aged 18 to 23 years of age, attends school, resides with the official when not attending school, and provides less than one-half of his or her own support.

⁵ The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 2011-2012, the gift limit is \$420. (Section 89503; Regulation 18940.2.) Gifts aggregating \$50 or more must be disclosed, and gifts aggregating \$420 or more may subject you to disqualification with respect to the source. (Section 87103(e).) Designated employees should consult the "disclosure category" portion of their agency's conflict of interest code to determine if a particular source of income or gift must be disclosed. Some conflict of interest codes require very limited disclosure of income and gifts. If your agency's conflict of interest code requires you to disclose income and gifts only from specified sources, gifts from sources that are not required to be disclosed on your FORM 700 are not subject to the \$420 gift limit.

Gift Exceptions

The Act and Commission regulations provide exceptions for certain types of gifts. (Section 82028; Regulations 18940-18946.5.) **The following payments are not gifts:**

1. Items that are returned (unused) to the donor, or for which you reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18941.)
2. Items that are donated (unused) to a non-profit, tax-exempt (501(c)(3)) organization in which the official, or a member of the official's immediate family, does not hold a position or a government agency within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18941.)
3. Gifts from your spouse (or former spouse), child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).) This exception includes great grandparents, great uncles and aunts, great nieces and nephews, and first-cousins once removed.
4. Gifts of hospitality including food, drink or occasional lodging that you receive in an individual's home when the individual or a member of his or her family is present and the individual is someone with whom the official has a relationship, connection, or association unrelated to the official's position and the hospitality is provided as part of that relationship. (Regulation 18942(a)(7) see conditions under Regulation 18642(a)(7)(A)(i-iii).)
5. Gifts exchanged between you and another individual on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. (Regulation 18942(a)(8).) In addition, a new provision now treats reciprocal exchanges that occur on an ongoing basis under the gift exchanged provision. For example, if two people get together regularly for lunches and rotate picking up the lunch tab so that each pays approximately half the time over the course of the filing period, no gift need be reported.
6. Informational material provided to assist you in the performance of your official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars.

"Informational material" may also include scale models, pictorial representations, maps, and other such items, provided that if the item's fair market value is more than \$420. You have the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections, including air flights over an area that is the subject of the information and designed specifically for public officials are considered informational material. However, this exception does not apply to meals or to transportation to the site unless the transportation is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)
7. A devise or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)
8. Campaign contributions, including rebates or discounts received in connection with campaign activities. (Section 82028(b)(4); Regulation 18942(a)(4).) However, campaign contributions must be reported in accordance with the campaign disclosure provisions of the Act and may be subject to other limitations imposed by the Act.
9. Personalized plaques and trophies with an individual value of less than \$250. (Section 82028(b)(6); Regulation 18942(a)(6).)

10. Admission for the official and one guest at an event where the official performs a ceremonial role, such as throwing out the first pitch at a Dodger's game, so long as the official's agency complies with the posting provisions set forth in Regulation 18944.1(d). (Regulation 18942 (a)(12).) The definition of ceremonial role is found in Regulation 18942.3.

11. A prize or award received in a bona fide contest or competition, or game of chance. This must be reported as income if over \$500 unless it is received in the California State Lottery. To qualify for this exception the contest or competition must have a broad base of contestants and the competition must be unrelated to the official's duties. (Regulation 18942 (a)(13).)

12. Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception. (Regulation 18942 (a)(14).)

13. Bereavement offerings, such as flowers at a funeral received in memory of a close family member. (Regulation 18942 (a)(15).)

14. Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society and would not normally be part of an economic transaction between like participants under similar circumstances. (Regulation 18942 (a)(16).)

15. Personal benefits commonly received from a dating partner. These gifts are not disclosable or limited but are subject to disqualification under the conflict of interest laws. (Regulation 18942(a)(17)(A).)

16. Acts of Human Compassion. Assistance, financial or otherwise, to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942 (a)(17)(A).)

Note: The exception does not apply if the individual providing the benefit to the official is involved in some manner with with business before the official. (See Regulation 18942(a)(17)(D)(i-iii).) For example, (i) a lobbyist, lobbying firm, lobbyist employer, or other person required to file reports under Chapter 6 of the Act and registered to lobby the official's agency; (ii) a person who has, or may reasonably foreseeably have, a contract, license, permit, or other entitlement for use pending before the official's agency, and for 12 months following the date a contract is signed or a final decision is rendered; (iii) a person, or an agent of a person, involved in a licensing or enforcement proceeding before a regulatory agency that employs the official and in which the official may reasonably foreseeably participate, or has participated, within 12 months of the time the gift is made.

17. Benefits received from a long-time personal friend where the gift is unrelated to the official's duties. The exception does not apply if the individual providing the benefit to the official is involved in some manner with with business before the official. (Regulation 18942(a)(17)(C), see note above about restrictions under Regulation 18942(a)(17)(D)(i-iii).)

18. Benefits received from an individual who is not a lobbyist registered to lobby the official's agency, where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable material financial effect on the individual who would otherwise be the source of the gift. (Regulation 18942(a)(18).)

19. Two tickets for admission, for your own use, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket must be received from the organization or committee holding the fundraiser. (Regulation 18946.4.)

20. Passes or tickets that provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that you do not use and do not give to another person. (Regulation 18946.1.)

21. Gifts provided to your government agency. This may include passes or tickets to facilities, goods, or services, travel payments, and other benefits. However, this exception does not apply to elected officials and officials specified in Government Code Section 87200 with regard to travel payments. In addition, certain conditions must be met before a gift received by an official through his or her agency would not be considered a gift to the official. An agency must disclose specified payments on its website. (Regulations 18944.1-18944.3.) Contact the FPPC for detailed information.

22. Generally, payments made by a third party to co-sponsor an event, or that is principally legislative, governmental or charitable in nature. In some cases, these payments may be considered "behested payments" also requiring disclosure.

23. Leave credits (e.g., sick leave or vacation credits) received under a bona fide catastrophic or emergency leave program established by your employer and available to all employees in the same job classification or position. Donations of cash are gifts and are subject to limits and disclosure. (Regulation 18942(a)(9).)

24. Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity (501(c)(3)) and must be available to the general public. (Regulation 18942(a)(10).)

25. Items awarded in an employee raffle, received by the agency from an agency employee who is not acting as an intermediary for another donor. This exception applies when an agency holds an employee raffle and the item awarded in the raffle has been obtained with agency funds, or is otherwise an asset of the agency and not donated to the agency by a non-agency source. This exception does not apply to passes or tickets of the type described in Regulation 18944.1. (Regulation 18944.4.(a) and (b).)

26. Items received by an employee during an employee gift exchange, so long as the item received is provided by another employee of the agency and the gifts are not substantially disproportionate in value. (Regulation 18944.4(c).)

Source of Gift

Under most circumstances, it is clear who is the source of a gift, but if the circumstances indicate that the gift is being provided by an intermediary, you must determine both the donor and the intermediary in reporting the gift. Regulation 18945 provides the rules for determining the source of the gift.

Gifts from Multiple Sources

In determining the cumulative value of any reportable gifts, separate gifts from an individual and an entity that the individual controls or where the individual directs the payment of the gift must be aggregated as one source in complying with the reporting and limit requirements. For example, separate gifts from J.R. Ewing and Ewing Oil Company would be treated as if from one source if J.R. owns more than a 50 percent interest in the company unless the making of the gift was determined by someone else in the company. In that case, the gift from Ewing Oil would be aggregated with any gifts made by that individual.

Group gifts, where you received a single gift from multiple donors (such as a retirement gift from coworkers) need not be reported unless any one individual contributes more than \$50 to the total cost of the gift.

Valuation of Gifts

The general rule for determining the value of a gift is to apply the fair market value at the time the gift is received. Fair market value can be determined by finding any local or Internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1 through 18946.5 covering admission to ticketed and invitation-only events, wedding gifts, attendance at nonprofit and political fundraisers, and air travel.

Gifts Reported by the Official's Agency

The following exceptions are also applicable to gifts, but the official's agency may be required to report these items on a Form 801 or Form 802 instead of the official reporting the items on a statement of economic interests (Form 700).

Form 801: For an item to be considered a gift to the official's agency instead of a gift to the official, the payment (or item) must provide a **personal benefit** to a public official, such as a travel payment; and, in order for an agency to convert the payment into an agency gift, the payment may only be used for **official agency business and the agency must control the payment**. If the payment meets these requirements, the agency must report it on a Form 801 and the item is not reported on the individual's statement of economic interests (Form 700). (Regulation 18944.2)

Form 802: When an official's agency provides an entertainment or sporting ticket or pass to a public official in order for it not to be reported as a gift on the individual's statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official, the agency must determine, in its sole discretion, which official may use the ticket or pass. The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency. (Regulation 18944.1.)

Behested Payments

The following payments are not considered gifts, but the official may be required to report these items on a Form 803.

Form 803: Behested payments are payments made principally for legislative, governmental, or charitable purposes. These payments are not for personal or campaign purposes. For example, an elected official may ask a third party to contribute funds to a school in his or her district, or to a job fair or health fair. Generally, a donation will be made "at the behest" if it is requested, solicited, or suggested by the elected officer, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer. This includes payments behested on behalf of the official by his or her agent or employee. Behested payments totaling \$5,000 or more from a single source in a calendar year must be disclosed by the official on a Form 803, which is filed with the official's agency within 30 days of the date of the payment(s). (Section 82015.)

Reportable Gifts Not Subject to Limits

The following exceptions are also applicable to gifts, but you may be required to report these items on a statement of economic interests (Form 700) and they can subject you to disqualification:⁶

1. Certain payments for transportation, lodging, and subsistence are not subject to gift limits but may be reportable. Travel payments are discussed below. See Regulation 18946.6 to determine the value of gifts of air transportation.

2. Wedding gifts are not subject to the gift limit but are reportable. For purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse. (Regulation 18946.3.)

3. A prize or award received in a bona fide competition not related to your official status is not subject to the gift limit, but must be reported as income. Therefore, it is reportable if the value of the prize or award is \$500 or more. (Section 87207; Regulation 18946.5.)

⁶ Designated employees should consult the "disclosure category" portion of their agency's conflict-of-interest code to determine if a particular source of income or gifts must be disclosed.

Honoraria

The Prohibition

If you are a local elected officer, a candidate for local elective office, a local official specified in Government Code Section 87200, or a judicial candidate, you may not accept honoraria payments. (Section 89502.)

If you are an employee of a local government agency who is designated in the agency's conflict of interest code, you may not accept honoraria payments from any source if you are required to report receiving income or gifts from that source on your statement of economic interests. (Section 89502(c).)

What is an "Honorarium"?

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. (Section 89501.)

A "speech given" means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An "article published" means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

"Attendance" means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

Exceptions

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501; Regulations 18930-18933.) **The payments described below are not prohibited and are not required to be disclosed on a statement of economic interests (Form 700):**

1. An honorarium that you return (unused) to the donor or the donor's agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)

2. An honorarium that is delivered to your government agency within 30 days for donation to the agency's general fund or equivalent account for which you do not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)

3. A payment that is not delivered to you but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:

- You may not make the donation a condition for your speech, article, or attendance;
- You may not claim the donation as a deduction for income tax purposes;
- You may not be identified to the non-profit organization in connection with the donation; and
- The donation may have no reasonably foreseeable financial effect on you or on any member of your immediate family. (Regulation 18932.5.)

4. A payment received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment which would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

5. Items 6, 8, and 9 under "Exceptions to the Definition of 'Gift'" discussed earlier in this fact sheet. (Regulation 18932.4.)

Exceptions That May Be Reportable as Income or Gifts

The following payments are not considered "honoraria" but may be reportable and can subject you to disqualification:⁷

1. Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1-18931.2.) However, such payments are reportable income.

2. Income earned for your personal services if the services are provided in connection with a bona fide business, trade, or profession – such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting – and the services are customarily provided in connection with the business, trade, or profession.

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, you must meet certain criteria to establish that you are practicing a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching position) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932-18932.3.) Earned income is required to be reported. Contact the FPPC for detailed information.

3. Certain payments for transportation, lodging, and subsistence are not considered honoraria but may be reportable and subject to the gift limit. (Sections 89501(c) and 89506.) Travel payments are discussed below.

⁷ Designated employees should consult the "disclosure category" portion of their agency's conflict-of-interest code to determine if a particular source of income or gifts must be disclosed.

Travel Payments

The Act and Commission regulations provide exceptions to the gift limit and honoraria prohibition for certain types of travel payments. (Section 89506; Regulations 18950-18950.4.)

The term "travel payment" includes payments, advances, or reimbursements for travel, including actual transportation, parking and related lodging and subsistence. (Section 89506(a).)

Exceptions

The following types of travel payments are not subject to any limit and are not reportable on a statement of economic interests (Form 700):

1. Free admission to an event at which you make a speech, participate on a panel, or make a substantive formal presentation, transportation, and necessary lodging, food, or beverages⁸, and nominal non-cash benefits provided to you in connection with the event so long as:
 - a. The speech is for official agency business and the official is representing his or her government agency in the course and scope of his or her official duties; and
 - b. The payment is a lawful expenditure made only by a federal, state, or local government agency for purposes related to conducting that agency's official business.

The exception does not apply to state or local elected officers and officials specified in Section 87200. (Regulation 18950.3(b), effective March/April 2010).

2. Travel payments provided to you by your government agency or by any state, local, or federal government agency which would be considered income and not a gift (i.e., payments for which you provide equal or greater consideration). (Section 89506(d)(2); Regulation 18950.1(d).)

3. Reimbursements for travel expenses provided to you by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which you provide equal or greater consideration. (Section 82030(b)(2).)

4. Travel payments provided to you directly in connection with campaign activities. However, these payments must be reported in accordance with the campaign disclosure provisions of the Act. (Regulations 18950.1(c); 18950.4.)

5. Any payment for travel that is excluded from the definition of "gift" as described earlier in this fact sheet.

Reportable Payments Not Subject to Limit

The following travel payments are not subject to the gift limit but may be reportable on a statement of economic interests (Form 700):

1. Travel that is reasonably necessary in connection with a bona fide business, trade, or profession, and which satisfies the criteria for federal income tax deductions for business expenses specified in Sections 162 and 274 of the Internal Revenue Code. (Section 89506(d)(3); Regulation 18950.1(e).) For reporting purposes, these travel payments would be considered part of the salary, wages, and other income received from the business entity and would be reported on Schedule A-2 or C of Form 700.

⁸ Lodging, food, or beverages are "necessary" only when provided on the day immediately preceding, the day(s) of, and the day immediately following the speech, panel, seminar, or similar service.

2. Travel within the United States that is reasonably related to a legislative or governmental purpose – or to an issue of state, national, or international public policy – in connection with an event at which you give a speech, participate in a panel or seminar or provide a similar service. Lodging and subsistence expenses in this case are limited to the day immediately preceding the day of, and the day immediately following the speech, panel, or other similar service. (Section 89506(a)(1); Regulation 18950.1(a)(2).

Note that this exception is different than travel payments described earlier. Under the circumstances described in this paragraph, transportation within the United States is not subject to the gift limit but is reportable and can subject a public official to disqualification.

As discussed earlier, most local government employees are not required to report travel payments paid by a governmental agency in the course of employment. (Regulation 18950.3, effective March/April 2010)

3. Travel **not** in connection with giving a speech, participating in a panel, or seminar or providing a similar service but which is reasonably related to a legislative or governmental purpose – or to an issue of state, national, or international public policy – and which is provided by:

- A government, governmental agency, foreign government, or government authority;
- A bona fide public or private educational institution defined in Section 203 of the California Revenue and Taxation Code;
- A non-profit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; or
- A foreign organization that substantially satisfies the requirements for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(Section 89506(a)(2); Regulation 18950.1(b).)

Loans

Personal loans received by elected and appointed officials are subject to limits and other restrictions and, in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

Limitations on Loans from Agency Officials, Consultants, and Contractors

If you are an elected official or an official specified in Section 87200 (see footnote 2 on page 1), you may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of your government agency or an agency over which your agency exercises direction and control. (Section 87460(a) and (b).)

In addition, you may not receive a personal loan that exceeds \$250 at any given time from any individual or entity that has a contract with your government agency or an agency over which your agency exercises direction and control. This limitation does not apply to loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to official status. (Section 87460(c) and (d).)

Loan Terms Applicable Only to Elected Officials

In addition to the limitations above, if you are an elected official, you may not receive a personal loan of \$500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

The following loans are not subject to these limits and documentation requirements:

1. Loans received by an elected officer's or candidate's campaign committee.
2. Loans received from your spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless he or she is acting as an agent or intermediary for another person not covered by this exemption.
3. Loans made, or offered in writing, prior to January 1, 1998. (Sections 87460 and 87461.)

Loans as Gifts

Under the following circumstances, a personal loan received by **any** public official (elected and other officials specified in Section 87200, as well as any other local government official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:
 - The date the loan was made;
 - The date the last payment of \$100 or more was made on the loan; or
 - The date upon which the official has made payments aggregating to less than \$250 during the previous 12 months. (Section 87462.)

The following loans will not become gifts to an official:

1. A loan made to an elected officer's or candidate's campaign committee. This loan would, however, be a campaign contribution. Consult the FPPC campaign manual for local candidates (Manual 2) for more details.
2. A loan described above on which the creditor has taken reasonable action to collect the balance due.
3. A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
4. A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.
5. A loan that would not be considered a gift as outlined earlier in this fact sheet (e.g., loans from certain family members). (Section 87462.)

2012's NEW CHANGES TO THE GIFT RULES

On January 1, 2012, the new gift regulations became effective. While most of the regulations were amended solely for clarity and organization, there are several substantive changes included in the revised gift regulations. The following summary provides an explanation of those changes. For further information or for specific questions, please contact the FPPC advice line at 866/ASK-FPPC (866/275-3772).

Return or Donation of Gift within 30 days (Regulation 18941(c)(2)) — Officials who make a charitable donation of a gift provided to them so that they may legally avoid receipt may no longer donate that gift to any charity in which the official, or the official's immediate family, holds a position. Only charitable donations of gifts made to 501(c)(3) organizations that are unconnected to the official or the official's immediate family will qualify for this exception. Gifts donated to organization in which the official or an immediate family member holds a position will be treated as a gift to the official despite the donation.

Gift Exceptions (Regulation 18942) — Several amendments were made to the exceptions to gifts as discussed below:

Subdivision (a)(3), Family Members — The list of family members provided by statute (§ 82028(b)(3)) from whom one does not have to report gifts has been clarified with respect to certain relatives. Grandparents include great-grandparents, aunts, uncles, nieces, and nephews include great/grand aunts, uncles and nieces and nephews. Additionally, former in-laws are included in the exception, but spouses of former in-laws are not unless the spouse is a former in-law.

Subdivision (a)(7) Home Hospitality — The home hospitality exception is no longer an unlimited exception when it comes to who is providing the hospitality. The exception is not applicable unless the individual who provides the hospitality is someone "with whom the official has a relationship, connection, or association unrelated to the official's position." Lobbyists (who are otherwise subject to a ten dollar per month gift limit) and other individuals who do business or are regulated by an agency can no longer get around the gift restrictions by using the home hospitality exception, unless the host *has an independent relationship with the official and the hospitality is in connection with that relationship.* (e.g. a block party at your neighbor's house, a birthday party that your daughter is invited to attend at her classmate's home, a Passover meal at a long time associate's home.) With these restrictions now in place, the home hospitality exception covers more than just the host's primary home. Home hospitality can be extended at a vacation home or even a motor home or boat. Before these changes, an official could go sailing off Catalina on a lobbyist's yacht but couldn't go fishing on a co-worker's boat, now it's the other way around. (See Home Hospitality definition in Regulation 18942.2.)

Subdivision (a)(8)(b) Reciprocal Exchanges — This new provision recognizes the reality that people get together with certain friends on an ongoing basis for meals, rounds of golf, movies, shows, sporting events etc., where they typically take turns paying for the benefit, so that over time the payments equal out. Under the old rule, officials were required to report any benefit that they received, even though they may have paid an equal amount at the last get together. Under that rule, an official would have to report the total value of the benefits he/she received during the reporting period, even though that amount was completely offset by the benefits the official provided in the exchange. The new rule recognizes these types of exchanges and only requires reporting of the amount received in excess of the amount provided. The rule does not apply to any single payment over the gift limit and does not apply to benefits provided by lobbyists.

Subdivision (a)(12) Ceremonial Role — The ceremonial role exception has now been defined (see Regulation 18942.3). The ceremonial role must be conducted at the request of the holder of the event, and the ceremony must be part of the event itself so that the focus of the event is, for a period of time, on the ceremony being performed. Local jurisdictions are allowed a certain amount of discretion to determine what types of actions are allowable under the ceremonial role exception.

Subdivision (a)(13) Bona Fide Competition — This exception has been moved from former Regulation 18946.4 and minor language changes have been made to clarify that the exception applies to raffles. (See gift manual for explanation as to when the exception is applicable to a raffle drawing.) The winning prize must be reported unless it is money received from the California State Lottery.

Subdivision (a)(14) Wedding Attendance — This new exception recognizes that normal benefits received attending a wedding are not the sorts of gifts that are intended to influence an official. People do not generally get married and have a wedding reception as a reason to get around the gift restrictions. Meals and entertainment received at a wedding are only potentially reportable to the extent that they exceed the benefits extended to the other guests attending the wedding.

Subdivision (a)(15) Bereavement Offerings — Another new exception has been added to allow the receipt of items, such as flowers at a funeral, without gift reporting consequences. Again, this exception recognizes that there are some areas of common personal behavior that have no correlation with attempts to influence public officials in the performance of their duties and do not relate to the concerns addressed by the Act. Typical bereavement offerings are not reportable as gifts.

Subdivision (a)(16) Acts of Neighborliness — This exception is a codification of long established Commission opinions allowing the exception. The Commission

has limited this exception to the normal types of acts that would be performed by a kindly neighbor or a Good Samaritan assisting someone in need. It no longer may be applied to air transportation as suggested by the *Stone* Opinion (see *Stone* Opinion, 3 FPPC Ops. 52.)

Subdivision (a)(17)(A) Bona Fide Dating Relationship — This exception is a codification of a 27-year-old rule established through Commission advice letters that provides that benefits received within the context of a bona fide dating relationship are not subject to the Act's reporting requirements. In establishing the bona fide dating relationship exception, the Commission held that these relationships are similar to family or spousal relationships in which personal gifts are frequently exchanged and disclosure of such gifts would not further the purposes of the Act. (See *Shea* Advice Letter, No. A-84-085.) One important restriction has now been added. Public officials now have an economic interest in their dating partner and may not participate in decision affecting the financial interests of that partner. To this extent, the advice letters addressing the bona fide dating relationship are rescinded. (See *Shea* Advice Letter, *supra*, *Spencer* Advice Letter, No. A-07-005.)

Subdivision (a)(17)(B) Acts of Human Compassion — Another new exception has been added to address compassionate offerings of private assistance to individuals who, through unexpected circumstances, find themselves in need of such contributions in order to manage or cope with their misfortune. Examples of such situations included family medical expenses due to an illness or injury, long-time loss of employment, or loss of housing. Assistance from private individuals to meet such needs are not subject to the Act's requirements so long as such assistance is not provided by someone who lobbies the official's agency or who does business with or is regulated by the official's agency if the official is involved. (See subparagraph (D)(i-iii).)

Subdivision (a)(17)(C) Best Friends Forever — Gifts from long term personal friends where the friendship is not related to the official's position are also not subject to the Act's provisions, so long as the friend is not someone who lobbies the official's agency or who does business with or is regulated by the official's agency if the official is involved. (See subparagraph (D)(i-iii).)

Subdivision (a)(18) Unrelated Gifts — This final exception applies to gifts based on some other personal or business relationship unrelated to the official's position where the gift is not made by a lobbyist and the official's duties are limited in respect to the actions he or she may take such that there is no evidence whatsoever that the official may engage in any type of official activity that may provide a financial benefit to the donor. This language simply mirrors the reporting requirement established under the Act's conflict of interest reporting requirements.

Regulation 18942.1 Definition of Informational Material — The definition of informational material has been clarified with respect to when certain transportation is considered informational material. While expenses related to travel to or from an informational event are prohibited by statute, certain “transportation” is allowable if it serves as the means through which the information is conveyed and is essential to the conveyance of the information. Examples of such “transportation” include aerial tours that serve as the best means to inform officials of certain relevant conditions, and rides to remote, limited public access facilities, or rides within a restricted inspection site.

Regulation 18942.2 Definition of Home Hospitality — This definition has been added to clarify what constitutes “home hospitality.” As discussed above, the application no longer depends on the host’s ownership interest in a property, and lobbyists are no longer able to use the exception unless there is an independent basis for the hospitality and it is related to that purpose.

Regulation 18942.3 Definition of Ceremonial Role — This definition has been added to identify the parameters of the long standing ceremonial role exception for admission to events. The role must be performed at the request of the event holder and must be part of the event itself.

Regulation 18943 Gifts to Family Members — The rule restricting gifts to family members has been renumbered from Regulation 18944. The ambiguities created with respect to determining what constitutes “a commitment, obligation, or expense of the type normally paid by a family for the ordinary care and support of one of its members” have been removed. The regulation has also been strengthened to cover more than just 87200 filers. Additionally, it now creates a rebuttable presumption that a gift made to a family member of an official is a gift to the official if there is no established relationship between the donor and the family member that would suggest a reason for the gift, or if the gift is made by a lobbyist of the official’s agency, or by someone who is, or has been within the previous 12 months, involved in an action in which the official will foreseeably participate, or a person who contracts with or engages in a business that regularly seeks contracts with or comes before the agency and the official could foreseeably participate in that decision.

(Note: Previous Regulation 18944.2 was not considered for amendment at this time. It has been renumbered to Regulation 18944, but no changes have been made. The proposed amendments to this regulation will be considered at a future Commission meeting in conjunction with the travel regulations and the meaning of “personal benefit.”)

Regulation 18944.1 Tickets to Officials of an Agency — This regulation applies to tickets provided by an agency to its own officials. Minor changes have

been made to clarify that the conditional requirements to avoid gift reporting by an official do not apply to college and school district officials attending performances (football games, concerts, plays, etc.) by students in their districts. New language has also been added eliminating reporting requirements for rank and file employees who normally receive such tickets as rewards for job performance or job retention. This provision was added because the previous requirements were applied broadly enough to identify individuals who would not be required to report the gift on a Form 700.

One final important change is the new requirement that the Form 802 reporting of the distribution of the tickets be submitted to the Commission for posting on its website. This will make the information easily available in one location. In the past, these posting have been difficult to find in many cases, which had worked to defeat the whole purpose of the regulation.

Regulation 18944.2 Agency Raffles and Exchange of Presents — This regulation was renumbered from 18944.4. Only minor clarifying changes were made.

Regulation 18945 Source of Gifts — This regulation was reworded without making any substantive changes, other than subdivision (c) now makes it clear that the person hosting the event is the source of the gift when determining the pro rata share of the cost of an event that is widely attended by individuals who are not government officials.

Regulation 18945.1 Aggregation of Gifts — The new language modifies the treatment of gifts from an individual and an entity in which the individual has a greater than 50 percent interest. The new rule creates a rebuttable presumption that the gifts are to be aggregated unless someone else, in fact, directed and controlled the payment.

Regulation 18945.3 Intermediary of a Gift — This regulation has been repealed. The rules for intermediaries are already stated in the Government Code. (See Sections 87210 and 97203.)

Regulation 18945.2 Group Gifts — Renumbered from 18945.4 (Gifts From Multiple Donors) the new language now eliminates the requirement that a group gift over \$50 be reported from the “group.” The gift need only be reported if one or more individuals contributed \$50 or more to the purchase of the gift.

Regulation 18946 Valuation of Gifts — This basic gift valuation rule was simplified without any substantive changes, other than to clarify that the rule only applies to tickets to future events and not to unused tickets that may have a collector’s value. Those tickets are valued at the fair market value of the ticket.

Regulation 18946.1 Valuation of Tickets — There were no substantive changes to this regulation. The language merely clarifies the valuation procedure.

Regulation 18946.2 Valuation of Invitation-Only Events — The valuation of admission to invitation-only events was modified. The previous rule determined the value by the pro rata share of the cost of the event. The new valuation is determined by the pro rata share of the food, catering services, and entertainment provided at the event. Also included in subdivision (d) is a change to the valuation of a “drop-in” visit at such an event. The nominal value of minimal appetizers and drinks consumed by an official is not reportable. However, lobbyist, lobbyist employers, and lobbying firms must report the expense as the pro rata share of the food, catering services, and entertainment provided at the event.

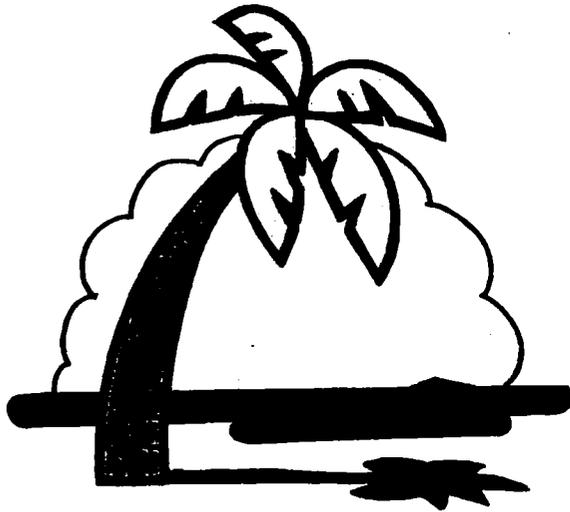
Regulation 18946.3 Valuation of Wedding Gifts — Wedding gifts are now valued at one-half the gift value for each spouse. There is no longer a need to determine if the gift was more appropriate for one spouse as opposed to the other.

Regulation 18946.4 Valuation of Attendance at Non-Profit and Political Fundraisers — This regulation now is back to providing a valuation method for all tickets provided to non-profit and political fundraisers, rather than just a single ticket. Additionally, a 501(c)(3) or political committee may provide two tickets to an official for his or her attendance, along with a guest, at the event and the tickets will have no value. Additional tickets are valued under the stated valuation method and not at the full face value as previously required.

Regulation 18946.5 Valuation of Air Travel — Flights on charter flights are now valued at the official's pro-rata share of the cost of the flight determined by the rental charge of the flight divided by the number of passengers aboard.

Campaign Disclosure Manual 2

*Information for Local Candidates,
Superior Court Judges,
Their Controlled Committees,
and Primarily Formed Committees
for Local Candidates*



**California Fair Political
Practices Commission**

Toll-free advice line: 1 (866) ASK-FPPC
Web site: www.fppc.ca.gov

May 2007

What's New for 2007

Telephone Advertisements: Section 84310 was added to the Act by AB 2275 (Chapter 439, Stats. 2006) requiring candidates and committees that use campaign funds to make 500 or more telephone calls to disclose the name of the person or organization that authorized or paid for the call. A script of the call or a copy of a recorded telephone message must be kept by the committee for four years. Certain exceptions apply. (See pages 1-7 and 3-8.)

Committee Names: Regulation 18402 was amended to require the last name of the candidate to be included in the name of any election committee controlled by the candidate. The new requirement applies to committees formed on or after July 1, 2007. (See page 4-13.)

Installment Payments: Regulations 18216 and 18421.1 were amended to clarify that contributions received via "installment" payments charged to a credit card or deducted from a contributor's account are reported when each installment payment is received and that such arrangements do not constitute an "enforceable promise" to make a contribution. (See pages 1-5, 2-2, and 6-8.)

Bank Accounts: Regulation 18421.3 was adopted to allow candidates to contract with a vendor or collecting agent to collect contributions prior to transferring to the campaign bank account without violating the "one bank account" rule. (See page 1-1.)

Candidate Form 460 or 470: A Q&A was added clarifying which form should be used by a candidate who intends to raise or spend \$1,000 or more during a calendar year, but has not done so by the closing date of the semi-annual campaign report. (See page 4-8.)

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Introduction

This manual provides important information on campaign disclosure rules for four types of filers:

- Local candidates and officeholders who do not have a controlled committee;
- Local candidates and officeholders who have a controlled committee;
- Superior Court judges and candidates for Superior Court; and
- Local "primarily formed committees," which means committees that support or oppose a local candidate or a group of local candidates all being voted upon in the same election and are **not** controlled by the candidate(s) or officeholder(s) they support.

This manual describes the state campaign finance and disclosure law that applies to local candidates and committees. Many cities and counties have also adopted local laws governing campaign finance and disclosure. Local candidates and committees should check with their local elections or ethics agency about contribution limits and other requirements to follow in their city or county elections.

State candidates and officeholders, their controlled committees, and committees primarily formed to support or oppose state candidates should refer to FPPC's *Information Manual 1 for State Candidates, Their Controlled Committees, and Primarily Formed Committees for State Candidates*.

How to Use this Manual

California's Political Reform Act (the "Act") requires receipts and expenditures in election campaigns to be fully and truthfully disclosed. Since 1974, there have been over 200 amendments to the Act's campaign disclosure provisions. This manual has been prepared to assist candidates and primarily

formed committees to comply with the Act's numerous and often-detailed rules. It is written in a "user friendly" format so that candidates and committees, especially those with small budgets, have a resource guide. It is organized by subject matter and addresses the most common issues of campaign disclosure for local elections.

Terminology

It may be helpful to review the definitions contained in Appendix 1 first to become familiar with the different terms used throughout the manual.

In addition, federal and state tax laws and other rules are applicable to California campaign committees. Telephone numbers and website addresses for the Federal Election Commission, Internal Revenue Service, California Franchise Tax Board, and the Federal Communications Commission are listed in Appendix 2.

Controlling Law

This manual summarizes key campaign disclosure laws, regulations, and Commission opinions and draws from years of FPPC staff advice interpreting them to assist candidates and committees in complying with the Act. Each campaign is different, however, and may raise issues not discussed in this manual. If there are any discrepancies between the manual and the Act or its corresponding regulations and opinions, the Act and its regulations and opinions will control.

Need Help?

If you need assistance, the Fair Political Practices Commission has a toll-free advice line:

1-866-ASK-FPPC
(1-866-275-3772)

Introduction

FPPC employees are available Monday through Friday to help you. In addition, the FPPC website (www.fppc.ca.gov) contains forms, manuals, and a wealth of other helpful information.

See Appendix 2 for more details.

Candidates and committee treasurers are encouraged to become familiar with all of the disclosure requirements and FPPC forms. However, many local candidates and committees raise and spend money only in connection with a particular election and then terminate their filing obligations. These candidates and committees are likely to file only a few of the FPPC's many campaign

forms. Charts identifying these forms are provided below.

The first chart lists the forms that are generally required of those candidates who raise and spend money only in connection with their own election. The first column lists the forms required of candidates who spend less than \$1,000 in a calendar year. The second column lists the forms required from candidates spending over \$1,000 in a calendar year. The second chart addresses the five forms filed by a primarily formed committee for a local candidate.

Be sure to review Chapter 7 for other reports that may be required.

Local Candidates

Candidates Who Spend less than \$1,000	Candidates Who Spend \$1,000 or more
Candidate Intention (Form 501)	Candidate Intention (Form 501)
Officeholder/Candidate (Form 470) Campaign Statement-Short Form	Statement of Organization (Form 410)
	Recipient Committee Campaign (Form 460) Statement
	Late Contribution Report (Form 497)

Primarily Formed Committees for Local Candidates

Statement of Organization (Form 410)
Recipient Committee Campaign Statement (Form 460)
Supplemental Independent Expenditure Report (Form 465)
Late Independent Expenditure Report (Form 496)
Late Contribution Report (Form 497)

Chapter 1

Finances/Recordkeeping

This chapter is extremely important to all candidates and committees (see the "Definitions" section); each must use a bank account for deposit of monetary contributions received, recordkeeping is the foundation for compliance with the reporting obligations of the Act, and every committee may be audited.

However, candidates who do not raise contributions from others and spend less than \$1,000 of their own personal funds do not need to open a campaign bank account.

In addition, the section on "Treasurer's Duties," which is crucial to committees, will be of little concern to candidates who spend less than \$1,000 in a calendar year, since they will not qualify as a committee nor have a treasurer.

Campaign Bank Account Candidates and Controlled Committees

Candidates who anticipate soliciting or receiving contributions from others, or who anticipate spending \$1,000 or more of their personal funds in connection with their election, **must** open a campaign bank account.

A candidate's personal funds used to pay the filing fee and/or the ballot statement fee do not count toward the \$1,000 threshold.

Establishing the Account

The campaign bank account may be established at a bank, a state or federal savings and loan association, or a state or federal credit union. The financial institution must be located in California.

Candidates running for one office while holding another must establish a separate campaign bank account for each office – but

not more than one bank account per office per election.

QuickTIP Campaign contributions may not be commingled with any individual's personal funds. All contributions must be deposited in, and expenditures must be made from, the campaign bank account. Except as noted below, candidates must first deposit personal funds to be used for the campaign in the account before making campaign expenditures, even if the candidate does not expect to be reimbursed.

Exceptions:

- Candidates may use their personal funds to pay a filing fee or a ballot statement fee without first depositing the funds into the campaign account.
- An officeholder may use personal funds to pay officeholder expenses. (See Chapter 6 for reimbursement requirements.)
- A candidate may contract with a vendor or collecting agent to collect contributions prior to promptly transferring the funds to the candidate's campaign bank account without violating the requirement that the candidate have no more than one bank account. Fees deducted by the vendor are considered expenditures from the campaign bank account at the time they are deducted.

Investments

Campaign funds may be transferred from a campaign bank account to certificates of deposit, interest-bearing savings accounts, money market funds, or similar accounts. The funds must come from a campaign bank account designated for a specific office and be deposited in investment accounts established only for that office. The funds

must be redeposited into the same campaign bank account before being used for campaign expenses.

Credit Accounts

One or more credit accounts may be established for each campaign bank account. A single credit card, however, may not be designated for more than one campaign bank account. In addition, payment of charges on a credit account must be made only from the appropriate campaign bank account.

or

In lieu of establishing a new credit account, a candidate may designate an existing personal credit card with a zero balance as the campaign bank account credit card by listing the card number and date of designation in the campaign records. The candidate must ensure that no personal expenses are charged to this account until after the election and after all campaign charges have been paid with funds from the campaign bank account. Once all campaign expenses charged to the account have been paid, the candidate may resume using the card for personal purposes.

Petty Cash

Candidates may use campaign funds to establish a petty cash fund at each campaign office. Keep in mind the following conditions relating to the petty cash fund:

- A petty cash fund may not hold more than \$100 at any time.
- No expenditure of \$100 or more may be made from the fund.
- The fund may be used only for expenses associated with the election to the specific office or for the expenses of holding the office for which the petty cash fund was established.
- Once the funds are spent, payments made from petty cash must be reported as expenditures.

Redesignating the Account

A campaign bank account may be redesignated if the candidate runs again for the same local office. The account may be redesignated even if the account holds campaign funds or outstanding debts from the previous election. In order for a bank account to be redesignated, the Statement of Organization (Form 410) needs to be amended. Remember to file a new Candidate Intention (Form 501) as well.

Quick TIP Defeated candidates must redesignate campaign funds for a future election by the end of the reporting period following the election, or the funds are considered surplus. (See Chapter 9.) For example, if the election is held during the first six months of the year, the end of the reporting period is June 30. If the election is held during the last six months of the year, the end of the reporting period is December 31.

When running again for the same local office, in addition to using the same campaign bank account, the candidate may continue to use the same committee and identification number. In order to do so, the candidate needs to file a Statement of Organization (Form 410) check the amendment box, and indicate any information that has changed since the last Form 410 was filed, including the “Year of Election” information in Section 4.

Restrictions on Redesignating

A campaign bank account **may not** be redesignated if the candidate is seeking election to a different office.

(Example) *Ed Smiley is a city council incumbent and has a committee and bank account for this office. He is seeking election to the county board of supervisors. Ed must establish a new bank account and a new committee for his supervisorial election.*

Expenditures from Multiple Accounts

A candidate who has more than one campaign bank account must make all expenditures in connection with an election from the campaign bank account established for that election, including:

- Campaign strategic planning and fundraising expenses;
- Services and actual expenses of outside political consultants, the campaign treasurer, other staff, pollsters, and other persons who provide services directly in connection with the election;
- Voter registration and get-out-the-vote drives; and
- Payments for mailings, political advertising, yard signs, opinion polls or surveys, and other communications if the payments:
 - 1) Are for a communication that makes reference to the candidate's future election or status as a candidate; or
 - 2) Are made three months prior to an election for which the candidate has filed a Candidate Intention Statement (Form 501); a declaration of candidacy, or nomination papers with an election official, or any other documents necessary to be listed on the ballot for an elective office.

Recall Elections

Under state law, an officeholder who is the subject of a recall may use an existing committee (set up for the office he or she currently holds) to receive contributions and make expenditures to oppose the qualification of the recall measure, and if the recall petition qualifies, the recall election. The officeholder instead may choose to set up a separate committee for this purpose. The committee may be established once the officeholder receives a notice of intent to recall under Elections Code Section 11201. The committee must set up a separate bank

account at a financial institution in California, file a Statement of Organization (Form 410), and include the word "recall" in the name of the committee. The committee also must file campaign statements as discussed in Chapters 5, 6, and 7. (Contact the local jurisdiction for information about local rules that may apply.)

Primarily Formed Committees

A "primarily formed committee" is a committee that supports or opposes a single candidate or a group of candidates all being voted on in the same election but is not controlled by the candidate(s) supported. Although committees not controlled by a candidate are not required to maintain a separate bank account, doing so is a good idea. Pre-numbered and pre-printed checks with the committee's name are useful in meeting the recordkeeping requirements discussed in the next section. **Primarily formed committees may not commingle campaign contributions with any individual's personal funds.**

Answering Your Questions

- Q. *I do not intend to raise any funds from others and will not be spending any money other than my personal funds for the filing fee and ballot statement fee. Do I need to open a campaign bank account?*
- A. No.
- Q. *I do not intend to raise any funds from others; however, I will be spending my own money on my campaign, although I will not be spending \$1,000 or more. Do I need to open a bank account?*
- A. No.
- Q. *I will be raising money for my campaign, but I do not intend to raise or spend \$1,000 on my campaign during the calendar year. Do I need to open a bank account?*

- A. Yes. Since you are raising funds from others, even though you will not be raising or spending \$1,000 or more, you are required to open a campaign bank account in which to place funds raised including personal funds you will use for your election.
- Q. *I do not intend to raise any funds from others, although I will be spending \$1,000 or more of my personal funds on my campaign. Do I need to open a bank account?*
- A. Yes. Since you plan to spend \$1,000 or more for your campaign, you will need to open a bank account and must disclose bank account information on the Statement of Organization (Form 410).

Recordkeeping

In any campaign, an accurate and organized record must be kept of all campaign receipts and expenditures. All individuals who handle receipts and make expenditures must be aware of and practice the recordkeeping procedures required by the Political Reform Act and FPPC regulations that are outlined in this manual. While others may be involved, the candidate and treasurer, as listed on the committee's Form 410, remain legally responsible for the accuracy of the records.

Record Retention

Candidates and committees **must** keep all records, including original source documentation, for a period of four years from the date the campaign statement relating to the records was filed. Documents that identify the names of the contributors that are affiliated entities must be kept for five years. (See Chapter 2.)

(Example) *Sharon Goldstein, a city council member, filed her first campaign statement on January 31, 2007. The records associated with completing that statement,*

such as receipts and information on contributors, must be retained until January 31, 2011.

Records of Receipts

Two types of records are required for receipts: a **daily record**, showing how much money was received on any given day; and a **contributor record**, with detailed information about each contributor of \$25 or more. The daily record requirement may be met simply with bank statements, copies of checks received, or other documentation that provides the required information listed below.

Receipts Under \$25

A daily lump sum total must be kept for contributions under \$25 and miscellaneous receipts under \$25.

Contributor Record

Contributions: \$25 to \$99.99

For each monetary or nonmonetary contribution or loan of \$25 or more, the date received, amount, type of contribution, and full name and address, including zip code, of the contributor must be documented. In addition, the total amount received from that contributor over the course of the current calendar year (the "cumulative amount") must be recorded.

Date Received

A monetary contribution is received on the date that the candidate or committee, or an agent of the candidate or committee, obtains possession or control of the cash, check, or other form of contribution, not the date it is deposited in the bank account. Contributions received by electronic methods such as wire transfer, credit card or debit account transactions are also received on the date the candidate or committee obtains possession or control of the funds. The following list provides examples:

- A contributor makes a contribution over the telephone. The contribution is “received” by the committee on the date the contributor gives his or her debit/credit account information to the committee.
- A contributor makes a contribution via the Internet and the committee reviews the online transaction before the contribution is processed. The contribution is “received” by the committee on the date the committee receives the payment information.
- A contributor makes a contribution via the Internet and the contribution is made by direct deposit without review and before transaction reports are produced. The contribution is “received” by the committee when the committee has possession of the funds.
- A contributor agrees to make contributions via “installment” payments by authorizing the committee to periodically charge his or her credit card or withdraw funds from his or her account. The contribution is “received” when the committee, or an agent of the committee, obtains possession or control of the funds for each installment payment. The contribution reported is only the amount of each installment payment when received. Installment payments scheduled to take place in the future, but not yet received, are not reportable.

Contributions: \$100 or More (Occupation and Employer Information)

If contributions totaling \$100 or more are received from an individual, in addition to the above information, the contributor’s occupation and employer are recorded.

If the contributor is self-employed, that fact also must be noted along with the name of his or her business. Generally, if a check is drawn on the account of a business entity, the contributor is the business entity, not the person who signs the check.

A contribution of \$100 or more must be returned if the contributor’s name, address, occupation, and employer are not in the committee’s records within 60 days from receipt of the contribution. If the contribution cannot be returned to the contributor, it must be paid within 60 days of receipt to the general fund of the local jurisdiction in which the committee is based. In the case of a Superior Court judge or a judicial candidate, the contribution must be paid to the Secretary of State of receipt for deposit in the state’s general fund. If the contribution is returned to the contributor by check and the check is not cashed by the contributor within 90 days, the contribution must be paid to the local jurisdiction or the Secretary of State within the following 30 days.

Contributions may be deposited in the committee’s bank account pending receipt of the information, in which case they must be reported on the next campaign statement required to be filed (including late contribution reports). The Recipient Committee Campaign Statement (Form 460) must be amended within 70 days from its closing date to disclose the missing contributor information unless the contribution is returned to the donor. Late contribution reports need not be amended. The committee also must record the date the contributor information is received, if that date is different than the date the contribution is received.

(Example) *Stanley Hughes, a city clerk candidate, received a contribution of \$100 from Martha Andersen on June 1. The only information he had was her name and address as listed on her check. On his semi-annual statement covering the reporting period through June 30, he reported receiving \$100 from Martha, listed her name and address, and indicated that he would amend his statement when he received her occupation and employer information. By*

July 31 of that same year, even after writing to Martha, Stanley still did not have Martha's occupation and employer. Stanley must return \$100 to Martha.

Intermediaries

For contributions of \$25 or more made through an intermediary (see Chapter 2), records of the above information for **both** the intermediary **and** the contributor is required.

Nonmonetary Contributions

If the contribution is nonmonetary and worth \$25 or more, a description and the fair market value of the contribution must be recorded. (See "Valuing" in Chapter 2.)

Loans

If the contribution is a loan of \$25 or more, the following information for the lender must be recorded:

- Interest rate of the loan, if any;
- Due date of the loan, if any; and
- Name and address of any guarantor and the amount guaranteed. The occupation and employer of any individual who guarantees a loan of \$100 or more must also be recorded.

If a candidate receives a loan from a commercial lending institution for his or her campaign, the institution and not the candidate is recorded as the source of the loan. The candidate does not have to be reported as the guarantor, even if the candidate is personally liable.

Documentation

The committee must keep copies of all documents reflecting deposits made and all records reflecting campaign bank account balances, such as bank statements, check registers and passbooks.

The following documents produced or received by the committee also must be kept

for receipts of \$25 or more: contributor cards; copies of contributor checks; letters of transmittal; notices or writings received from contributors; memoranda or other records that describe the method used to determine the fair market value of donated goods or services (nonmonetary contributions); and loan agreements or other documents that reflect indebtedness. In addition, documentation for electronic transactions must include information collected when debiting the contributor's account, such as itemized transaction reports (including the credit card confirmation number), debit/credit account transaction records, and credit card receipts or vouchers. Documentation of contributions received over the Internet must include a record of the transaction created and transmitted by the cardholder including the cardholder's name and address and card number.

For contributions or other receipts of \$100 or more, copies of any letters or other communications sent by the committee to obtain the documents listed above must be kept.

Expenditures

Expenditures: Under \$25

A daily lump sum total of all expenditures under \$25 must be kept.

Expenditures: \$25 or More

For expenditures of \$25 or more to a single payee, or a series of expenditures for a single product or service that total \$25 or more, the following must be recorded:

- Full name and street address, including zip code, of payee;
- Expenditure amount;
- Date the expenditure was made or for accrued expenses, the date the goods or services were received; and
- Description of the goods or services received.

Contributions to Other Candidates or Committees and Independent Expenditures

For expenditures that are contributions to another officeholder, candidate, or committee, or independent expenditures (see Appendix 1 for definitions) to support or oppose a ballot measure, the amount of the expenditure and also the cumulative amount paid in that calendar year in connection with the officeholder, candidate, committee, or ballot measure must be recorded.

For all such expenditures of \$25 or more, the following information is required:

- Date the contribution or independent expenditure was made;
- Whether the expenditure is an independent expenditure;
- Name of the officeholder or candidate, and the office and district he or she holds or for which he or she seeks nomination or election, or number or letter of the measure and the jurisdiction in which the measure is to be voted on;
- Cumulative amount contributed to the candidate or committee; or
- Cumulative amount of independent expenditures to support or oppose the measure.

Quick TIP Candidates may not use campaign funds to make independent expenditures to support or oppose other state or local candidates.

Loans Made to Others

The following additional information must be kept for loans made by the committee: interest rate, if any; due date, if any; and full name and street address of anyone guaranteeing the loan or who is liable directly, indirectly, or contingently for the loan. (For restrictions on loans to others, see Chapter 10.)

Documentation

All bank and credit card records for expenditures must be kept.

For any expenditure of \$25 or more made by the committee or by any agent on behalf of the committee, canceled checks, bills, invoices, or statements; receipts; credit card charge slips; vouchers; contracts; loan agreements; and other documents produced or received by the committee reflecting additional obligations also must be kept by the committee. Copies of canceled checks can be retained if the copies contain a legible image of the front and back of the canceled check and the copies are obtained from the financial institution.

If no receipt, voucher, or invoice is available, a voucher should be written as soon as possible with the date and amount of the payment, the name of the payee, and a description of the goods or services received. A voucher is not required for payments under \$25.

Notices to Major Donors, Mass Mailings, and Telephone Calls

A copy or a record of all \$5,000 "major donor" notices (see Chapter 2) and a copy of any mass mailings (see Chapter 3) sent by the committee must be kept. For certain telephone calls made to 500 or more voters and paid for by the committee (see Chapter 3), a script of the call or a copy of the recorded phone message also must be kept.

Audits

The Act authorizes audits of committees. Mandatory audits of candidates, their controlled committees, and primarily formed committees that support or oppose candidates are conducted by the Franchise Tax Board. Discretionary audits may be conducted by the FPPC.

Each odd-numbered year, a total of 20 local jurisdictions are randomly selected for audit, including eight counties, eight cities, two school and community college districts, and two special districts. All candidates in the jurisdiction are subject to audit, which are conducted in random order.

Candidates for Superior Court who raise or spend \$15,000 or more in an election are subject to audit by random selection of 25 percent of contested judicial offices.

Treasurer Duties

Every committee must have a treasurer. There are no restrictions on who may be treasurer. The candidate controlling the committee may be the treasurer. **The committee may not accept contributions or make expenditures before a treasurer is appointed or while the treasurer's post is vacant, even if there is an assistant treasurer (see below).** If the committee treasurer is unavailable to carry out his or her duties for an extended time, a new treasurer should be designated and the committee's Statement of Organization (Form 410) amended.

Treasurers or assistant treasurers must sign and verify all reports and statements filed. The verification indicates under penalty of perjury that:

- The signer has used all reasonable diligence in preparing the statement; and
- To the best of his or her knowledge, the statement is both true and complete.

The signer is legally responsible for the accuracy and completeness of the document even if it is prepared by a third party, including a professional accountant. An unsigned statement is considered "not filed" and subject to late fines.

Treasurer

A treasurer is required to establish a system of recordkeeping sufficient to ensure that receipts and expenditures are recorded promptly and accurately in compliance with the Act's recordkeeping and disclosure requirements. Following the recordkeeping guidelines in this manual ordinarily constitutes compliance with this requirement. In addition, the treasurer is required to:

- Maintain campaign records personally or monitor records kept by others.
- Take steps to ensure all of the Act's requirements are met regarding receipt, expenditure, and reporting of campaign funds.
- Prepare campaign statements personally or carefully review campaign and underlying records prepared by others.
- Correct any inaccuracies or omissions, and inquire about any information that would cause a reasonable person to question the accuracy of the campaign statements.
- Sign campaign statements under penalty of perjury. The treasurer is legally responsible for the accuracy and completeness of campaign statements, even if they are prepared by a third party, such as a professional accountant. The treasurer must establish that campaign statements are properly filed. Because the treasurer may be held personally liable for violations of the Act, **no person should assume the position of treasurer as a mere figurehead.**
- Check and, if necessary, correct any information contained on a campaign statement which a reasonable, prudent person would question. Among the circumstances which might give rise to an inquiry regarding a contribution are: the size of the contribution; the reported source; the likelihood of that source making a contribution of that size; the

circumstances surrounding receipt; and the manner in which the contribution is recorded in campaign records.

Assistant Treasurer

An assistant treasurer may be designated on the Statement of Organization (Form 410) in the event that the treasurer is unavailable to sign a report when it is due. The assistant treasurer is required, like the treasurer, to use reasonable diligence in preparing and reviewing any campaign statements that he or she signs, and must certify to that effect under penalty of perjury. For statements signed by the assistant treasurer, both the treasurer and the assistant treasurer are liable for any violations-pertaining to that report.

There are no restrictions on who may be an assistant treasurer, although he or she should know the reporting obligations, restrictions, and prohibitions provided under the law. For a controlled committee, the candidate may be designated as assistant treasurer. If this is the case, and the treasurer is unavailable to sign a campaign report when it is due, the candidate will sign both as candidate and assistant treasurer.

Candidate Duties

A candidate is required to:

- Make sure that the treasurer is exercising all reasonable diligence in the performance of his or her duties. The candidate must establish that campaign statements are properly filed.
- Take whatever steps are necessary to replace the treasurer or raise the treasurer's performance to required standards if the candidate knows, or has reason to know, that the treasurer is not exercising all reasonable diligence in the performance of his or her duties.

- Review with care the campaign statements prepared for filing by the committee.
- Correct any inaccuracies and omissions in campaign statements of which the candidate is aware, and check and correct any information on campaign statements which a person of reasonable prudence would question based on all of the surrounding circumstances.
- Perform with due care any other tasks assumed in connection with the raising, spending, or recording of campaign funds insofar as such tasks relate to the accuracy of information entered on campaign statements.

Answering Your Questions

- Q. *If, in the early days of the campaign, the candidate is not able to find someone to serve as the campaign treasurer, may the candidate serve in that capacity until another person is found?*
- A. Yes. In fact, a separate treasurer is never required; the candidate may serve as treasurer throughout the campaign.
- Q. *Are there any specific accounting qualifications for someone to be able to serve as treasurer, or any conditions which would disqualify someone from being able to serve as treasurer?*
- A. No.
- Q. *What should be done if the treasurer and assistant treasurer, or the candidate, are not able to sign before the deadline?*
- A. In order to ensure that the statement is filed on time, you may submit the filing if it is signed by one of the following: the candidate, treasurer, or assistant treasurer. If the candidate's signature is missing, submit an amendment to provide his or her signature as soon as possible. Likewise, if both the treasurer

and assistant treasurer are unavailable, submit an amendment to provide the required signature as soon as possible.

- Q. *Are committee records and source documentation required to be kept on paper, or may the committee use an electronic recordkeeping system?*
- A. Electronic records are permitted, provided that all of the required information is collected and recorded in a timely and uniform manner that ensures the accuracy and reliability of the information. Committees are responsible for ensuring that electronic records can be read and/or printed for auditing purposes during the applicable retention period.
- Q. *Are form letters thanking the committee for contributions it has made required to be retained for recordkeeping purposes?*
- A. Form letters containing no information necessary to complete or verify the committee's campaign statements are not required to be retained.

Authority

The following Government Code sections and Title 2 regulations provide authority for the preceding information in this chapter:

Government Code Sections

- 82015 *Contribution.*
- 82018 *Cumulative Amount.*
- 82025 *Expenditure.*
- 82044 *Payment.*
- 82047.5 *Primarily Formed Committee.*
- 84100 *Treasurer.*
- 84104 *Recordkeeping.*
- 84300 *Cash and In-Kind Contributions; Cash Expenditures.*
- 84302 *Contributions by Intermediary or Agent.*
- 84307 *Commingling with Personal Funds.*
- 84310 *Identification Requirements for Telephone Calls.*

- 85201 *Campaign Bank Account.*
- 85501 *Prohibition on Independent Expenditures by Candidate Controlled Committees.*
- 85700 *Donor Information Requirements; Return of Contributions.*
- 89511.5 *Use of Personal Funds for Incumbent Elected Officers. Responsibility.*
- 90000 *Mandatory Audits and Investigations.*
- 90001 *Audits and Investigations; Time.*
- 90002 *Discretionary Audits.*
- 90003 *Audit and Investigation by Commission.*
- 90006 *Auditing Guidelines and Standards.*

Title 2 Regulations

- 18401 *Required Recordkeeping for Chapter 4.*
- 18421.1 *Disclosure of the Making and Receipt of Contributions.*
- 18421.2 *Street Address.*
- 18421.3 *Reporting of Contributions and Expenditures Collected by Contract Vendors or Collecting Agents.*
- 18426.1 *Assistant Treasurer.*
- 18427 *Duties of Treasurers and Candidates with Respect to Campaign Statements.*
- 18432.5 *Intermediary.*
- 18521 *Establishment of Separate Controlled Committee for Each Campaign Account.*
- 18524 *Investment and Expenditure of Candidates' Campaign Funds.*
- 18525 *Incumbent Candidates' Election Expenses and Officeholder Expenses.*
- 18531.5 *Recall Elections.*
- 18570 *Return of Contributions with Insufficient Donor Information.*
- 18991 *Audits of Campaign Reports and Statements of Local Candidates and Their Controlled Committees.*
- 18994 *Auditing and Investigations.*
- 18995 *Standards and Guidelines for Auditing Statements and Reports.*

Chapter 2

Contributions

This chapter begins with a definition of “contribution” and provides guidelines necessary to proper reporting, including a discussion on valuing nonmonetary contributions.

Contributions to local candidates and committees in many cities and counties are subject to local contribution limits and other restrictions. Check with your local elections or ethics agency.

What is a Contribution?

A “contribution” is a monetary or nonmonetary payment received by a candidate or committee for which the candidate or committee has not provided full and adequate consideration in return. (See the definition of “contribution” in Appendix 1.) A contribution may take any of the following forms:

- Money (cash, check, credit card, wire transfers);
- Nonmonetary items (donated goods or services, discounts);
- Payments made by a third party for advertising or other communications (see Chapter 4);
- Loans (including loan guarantees, co-signing, and lines of credit);
- Money, nonmonetary items, and loans from the candidate to his or her own committee or from the candidate’s family; and
- Enforceable promises (for example, a contributor promises, in writing, to pay for specific goods or services and, based on that written promise, the committee expends funds or enters into a legally-enforceable contract to purchase the goods or services).

Each type of contribution is reported differently. In fact, **when** a contribution is received is determined in part by what type of contribution it is.

In general, a **monetary** contribution is received on the date that the candidate, committee, or an agent of the committee obtains possession or control of the cash, check, or other item that constitutes the contribution. (See Chapter 1 for detailed information about when a monetary contribution is received.)

(Examples) *John Burns, the campaign consultant for Friends of Joshua Truman, received a hand-delivered check at a May 14, Friday evening fundraiser for Friends. John did not give the check to the committee’s treasurer for deposit until the following Monday, May 17. The contribution was received on May 14, the day the committee’s agent obtained possession of the check.*

Friends of Joshua Truman also contracts with a website service to receive contributions over the Internet. The website service sends the committee’s treasurer an email each time a contributor logs on to the website service and enters his or her donor information and credit card number. Logging onto the website service, the treasurer can accept the contribution and receive the funds. The committee reports receipt of the contribution on the date it receives the email because it controls the contribution on that date.

A **nonmonetary** contribution is received on the **earliest** of the following:

- The date funds were expended by the contributor for the goods or services;

Chapter 2 — Contributions

- The date the candidate, committee, or an agent of the committee obtained possession or control of the goods or services; or
- The date the candidate or committee received the benefit of the expenditure.

An **enforceable promise** is received on the date the candidate, committee, or an agent of the committee receives documents verifying that a contributor has made a legally enforceable promise to pay for goods or services. A pledge card is not considered an enforceable promise to make a contribution. "Enforceable promise" also does not include a contributor's agreement to make future installment payments through credit card, wire transfer, debit account transaction, or similar electronic payment.

When an agent of the committee, such as a campaign consultant, receives a contribution for the committee, the treasurer must be notified by the agent no later than the closing date of the next campaign statement due.

Exceptions

There are many exceptions to the definition of "contribution," which are described in Appendix 1 under the definition of "contribution." Exceptions for certain types of political communications are also discussed in detail in Chapter 3. Some of the most common exceptions include:

Volunteer Personal Services: If an individual donates his or her personal or professional services to a campaign, no contribution has been made or received. However, if an employer donates employee services to a campaign, and any employee spends more than 10% of his or her compensated time in a calendar month providing the services, the employer has made a nonmonetary contribution to the committee.

Home/Office Fundraisers: If someone holds a fundraiser or other campaign event in his or her home or office, the costs incurred by the occupant of the home or office need not be reported as long as the total cost of the event is \$500 or less. However, if someone else donates food, beverages, or anything else of value to the event, the fair market value of those donated goods is a nonmonetary contribution. In addition, the donated goods must be counted to determine if the total cost of the event is \$500 or less.

(Examples) *Jaleel Baker holds a fundraiser in his home for your committee. He spends \$250 on decorations, food, and drinks for the event. His neighbor, Sheila Mkemo, brings some door prizes with a fair market value of \$50. Since the total cost of the event is under \$500, Jaleel's \$250 is not reportable. However, since Sheila is not the occupant of the home, her nonmonetary contribution of \$50 is reportable, although not itemized.*

Shannon Priestly sponsors an event for your committee after work in her business' downtown office. Shannon spends \$450 to have the event catered. Jason Cameron, who works in the building next door, supplies a flower centerpiece worth \$75. Since the total cost of the event exceeds \$500, both Shannon's contribution of \$450 and Jason's \$75 flower arrangement are reportable by your committee.

Member Communications: Payments made by an organization (including a political party) for certain communications that are sent only to the organization's members, employees, or shareholders, or their families, are not contributions to a candidate endorsed in the communications. (See Chapter 3.)

Restrictions on Contributions

Contributions of \$100 or more must be made by written instrument and may not be made or received in cash. (For more details, see Chapter 9.) In addition, contributions of \$100 or more must be returned if the contributor's name, address, occupation, and employer are not obtained within 60 days of receipt of the contribution. (See Chapter 1.)

Receiving Contributions

Aggregating Contributions

Contributions received from certain combinations of individuals and entities must be added together to determine the total amount that will be treated as received from a single contributor.

The following are aggregated:

- Contributions from the personal funds of an individual and contributions made by an entity when the same individual directs and controls the entity's contributions.
- Contributions from two or more entities if a majority of the same persons directs and controls the contributions of each entity.
- Contributions made by entities that are majority owned by any person with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.

Quick TIP The term "person" includes an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, and association.

The following are basic examples to provide general guidance regarding aggregation of contributions. Every case is unique and if these examples are not helpful, contact the FPCC for advice.

(Examples) *Sally Perez contributed \$98 from her personal funds and another \$98 from the funds of her wholly-owned business, Flowers by Sally Perez, to the Anderson Committee. Because contributions from an individual and his or her business, or from any other account he or she directs and controls, are considered to be from a single contributor, the Anderson Committee must itemize both contributions and report a cumulative amount received from Sally and her business of \$196 on its committee campaign statement.*

EXtream Snowboards, Inc., made a contribution of \$99 to the Johnson Committee. EXtream Snowboards, Inc., is a wholly-owned subsidiary of LeesureTech Industries, which also made a contribution of \$99 to the Johnson Committee. If there was coordination between EXtream Snowboards and LeesureTech Industries, their contributions are considered to be from a single contributor. The Johnson Committee must itemize both contributions and report a cumulative amount received of \$198 on its campaign statement.

William Smith is a developer with four separate corporations. William makes political contributions from his personal funds and directs and controls the contributions of each of his corporations. William made a contribution of \$90 from his personal funds and contributions of \$90 from the funds of each of his corporations to the Perez Committee. Because he directed and controlled all of these contributions, they are considered to have been made by a single contributor. The Perez Committee must itemize each contribution and show a cumulative amount received of \$450.

Southwest TeleCom has a greater than 50% ownership interest in American TeleCom. Each entity, entirely on its own and with separate decisionmaking bodies, makes a contribution of \$1,000 to Mayor Yadon. The mayor does not aggregate these

contributions because Southwest TeleCom and American TeleCom acted independently in their decisions to make the contributions.

Also see Chapter 6 for information on reporting aggregated contributions received from major donor committees.

Credit Card, Electronic, and Other Types of Contributions

Contributions may be received by credit card, wire transfer, debit account transaction, or similar electronic payment options (including contributions received via the Internet or telephone). All of the reporting and recordkeeping requirements apply to these contributions. (See Chapter 1.) Some tips are:

- For contributions of \$25 or more, the committee treasurer should make sure that a copy of the credit card voucher or other documentation is sent to the committee as soon as practicable after the contributions are made.
- The entire amount charged to the contributor is reported as a contribution.
- Fees associated with this type of fundraising, or deducted by the vendor before the contributions are sent to the committee, are reported as expenditures; the fees are not deducted from the amount of each contribution reported.

Fundraisers

The full amount (face value) of a fundraiser ticket is a reportable contribution.

(Example) *Your committee holds a fundraiser and charges \$100 per person. After the event, you determine that it cost your committee \$25 per person to pay the caterer, hall rental, entertainment, invitations, etc. Report on Schedule A of the Form 460 each contributor's name, address, occupation, and employer and the full \$100*

per ticket contribution. Do not subtract \$25 from each ticket sold.

Auctions and Garage Sales: When items are donated for auction or sale at a fundraiser, the donated item is a nonmonetary contribution. (See below for determining the value.) When someone buys an item, the payment is usually considered a "Miscellaneous Increase to Cash" and is reported as such. (See Chapter 6.) If any one person or entity pays \$100 or more, the payment is itemized.

However, when someone pays more for an item than it is worth, the amount that is equal to the fair market value is reported as a miscellaneous increase to cash and the amount over the fair market value as a monetary contribution. Each is itemized at \$100.

(Example) *Andy Foster owns an electronics store and donates a TV worth \$500 to your committee. At your committee's auction, Gloria Fernandes bids \$600 for the TV. Itemize \$500 as a nonmonetary contribution from Andy's store. Then, itemize \$500, that part of Gloria's payment which is the fair market value of the TV, as a miscellaneous increase to cash. Also itemize \$100, the amount over the fair market value, as a monetary contribution from Gloria.*

Bar Receipts: Funds received by selling drinks at a fundraiser at fair market value are reported as miscellaneous increases to cash, not contributions.

Raffle Tickets: Receipts from the sale of raffle tickets at a fundraiser are reported as contributions. Items donated for raffle prizes are reported as nonmonetary contributions. (Note that Penal Code section 319 imposes some restrictions on raffles.)

Intermediary

An intermediary is a person or entity that makes a contribution on behalf of another person and has been or will be reimbursed for the contribution. For each contribution of \$100 or more from an intermediary, the name, address, and, if applicable, the occupation/employer information must be disclosed for both the true source of the contribution and the intermediary.

(Examples) *Berry Barr and Vienna Waltz each made a \$100 contribution from their personal funds to support Tina Baker for city council, with the understanding that they would be reimbursed by their employer, the Music Company. Berry and Vienna must tell the committee that they are acting as intermediaries on behalf of their employer, the Music Company. Tina's campaign statement must show the \$200 contribution from the Music Company, and also Berry Barr and Vienna Waltz as intermediaries of \$100 each.*

The Playa del Sol Stockbrokers Emporium requested its employees to attend a fundraiser for Megan Waters, a candidate for mayor, with the intent of reimbursing the employees for their contributions. The employees informed Megan that their contributions would be reimbursed by the Emporium. When the committee's treasurer completed the committee's Form 460, he reported the total of the contributions coming from Playa del Sol Stockbrokers Emporium and reported those employees who contributed \$100 or more as intermediaries for the Emporium.

A corporation has asked its employees to make personal contributions to Friends of Joshua Monet, a candidate's committee, with the intent of reimbursing its employees for the contributions they make. Neither the employees nor the corporation inform the committee that the employees will be

reimbursed. The corporation and the employees have violated the Act.

Candidates and committees are required to check and, if necessary, correct any information regarding the true source of a contribution that a person of reasonable prudence would question based on all of the surrounding circumstances. If there is reason to question the source of a contribution, i.e., if there is reason to believe the information contained on the contribution check does not contain the name of the person who is actually making the contribution, the donor should be asked if he or she is acting as an intermediary for the true source of the contribution.

Joint Checking Accounts and Business Accounts

Individuals (including spouses) may make separate contributions from a joint checking account. For reporting purposes, the full amount of the contribution is reported as coming from the individual who signs the check. If two or more individuals sign the check, the contribution is divided equally between or among the signers, unless there is an accompanying document signed by each individual whose name is printed on the check which clearly indicates a different apportionment.

(Example) *Linda and Jerry Nelson have a joint checking account. From this account, Linda signed a \$100 check payable to Friends of Joshua Truman. The committee identifies Linda Nelson as the contributor of the full \$100.*

A check drawn on a joint checking account that is signed by an individual not listed on the check (e.g., an accountant) must be accompanied by a document signed by at least one of the individuals listed on the check stating to whom the check is to be attributed.

Generally, if a check is drawn on the account of a business entity, the contributor is the business entity, not the person who signs the check.

Minor Children

A contribution made by a child under the age of 18 is presumed to be a contribution from his or her parent or guardian, unless the facts show otherwise, e.g., that the child actually chose to make the contribution.

Transfers and Carryover from a Prior Campaign

Candidates who have more than one campaign bank account and controlled committee may transfer funds from one account/committee to another. However, candidates who are defeated in an election or leave office must transfer campaign funds to an account for a future election prior to the end of the semi-annual period following the election in which the candidate was defeated, or prior to leaving office, whichever is later. If the funds are not transferred by this time, they are considered “surplus funds” and may not be used for a future election. (See Chapter 9.)

The committee receiving the transferred funds reports them on Schedule I of Form 460. The committee making the transfer reports it on Schedule E.

(Example) *Barbara Taylor ran for office and was defeated in a June election. She intends to run for a different office in the future. She must transfer any remaining funds to a new election account prior to July 1; otherwise, the funds become “surplus” and may not be used for a future election. She does this by reporting on Form 460, Schedule E for her old committee that a transfer was made to her new account; and on Form 460, Schedule I for her new committee, that transferred funds came into the account.*

QuickTIP There are restrictions on transfers of funds to run for state office. See FPPC’s Information Manual for State Candidates (Manual 1) for further information.

Contributions from Other Candidates

Candidates and committees may receive contributions, within contribution limits if applicable, from other candidates or officeholders.

Undesignated Contributions

Candidates who are soliciting contributions for more than one office and receive a contribution that has not been designated for a specific office may deposit the contribution in any of their campaign bank accounts.

Undesignated monetary contributions should be deposited in a campaign bank account within 30 days of receipt. Nonmonetary contributions should be allocated to a particular committee within 30 days of receipt or by the deadline for the reporting period in which the nonmonetary contribution is received, whichever is earlier.

\$5,000 Notification to Potential “Major Donors”

Candidates and committees that receive one or more contributions totaling \$5,000 or more in a calendar year from an individual or entity that made the contribution(s) from personal, business, or corporate funds must send the contributor written notice that they may need to file a campaign statement if their contributions to state and local candidates and committees total \$10,000 or more in a calendar year. The notice may be tailored as long as it contains language substantially similar to the language below:

If your contribution(s) to this committee and to other California state or local committees total(s) \$10,000 or more in a calendar year, California law requires you to file a Major Donor Committee

Campaign Statement (Form 461). The deadline and location for filing this statement will depend upon the timing and type of contribution(s) you have made. In addition, once you become a major donor, you are required to file a late contribution report within 24 hours if you make contributions totaling \$1,000 or more to a single candidate, his or her controlled committee, or to a committee primarily formed to support or oppose a candidate or ballot measure during the 16 days before the election in which the candidate or ballot measure is being voted upon or make contributions totaling \$1,000 or more to a state or county political party committee during the 16 days prior to a state election.

Failure to file campaign statements may result in late filing penalties (\$10/day) and fines (up to \$5,000/violation). For more information, contact the Fair Political Practices Commission toll free at (866) 275-3772 or refer to their website: www.fppc.ca.gov.

Additionally, if you make contributions of \$50,000 or more in a calendar year in California and some or all of those contributions are to state candidates, committees, or ballot measures, you are required to file your Form 461 electronically with the Secretary of State. For more information on the electronic filing requirements, contact the Secretary of State's office at (916) 653-6224.

The notice is not required if the source of the contribution is an existing committee, because it already is required to file campaign statements.

The notice must be sent, faxed, or emailed to the contributor within two weeks of receipt of the \$5,000 contribution(s). No further notices are required for subsequent contributions received from the same contributor within the same calendar year.

A copy of each notice or a record of all notices showing the date sent, faxed, or emailed, and the name and address of the person receiving the notice must be retained.

Valuing Nonmonetary Contributions

This section provides assistance in determining how to value nonmonetary contributions so that they may be reported accurately. The varieties of nonmonetary contributions are vast, so not all possibilities are presented. Contact the FPPC for assistance.

Fair Market Value

When a nonmonetary contribution is received, the fair market value of the goods or service must be reported.

(Example) *The owner of an audio-visual store donates a television set worth \$500 to your committee for sale at an auction. Although the set costs the store owner less than \$500, the **fair market value of the television (the amount it would cost any member of the public to purchase the set from the store)** is \$500. Therefore, the nonmonetary contribution from the store owner is \$500.*

If a business donates the use of an employee to work on a campaign, the amount the individual is paid for working on the campaign is reportable only if the employee spends more than 10% of his or her compensated time in a calendar month working on the campaign.

(Example) *An accounting firm provides your committee with the services of an accountant during the last month of the campaign. The accountant spends 25% of her time working for the campaign, for which her gross compensation from the accounting firm is \$2,500. The amount of the contribution from the accounting firm is \$2,500.*

If a committee receives discounts on goods or services it purchases and the discounts are not offered to the public in the regular course of business, the discount is a nonmonetary contribution which must be reported.

(Example) *Your committee treasurer knows the owner of Janns' Printing Shop and gets the owner to give your committee a 50% discount on the printing of a brochure that normally would cost \$1,200. Your committee has received a nonmonetary contribution of \$600 from Janns' Printing Shop.*

Volunteer personal services are not considered to be a nonmonetary contribution.

If the committee does not know the fair market value of a nonmonetary contribution, such as an original piece of artwork, the committee may send a letter requesting that the contributor provide the value of the contribution in writing. The contributor is legally obligated to provide an amount if the value of the contribution is \$100 or more.

Mailings

Generally, the fair market value of a mailing is reported as a contribution when the mailing expressly advocates support of or opposition to a candidate **and** was made at the behest of the affected candidate or primarily formed committee.

(Example) *The Treetop Paper Company produces and sends a mailing to support your committee. Although the company receives paper at a discounted rate, report the receipt of a nonmonetary contribution in the amount it would have cost you had you paid fair market value for the mailing.*

Multiple Candidates and Measures: If a mailer expresses support of or opposition to more than one candidate or ballot measure,

the fair market value attributable to each may be calculated by prorating the costs among the featured candidates and ballot measures. The prorated value is based on the amount of space allotted to each candidate or measure supported or opposed in the mailer.

(Example) *The Weston Chamber of Commerce produces and mails a one-page flyer urging voters to vote for supervisor candidate Stan Smith and against two ballot measures. Half of the flyer is devoted to supporting Smith and the other half equally opposes the measures. The Chamber coordinates the mailing with candidate Smith, but does not coordinate with any committee set up to oppose the two measures. The total cost of producing and mailing the flyer is \$3,000. Smith has received a nonmonetary contribution valued at \$1,500, and the Chamber has made an independent expenditure of \$750 apiece opposing the two ballot measures.*

The value of a mailer that supports or opposes candidates and measures being voted on in different jurisdictions may be prorated based on the number of mailers sent to each candidate or ballot measure's jurisdiction.

Political and Non-Political Material: The cost of a mailing containing both express advocacy in support of or opposition to a candidate and other nonpolitical material can be prorated. Costs directly associated with the political message are reportable by the candidate, including, for example, compensation paid to employees who spend more than 10% of their compensated time in a calendar month producing or mailing the political materials, and the pro rata cost of paper, envelopes, and postage. The allocation may be based on the additional weight of the political material or the comparative number of pages as between the political and non-political material.

Member Communications: Payments made by an organization or its sponsored committee for a communication that supports or opposes a candidate are not contributions or expenditures as long as the communication is made only to the organization's members, employees, or shareholders, or the families of its members, employees, or shareholders. The communication may not be for general public advertising, such as billboards, newspaper ads, or radio or television ads. (See Chapter 3.)

Bulk Rate Permits: Use of an organization's bulk rate permit is a nonmonetary contribution from the organization. If the committee pays the actual postage costs incurred under the bulk rate permit, the fair market value of the contribution is either:

- The price the organization paid for the bulk mailing permit; or
- The difference in postage costs between the bulk mailing rate and that of regular mail.

If the organization pays for the costs of the mailing using its bulk rate permit and the committee does not have such a permit, the value of the contribution is (1) the amount it would have cost to pay for the mailing using regular mail; or (2) the cost of the bulk rate mailing plus the cost of a permit.

Phone Banks

Businesses and other entities will sometimes allow a campaign committee to use their phones to call prospective voters during non-business hours. The fair market value of the use of the phones is calculated to determine the amount reported as a nonmonetary contribution, even if only local calls are made. One method to determine the fair market value is to contact organizations that provide phone banks as a business.

Polls & Surveys

A person or entity that provides data from a public opinion poll or survey to a candidate or committee is making a nonmonetary contribution if the candidate or committee requests the data or the data are used for political purposes. FPPC staff have advised that a formula utilized by the Federal Election Commission may be used for valuing polling or survey data, as long as the formula is used in a reasonable manner to provide a fair estimate. The formula calculates the value based on the age of the data. The chart below illustrates the fair market value of data based on the number of days that pass from the date the entity originally received the data to the date the data were provided to the candidate or committee.

Age of Data	Value
0 -15 days	Full Value
16 - 60 days	50%
61 - 180 days	5%
More than 180 days	No Value

When only a portion of a survey is provided to or for the benefit of a candidate, the nonmonetary contribution is the prorated portion of the total value of the survey.

(Example) *The Chewing Gum Association PAC commissioned a public opinion poll to determine voters' attitudes about candidates running for governor, candidates in a senate district, and a city ballot measure. The PAC provided the poll results to the candidate they supported for governor, those in certain senate districts, and to the committee supporting the city ballot measure. Since only a portion of the data pertained to the senate and city ballot measure elections, these candidates and the ballot measure committee reported a prorated amount when disclosing the nonmonetary contributions received.*

Answering Your Questions

- Q. *We are holding a \$100-a-plate fundraiser for our committee. The actual cost of the event to our committee will be \$25 per person. When someone gives us \$100 to attend the dinner, do we report \$100 as a contribution, or do we subtract the \$25 cost and report receiving a \$75 contribution?*
- A. The cost of the ticket for the fundraiser is the amount of the contribution. Report \$100 as the contribution.
- Q. *When we send out a fundraising letter, are we required to put our committee identification number on the invitation?*
- A. There is no requirement to put the identification number anywhere on the mailer. However, many campaigns do so because if other committees, or others with their own reporting obligations, contribute to your committee, they will need your identification number to complete their campaign reports.
- Q. *We would like to hold a raffle at our next fundraiser. Are there any restrictions on raffles?*
- A. The Political Reform Act does not restrict raffles. However, Penal Code 319 does prohibit some raffles. This code is interpreted and enforced by each county's district attorney. Contact the local district attorney where the raffle will be held for further information. Of course, be sure all of the reporting and recordkeeping requirements are met.
- Q. *If Jan, my next door neighbor, spends \$1,000 on an event to help raise funds for two different candidates and the event is held in her home, has she made a contribution to each committee?*
- A. Yes. The total cost of a home fundraiser must be \$500 or less, or the event will qualify as a nonmonetary contribution.
- This is true no matter how many committees benefit from the event.
- Q. *May a non-profit organization hold a joint fundraiser with a political committee?*
- A. Yes. However, any costs incurred by the non-profit organization which are not reimbursed by the political committee would be considered to be a nonmonetary contribution from the non-profit to the political committee. The non-profit organization should contact the IRS for any possible restrictions based upon the organization's tax status.
- Q. *Three candidates wish to conduct individual polls. A polling firm has offered a reduced rate because all three polls can be combined using one very large sample. Are the candidates receiving contributions from the polling firm because of the discounted fee, and are the candidates making contributions to each other?*
- A. To the extent each candidate pays only his or her share of the cost of the poll, the candidates are not making contributions to each other. Additionally, if the polling firm provides the discount as part of its standard business policy of providing discounts in similar situations and does not provide the discount for political purposes, the candidates will not receive a contribution from the polling firm.

Returning Contributions

There are several provisions in the Act and FPPC regulations that regulate the return of contributions.

General Rule: Contributions may be returned to individual contributors as long as the return is reasonably related to a political, legislative, or governmental purpose. "Surplus funds" may be returned to contributors. (See Chapter 9 for information on disposition of surplus funds.)

Reporting: A contribution is not required to be reported if it is not deposited, cashed, or negotiated and it is returned to the contributor before the closing date of the campaign statement on which it would otherwise be reported. A “late contribution” (a contribution of \$1,000 or more received during the last 16 days before an election) is not required to be reported if it is not deposited, cashed, or negotiated and it is returned within 24 hours of receipt. Once a contribution is deposited, cashed, or negotiated, it must be disclosed on the next campaign statement, even if it is subsequently returned. (See Chapter 6 for detailed information on reporting returned contributions.)

Missing Contributor Information: A contribution of \$100 or more must be returned within 60 days of receipt if the candidate or committee has not obtained the contributor’s name, address, and in the case of a contributor who is an individual, his or her occupation and employer. (See Chapter 1.)

Authority

The following Government Code sections and Title 2 regulations provide authority for the preceding information in this chapter:

Government Code Sections

- 82015 *Contribution.*
- 82025.5 *Fair Market Value.*
- 82036 *Late Contribution.*
- 82047 *Person.*
- 84105 *Notification of Contributors.*
- 84211 *Contents of Campaign Statement.*
- 84300 *Cash and In-Kind Contributions; Cash Expenditures.*
- 84302 *Contributions by Intermediary or Agent.*
- 84306 *Contributions Received by Agents of Candidates and Committees.*
- 85308 *Family Contributions.*
- 85311 *Affiliated Entities; Aggregation of Contributions.*

- 85312 *Communications to Members of an Organization.*
- 85700 *Donor Information Requirements; Return of Contributions.*

Title 2 Regulations

- 18215 *Contribution.*
- 18216 *Enforceable Promise to Make a Payment.*
- 18421.1 *Disclosure of the Making and Receipt of Contributions.*
- 18421.3 *Reporting of Contributions and Expenditures Collected by Contract Vendors or Collecting Agents.*
- 18423 *Payments for Personal Services as Contributions and Expenditures.*
- 18427.1 *Notification to Contributors of \$5,000 or More.*
- 18428 *Reporting of Contributions and Independent Expenditures Required to be Aggregated.*
- 18430 *Committee Controlled by More Than One Candidate.*
- 18432.5 *Intermediary.*
- 18523 *Nondesignated Contributions or Loans.*
- 18531.7 *Payments for Communications – Section 85312.*
- 18533 *Contributions from Joint Checking Accounts.*

Chapter 3

Communications

One of the most important aspects of any campaign is communicating with the voters. The Political Reform Act **does not** regulate the **truth or accuracy** of political communications, but does require reporting of most payments in connection with flyers, mailers, billboards, radio and television advertising.

Contributions and Independent Expenditures

Generally speaking, when someone, other than the candidate or his or her committee pays for a communication supporting the candidate, the candidate has received a nonmonetary contribution unless the payment was not made "at the behest of" the candidate. Payments for communications supporting a candidate by the use of express advocacy, that are not made at the behest of the candidate are called "independent expenditures," and the candidate is not required to report them, although the person making the independent expenditure may have reporting obligations. In addition, certain other types of communications may not be reportable at all, or may be subject to special reporting requirements. (See Chapter 7 and the definition of "contribution" in Appendix 1.)

Whether a communication is a contribution, an independent expenditure, or some other type of reportable payment depends on several factors, including whether the communication "expressly advocates" the election or defeat of a clearly identified candidate or ballot measure. The information and examples provided below may be of assistance in making that determination. However, it is impossible to address all of the types of communications in a campaign. If presented with specific facts, FPPC staff can provide assistance.

When reviewing this section, it is important to remember the following:

- A candidate may not make independent expenditures from campaign funds to support or oppose another candidate.
- Communications paid for by a candidate's controlled committee that support the controlling candidate, or oppose his or her opponent, are not considered contributions or independent expenditures.
- In most cases, communications paid for by a noncontrolled primarily formed committee that support or oppose a candidate are considered contributions or independent expenditures.

Express Advocacy

A communication expressly advocates support or opposition of a clearly identified candidate when it uses words such as "vote for," "elect," "support," "cast your ballot," "vote against," "defeat," "reject," "sign petitions for," or the communication, taken as a whole, unambiguously urges a particular result in an election.

Clearly Identifies

A communication *clearly identifies* a candidate or measure when the candidate's name, photograph, or status as a candidate or officeholder is used, or the measure's name, popular title, or official title is used. Some flyers may mention a group of candidates by some well-defined characteristic of the group. Even if no specific names are used, these, too, may be communications which *clearly identify* candidates.

(Example) *An individual paid \$4,000 for a newspaper ad stating "Vote for Joe Winner." The communication expressly*

advocates support for a clearly identified candidate and must be reported either as a contribution if it was made at the candidate's behest or an independent expenditure if it was not made at the candidate's behest.

Later, the same individual paid \$2,000 for post card-sized flyers that simply stated, "Vote on Election Day." This communication is not reported as a contribution or independent expenditure because it did not expressly advocate support of or opposition to a candidate or measure.

A communication that expressly advocates support of or opposition to a clearly identified candidate or ballot measure is a contribution, if made at the behest of the candidate or committee, or independent expenditure, if not made at the behest of the candidate or committee.

Made at the Behest

A payment is "*made at the behest*" of a candidate or committee if the payment is made under the control or at the direction of, in cooperation, consultation, coordination, or concert with, at the request or suggestion of, or with the express prior consent of the candidate or committee or an agent of the candidate or committee, and the arrangement occurs prior to the making of the communication.

Expenditures made at the behest of a candidate or committee include expenditures made by a person other than the candidate or committee, to pay for a communication relating to one or more clearly identified candidates or ballot measures if it is created, produced, or disseminated:

- After the candidate or committee has made or participated in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication, or

- After discussion and agreement between the candidate or committee and the creator, producer or distributor of a communication, or the person paying for that communication, regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication.

An expenditure is presumed to be made at the behest of a committee if it is:

- Based on information about the candidate's or committee's campaign needs or plans provided to the expending person by the candidate or committee; or
- Made by or through any agent of the candidate or committee in the course of the agent's involvement in the current campaign; or
- For a communication relating to a clearly identified candidate or ballot measure when:
 - The person making the expenditure retains the services of a person who provides either the candidate or the committee supporting or opposing the ballot measure with professional services related to campaign or fundraising strategy for the same election, or
 - The communication replicates, reproduces, republishes, or disseminates, in whole or in substantial part, a communication designed, produced, paid for, or distributed by the candidate or committee.

An expenditure is **not made at the behest** of a candidate or committee just because:

- A person interviews the candidate or candidate's agent on issues affecting the person making the expenditure, or
- The person making the expenditure obtains a photograph, biography, position paper, or press release, or similar material

is provided by the candidate or his or her agent, or

- The person making the expenditure has made a contribution to the candidate or committee, or
- A person makes an expenditure in response to a general, nonspecific request for support by a candidate or committee, provided that there is no discussion with the candidate or committee prior to the expenditure relating to details of the expenditure, or
- The person making the expenditure has invited the candidate or committee to make a public appearance before the person's members, employees, shareholders, or their families provided that there is no discussion with the candidate or committee prior to the expenditure relating to details of the expenditure, or
- A person informs a candidate or committee that the person has made an expenditure, provided that there is no exchange of information, not otherwise available to the public, relating to details of the expenditure, or
- The expenditure is made at the request or suggestion of the candidate or committee for the benefit of another candidate or committee.

(Example) *Citizens for Winner, a non-controlled committee primarily formed to support Joe Winner's candidacy, printed campaign literature stating, "Vote for Joe Winner." The communication included a copy of a photograph the committee obtained from the public information counter at Joe's campaign headquarters. Joe did not in any other way coordinate with the committee in producing the campaign literature. The committee made an independent expenditure, not a contribution to Joe's campaign.*

On the other hand, if the committee contacted Joe Winner and arranged for a professional photographer to meet with him for the purpose of taking photographs for the mailer, the committee would be making a nonmonetary contribution to Joe's campaign.

Determinations Based on Facts

As the previous examples illustrate, whether a communication is deemed to be express advocacy and whether the communication is made at the behest of the affected candidate or measure committee, are factual determinations based on the text of the communication and the circumstances associated with it. Although determinations must be made on the facts of each particular situation, the following examples address common situations that may arise in a campaign.

Reporting

There are distinctly different reporting requirements for contributions and independent expenditures.

When a person or group of persons makes expenditures for a communication at the behest of a candidate or committee, the candidate or committee **must report** the receipt of a nonmonetary contribution. The person making the expenditure may also have to file reports.

Candidates and committees who are the beneficiaries of independent expenditures **do not report** them. However, the person making the expenditure may have filing obligations.

(Example) *During Joe Winner's campaign, two newspaper advertisements supporting Joe were published without his knowledge or consent. Since the payments for these communications were not made at his behest, they were independent expenditures by the person(s) funding the*

ads and were not reportable by Joe's campaign. The person(s) who paid for the ads may have a filing obligation.

Endorsements

An endorsement of a candidate or measure **may** become a contribution or an independent expenditure when a payment is made in connection with the endorsement.

(Example) *The president of a police officers' association announces at its annual meeting that the association endorses John Law for county sheriff. Merely making an oral endorsement is not a contribution or independent expenditure to John Law.*

Closer to the election, at the request of candidate John Law, the association mails a special flyer to the voters announcing its endorsement of him. Since the mailing was made at the behest of the candidate, the association has now made a nonmonetary contribution to John Law.

Frequently, a candidate will publish his or her endorsement by another official. As long as the communication does not advocate the election of the endorsing official (or the defeat of that official's opponent), a payment made to communicate the endorsement is not a contribution to the endorsing candidate or official, even though the endorsement was made at the behest of both individuals.

(Example) *A city council candidate paid for a mailing which quoted the mayor's verbal endorsement of his candidacy. Although the mayor was also on the ballot, the flyer was not a contribution to the mayor.*

If a candidate pays for a communication supporting his or her own candidacy that also supports or opposes a ballot measure, the payment is not a contribution to or

independent expenditure made in connection with the ballot measure.

There are times when a candidate pays for a communication that supports another candidate, but the payment is not made at the behest of the endorsed candidate. If the candidate paying for the communication also is included in the communication, and the non-paying candidate is listed on the same ballot as the paying candidate, and the communication is targeted only to the potential voters in the paying candidate's district, no independent expenditure is made.

(Example) *Lynda Isherwood, a city council member running for reelection, sent out a flyer to registered voters in her district asking them to support her candidacy. The flyer also encouraged the voters to vote for Gary Swanson for Governor, although this endorsement was not made at Gary's behest. Because the gubernatorial election and city council election would appear on the same ballot for those living in Lynda's district, and the flyer was sent only to voters in Lynda's district, the payment for the flyer is not an independent expenditure.*

Non-Contributions

Debates: A payment for a debate or similar forum in which to least two candidates running for the same office are invited is not a contribution to the candidates, if the debate is sponsored by a nonpartisan organization.

(Example) *The League of Women Voters invited all candidates for city council to speak at a forum. Only one candidate attended. Because at least two candidates running for the same office were invited, the cost of the meeting is not a contribution to the candidate who attended.*

Similarly, a payment for a debate or forum sponsored by a political party or a committee affiliated with a political party is not a

contribution if a majority of the candidates for the party's nomination are invited to participate.

Meetings: A payment made by a bona fide service, social, business, trade, union, or professional organization for reasonable overhead expenses associated with a regularly-scheduled meeting at which a candidate speaks is not a contribution if the organization pays no additional costs in connection with the speaker's attendance.

(Example) *At a union's regularly-scheduled monthly meeting, one candidate was invited to solicit votes. The union did not incur any additional costs in connection with the speaker's presentation, so no contribution was made.*

Member Communications: Payments made by an organization or its sponsored committee for a communication that supports or opposes a candidate are not contributions or expenditures as long as the communication is made only to the organization's members, employees, or shareholders, or the families of its members, employees, or shareholders. The payments may not be for general public advertising, such as billboards, newspaper ads, or radio or television ads. If made by the organization's sponsored committee, the committee would report the payments as general member communications.

(Example) *Your campaign consultant asks a labor organization to send a mailing supporting your election. The mailing will be sent only to the organization's membership. The mailing is not a contribution to you. Later, the campaign consultant asks the organization to send the mailing to all registered voters in your district. The mailing to the voters is a contribution to you.*

Payments made by a political party for a communication that supports a candidate are not contributions to the candidate as long as the communication is distributed only to the party's members, employees, and families of its members and employees. However, the party must report the payments as if they were contributions or independent expenditures.

(Example) *The Green Party pays for a mailing supporting your candidacy to all of its members five days before your election. The cost of the mailing exceeds \$1,000. The Party must file a late contribution report. You are not required to disclose the mailing as a contribution.*

News Stories: A payment for the cost of publishing or broadcasting a news story, commentary, or editorial is not a contribution when the payment is made by a federally regulated broadcast outlet or a regularly published newspaper, magazine or other periodical of general circulation that routinely carries news, articles, and commentary of general interest.

Non-Political Communications: A payment made at the behest of a candidate, which is for a communication by the candidate or any other person, is not a contribution to the candidate if the communication:

- Does not contain express advocacy; and
- Does not make reference to the candidate's candidacy for elective office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications for office; and
- Does not solicit contributions to the candidate or to third persons for use in support of the candidate or in opposition to the candidate's opponent.

Sender Identification

<p>Committee to Elect Waters Mayor 10 Parkway Plaza Playa del Sol, CA 95888</p>	
<p>Sharon Eshenaur 620 McFadden Street Playa del Sol, CA 95888</p>	

Voter Registration: A payment made at the behest of a candidate as part of voter registration or get-out-the-vote activities is not a contribution if the communication does not expressly advocate the candidate's election.

(Example) *At the behest of an elected official, an organization paid for a voter registration booth at a local fair. No other literature was distributed at the booth. The payment for the voter registration booth was not a contribution to the official.*

Voting Records: An entity may publish the voting records of public officials. As long as only the voting records are published, the communication is not considered a contribution or an independent expenditure.

Identification Requirements for Mailings

Contribution Solicitations

When a candidate or controlled committee sends a written solicitation for contributions, the solicitation must identify the name of the controlled committee.

Mass Mailings

A "mass mailing" is more than 200 similar pieces of mail sent in a single calendar

month. The Political Reform Act contains sender identification requirements for mass mailings that are "mailed" (e.g., USPS, FedEx) to a person's home, business, or post office box.

Solicitation letters, notices of fundraising events, newsletters sent by the candidate or committee, and other types of campaign literature are common types of mass mailings.

The Political Reform Act does not regulate the **truth or accuracy** of mail or other campaign-related advertisements or materials.

Sender Identification Requirements Sent by One Candidate or Committee

The name of the candidate, his or her street address, city, state, and zip code must be placed on the outside of each piece of mail in no less than 6-point type and in a color or print which contrasts with the background so that it is easily read. If a single candidate's controlled committee is sending the mailer, the name of the committee may be placed on the outside of the mailer if the committee's name contains the name of the candidate. A post office box may be used as the address only if the committee's street address is on its Statement of Organization (Form 410) on file with the Secretary of State.

Sent by Two or More Candidates or Committees

The name and address of the candidate (or committee, if its name includes the candidate's name) who is paying the greatest share of the mass mailing, including costs for designing, postage, and printing, must be placed on the outside of each piece of mail as described above.

If two or more candidates pay equally for the mailer, the name and address of at least one of the candidates (or committees, as noted above) must be shown on the outside as described above, and the names and addresses of all candidates (or committees) must appear on at least one insert.

Primarily Formed Committee

If a primarily formed committee sends a mass mailing, the name and address of the committee must appear on the outside of each piece of mail in no less than 6-point type and in a color or print which contrasts with the background. A post office box may be used in lieu of the street address only if the committee's street address is reported on the Statement of Organization (Form 410) on file with the Secretary of State.

Required Recordkeeping

For each mass mailing, the following must be retained for a period of four years:

- A sample of the mailing;
- A record of the date;
- The number of pieces sent; and
- The method of postage used.

Answering Your Questions

Q. Must the committee's identification number appear on a mailing?

A. No.

Q. If a business entity includes a copy of a candidate's flyer in its regular monthly

mailing, is the candidate required to be identified on the outside of the mailer?

A. No. The candidate's name and address must be identified on the flyer only.

Q. A committee has more than one address. Which address must be used on mass mailings?

A. Any address that also appears on the committee's Statement of Organization (Form 410) on file with the Secretary of State may be used.

Q. A committee pays for a candidate's mailing as a nonmonetary contribution. Which committee must be identified on the outside, the committee paying for the mailing or the candidate's committee?

A. Only the committee that pays for the mailing is required to be identified on the outside of the mailing.

Q. A labor union pays for a mailing advocating the election of a candidate for county supervisor. The mailing list includes both union members and non-union members and 20% of the mailing costs are attributed to non-union members. Must the candidate report the full cost of the mailing as a non-monetary contribution?

A. No. The candidate may pro-rate the cost and report as a nonmonetary contribution the mailing costs for the non-union members.

Q. If a committee is sending a post card-type mailing, may the name of the committee appear only once?

A. Yes.

Q. Where on the outside of the mailing must the candidate or committee identification be placed?

A. There is no specific requirement for location of the identification, as long as it appears somewhere on the outside of the mailing.

Identification Requirements for Advertisements

In addition to the rules for mass mailings, the Political Reform Act requires identification and disclosure on certain other advertisements and communications.

If a primarily formed committee makes an independent expenditure for a broadcast or mass mailing advertisement to support or oppose a candidate or ballot measure, the mailing or ad must identify the committee's name and the names of the committee's top two donors of \$50,000 or more. If the committee can show that the top two donors' contributions have been used for expenditures unrelated to the independent expenditure, the committee must disclose the contributors making the next largest contributions of \$50,000 or more. (For mass mailings, this is in addition to the sender identification requirements discussed earlier.) A candidate's controlled committee must include the same information on any independent expenditure it makes to support or oppose a ballot measure. Different identification requirements exist depending on whether the advertisement is made by video, radio, or print and when acronyms are used. Contact the FPPC for detailed information.

Candidates and committees that use campaign funds to make 500 or more phone calls in support or opposition of candidates or ballot measures must disclose during the phone call the name of the organization that authorized or paid for the call. Committees may not contract with phone bank vendors who do not disclose this information. This requirement does not apply to calls that are personally made by the candidate, campaign manager, or volunteers. A script of the call or a copy of the recorded phone message must be kept for four years.

When any committee makes expenditures totaling \$5,000 or more for an individual's

appearance in a printed, televised, or radio advertisement, or in a telephone message, that supports or opposes the qualification or passage of a state or local ballot measure, the advertisement must include a statement that the individual is being paid by the campaign or its donors. In addition, the Paid Spokesperson Report (Form 511) must be filed. (See Chapter 7.)

No identification or disclosure is required by the Political Reform Act on the following items when paid for by a candidate in support of his or her own campaign:

- Lawn signs
- Billboards
- Campaign literature that is distributed by some means other than mail, such as handouts at fundraisers or shopping malls, or door hangers
- Radio or television advertisements (these are regulated by the Federal Communications Commission)
- E-mails, faxes, or web site pages

Authority

The following Government Code sections and Title 2 regulations provide authority for the preceding information in this chapter:

Government Code Sections

82015	<i>Contribution.</i>
82025	<i>Expenditure.</i>
82031	<i>Independent Expenditure.</i>
82041.5	<i>Mass Mailing.</i>
82044	<i>Payment.</i>
82047	<i>Person.</i>
84211	<i>Contents of Campaign Statement.</i>
84305	<i>Requirements for Mass Mailing.</i>
84310	<i>Identification Requirements for Telephone Calls.</i>
84503	<i>Advertisement for or Against Ballot Measures.</i>
84506	<i>Independent Expenditures; Advertisements.</i>

- 84511 *Ballot Measure Ads; Paid Spokesperson Disclosure.*
- 85312 *Communications to Members of an Organization.*
- 85501 *Prohibition on Independent Expenditures by Candidate Controlled Committees.*

Title 2 Regulations

- 18215 *Contribution.*
- 18225 *Expenditure.*
- 18225.7 *Made At the Behest of.*
- 18401 *Required Recordkeeping for Chapter 4.*
- 18435 *Definition of Mass Mailing and Sender.*
- 18450.1 *Definitions. Advertisement Disclosure.*
- 18450.4 *Content of Disclosure Statements. Advertisement Disclosure.*
- 18450.11 *Spokesperson Disclosure.*
- 18523.1 *Written Solicitation for Contributions.*
- 18531.7 *Payments for Communications – Section 85312.*

Chapter 4

Getting Started

Before money is raised or spent in connection with an election, the candidate and committee treasurer should become familiar with the various campaign disclosure forms applicable to the type of campaign or committee involved.

Candidates and Controlled Committees

Candidates must file the Candidate Intention (Form 501) **before raising or spending any money**, including the candidate's personal funds. (Personal funds of the candidate may be used to pay filing or ballot statement fees prior to filing Form 501.) Subsequent filings depend upon the amount that will be raised or spent.

If **any** monetary contributions will be received from others, a separate campaign bank account must be opened. (See Chapter 1.)

Less than \$1,000

If less than \$1,000 will be raised or spent in a calendar year, including the candidate's personal funds, the Officeholder/Candidate Campaign Statement—Short Form (Form 470) may be filed by the candidate once each year. However, if after filing the Form 470, \$1,000 or more is received or spent, the Statement of Organization (Form 410) and the Recipient Committee Campaign Statement (Form 460) must be filed. The Form 470 Supplement may also be required.

Personal funds of the candidate used to pay filing or ballot statement fees are not counted toward the \$1,000 threshold.

\$1,000 or More

Candidates who will raise or spend \$1,000 or more in a calendar year must:

- File the Form 501;

- Set up a bank account;
- File the Statement of Organization (Form 410) within 10 days of raising or spending \$1,000 or more; and
- File the Recipient Committee Campaign Statement (Form 460) disclosing receipts and expenditures. (See Chapter 6.) Additional reports also may be required. (See Chapter 7.)

Primarily Formed Committees

A primarily formed committee must file the Statement of Organization (Form 410) within 10 days of raising or spending \$1,000 in a calendar year.

Depending on the committee's level of activity, the Form 425, 450, or 460 is used to report campaign activity. (See Chapter 6.) Additional reports also may be required. (See Chapter 7.)

Primarily formed committees do not file Forms 501 or 470.

**Form 501
Candidate
Intention
Statement**

Candidate Intention Statement		Type or Print in Ink.	Date Stamp	CANDIDATE INTENTION STATEMENT
Check One: <input checked="" type="checkbox"/> Initial <input type="checkbox"/> Amendment (Explain) _____				CALIFORNIA FORM 501 For Official Use Only
1. Candidate Information:				
NAME OF CANDIDATE (Last, First, Middle Initial) Tyme, Sunny	DAYTIME TELEPHONE NUMBER (555) 333-7421	FAX NUMBER (optional) (555) 333-7621	E-MAIL (optional) Styme@aol.com	
STREET ADDRESS 200 McFadden Street	CITY Playa del Sol	STATE CA	ZIP CODE 95888	
OFFICE SOUGHT (POSITION TITLE) City Council	AGENCY NAME Playa del Sol	DISTRICT NUMBER, if applicable 1	<input checked="" type="checkbox"/> NON-PARTISAN PARTY	
OFFICE JURISDICTION: <input type="checkbox"/> State (Complete Part 2) <input checked="" type="checkbox"/> City <input type="checkbox"/> County <input type="checkbox"/> Multi-County: _____ (Name of Multi-County Jurisdiction) 20XX (Year of Election)				
2. State Candidate Expenditure Limit Statement: <small>(CARENS candidates, judges, judicial candidates, and candidates for local offices are not required to complete Part 2.)</small>				
_____ <small>(Year of Election)</small> Primary/general election		_____ <small>(Year of Election)</small> Special/runoff election		
<small>(Check one box):</small> <input type="checkbox"/> I accept the voluntary expenditure ceiling for the election stated above. <input type="checkbox"/> I do not accept the voluntary expenditure ceiling for the election stated above.				
Amendment: <input type="checkbox"/> I did not exceed the expenditure ceiling in the primary or special election held on _____ and I accept the voluntary expenditure ceiling for the general or special run-off election.				
<small>(None if applicable):</small> <input type="checkbox"/> On _____ I contributed personal funds in excess of the expenditure ceiling for the election stated above.				
3. Verification: I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.				
Executed on _____ (Date Required) <small>(month, day, year)</small>		Signature _____ (Signature Required) <small>(Signature)</small>		

Candidate Intention (Form 501)

When and Where to File

Before any contributions are solicited or received, and before any campaign expenditures are made from personal funds, candidates must file Form 501. A new Form 501 must be filed for each election, even if the candidate is running for reelection.

Superior Court candidates file with:

Secretary of State
Political Reform Division
1500 11th Street, Suite 495
Sacramento, CA 95814

Candidates for other local offices file Form 501 with the local filing officer (city clerk, county clerk/registrar of voters) with whom the candidate will file his or her original campaign statements. (See Chapter 5.)

The Form 501 is considered filed when it is placed in the mail. The date of postmark is the date filed.

How to Complete Form 501

Type of Statement

Check one of the following boxes indicating the type of statement being filed:

- Initial — If this is the first Candidate Intention Statement being filed for this election.
- Amendment — If any change occurs on a previously filed Form 501; for example, a change of address.

Candidate Information

Provide the candidate's full name, street address, and a daytime telephone number. (A business address may be used.) Providing a fax number or e-mail address is optional.

Office Sought

Enter the title of the office sought, e.g., Supervisor.

District Number

Enter the district number or letter, if applicable.

Office Jurisdiction

Check one box indicating the jurisdiction of the office being sought and enter the name of the city or county, if applicable.

- Multi-County — Candidates seeking an elective office where the jurisdiction of the agency contains parts of two or more counties. (This does not include candidates for the Legislature, State Board of Equalization, or appellate or superior court. See FPPC’s Information Manual for State Candidates (Manual 1).)
- County of — Candidates seeking an elective county office (including superior court judge and most school board members). Provide name of county.
- City of — Candidates seeking an elective city office. Provide name of city.

Year of Election

Enter the year of the election for the office being sought. Month and day are not required.

State Candidate Expenditure Limit Statement

This section does not apply to local candidates; it applies only to candidates for State Assembly and Senate, and candidates seeking statewide office.

Verification

Form 501 is not considered filed if it is not signed.

Answering Your Questions

- Q. *Am I required to file a document to withdraw as a candidate?*
- A. The FPPC does not administer the laws which govern what candidates must do to

appear on a ballot or to remove their names from a ballot. Contact your local filing officer.

- Q. *Am I required to file Form 501 if I will set up a committee to fight my recall?*
- A. No.
- Q. *Am I required to file a Form 501 if I am a replacement candidate in a recall election?*
- A. Yes. Replacement candidates must file a Form 501.
- Q. *Am I required to file Form 501 when I run for reelection to the same office?*
- A. Yes. If you seek reelection to the same office, you are required to file an “Initial” Form 501 prior to raising or spending any money for the new election.
- Q. *When may I begin to solicit and raise funds for my election?*
- A. You may solicit and receive funds as soon as you have placed the Form 501 in the mail.
- Q. *Are candidates who are seeking election to a particular district or seat, e.g., city council or a community college board of trustees, required to specify the district/seat on the Form 501?*
- A. Yes. Each district/seat on the city council or the community college board of trustees is considered a specific office. Note: The “district number” is not applicable for candidates running for mayor or city council at large.
- Q. *I have completed the process to be an official write-in candidate. Do I have any reporting obligations?*
- A. Yes. You have the same reporting obligations as any other candidate.

Officeholder and Candidate Campaign Statement – Short Form (Form 470)

The Form 470 may be filed by a candidate or officeholder who does not anticipate raising or spending \$1,000 or more in a calendar year. Payments from the candidate's personal funds used to pay filing or ballot statement fees do not count toward the \$1,000 threshold.

Form 470 may not be used if the candidate or officeholder has an existing controlled committee established for a past election, future election, or ballot measure (including recalls).

There are special exceptions, discussed below, that apply to judges and unpaid elected officeholders (officeholders who receive salaries less than \$200 a month).

When to File

Form 470 is filed once each year on or before the filing deadline for the first semi-annual statement (July 31) or the first preelection statement filed in connection with an election, whichever occurs first. Preelection filing deadlines can be obtained from your local election official.

If the Form 470 is filed and, later in the calendar year, \$1,000 or more is raised or spent, the candidate's filing deadlines and forms will change. (See Form 470 Supplement.)

Filing Form 470 During Election Years Officeholders

If an officeholder will be listed on a ballot during the first six months of the calendar year, Form 470 (covering the year of the election) may be filed with the declaration of candidacy but must be filed no later than the filing deadline for the first preelection statement required in connection with the election. If the election will be held during

the last six months of the calendar year, the Form 470 must be filed no later than July 31. Enter the election date on this Form 470.

Non-Incumbent Candidates

If a candidate will be listed on the ballot in the first six months of the calendar year, Form 470 (covering the year of the election) may be filed with the declaration of candidacy but must be filed no later than the filing deadline for the first preelection statement required in connection with the election.

A candidate who will be listed on the ballot in the last six months of the calendar year and receives contributions or makes expenditures:

- Before June 30: Files Form 470 by July 31.
- After June 30: May file Form 470 with the declaration of candidacy, but no later than the filing deadline for the first preelection statement required to be filed in connection with the election.

(Example) *Non-incumbent judicial candidate Janice Chambers is listed on the November ballot. She does not intend to raise or spend \$1,000 in connection with her election. By June 30, she had received no contributions and her only expenditures were for the filing and ballot statement fees paid for with her personal funds. Janice is required to file Form 470 by the first preelection filing deadline.*

Non-Election Years Officeholders

Generally, officeholders who will not be in an election during the calendar year file the Form 470 no later than July 31.

Non-Incumbent Candidates

Non-incumbent candidates who raise or spend funds less than \$1,000 during a non-election year also must file statements for

that year. The Form 470 must be filed on or before July 31 if funds are raised or spent during the first six months of the calendar year. The Form 470 must be filed on or before January 31 if funds are raised or spent during the last six months of the previous calendar year (and no funds were raised during the first six months).

(Example) *In November 2007, non-incumbent candidate Joe Lim spent \$400 in connection with an election in which he is seeking office; the election will be held in June of 2008. Since Joe did not raise or spend a total of \$1,000 during the calendar year, he filed a Form 470 by January 31, 2007, which covers his reporting obligations for the entire year. Joe will also file a Form 470 by the first preelection deadline for the election in 2008, assuming he will not raise or spend \$1,000 or more during 2008.*

Candidates running in an election in the first three months of the year may be required to file Form 470 in October, November, or December of the previous non-election year, as well as in the election year. The candidate should review the filing schedule provided by the filing officer.

(Example) *Sonja Hansen, a city council candidate, will be on the ballot in February. Her first preelection statement for this election is in December of the previous year. Since she does not intend to raise or spend \$1,000 during this calendar year, she files a Form 470 by the first preelection statement due date. The second preelection statement is due in January. Since her first Form 470 covered the period ending December 31 only, and because she does not intend to raise or spend \$1,000 during the year of the election, she files another Form 470 covering the entire calendar year of the election by the second preelection statement deadline.*

Judges and Unpaid Elected Officeholders

Unpaid officeholders (defined in the Act as those who receive less than \$200 per month for serving in office) and judges are not required to file Form 470 for any semi-annual period (January 1 - June 30 or July 1 - December 31) in which they are not listed on the ballot and do not receive any contributions or make any expenditures.

To determine whether \$200 has been received, only the elected official's fixed compensation for services (i.e., salary) need be counted; payments for health benefits, reimbursement for expenses (including travel expenses), or per diem received from the elected official's agency need not be counted toward the \$200.

This exception applies even if a judge or unpaid officeholder has a controlled committee, as long as the committee has not received any contributions or made any expenditures (excluding bank fees and interest).

Election Years

During an election year, the deadline for filing the Form 470 will depend on the date of the election. Judges and unpaid officeholders running in an election during the first six months of the year may file Form 470 (covering the year of the election) with the declaration of candidacy, but no later than the filing deadline for the first preelection statement required in connection with the election.

If the election will be held during the last six months of the year, the Form 470 must be filed by July 31 if any funds were raised or spent (other than the candidate's personal funds for a filing or ballot statement fee) between January 1 and June 30. If no contributions were received or expenditures made by June 30, the Form 470 may be filed with the declaration of candidacy, but no later than the filing deadline for the first preelection

statement required in connection with the election.

(Example) *Judge Mercado is listed on the November ballot and anticipates raising and spending less than \$1,000 for his reelection. By June 30, he had received no contributions since January 1 and his only expenditures were for the filing and ballot statement fees paid for with his personal funds. The judge is not required to file by the July 31 semi-annual filing deadline, but must file a Form 470 by the first preelection filing deadline.*

Where to File Form 470

Superior Court Judge

- Original and one copy with:
Secretary of State
1500 11th Street, Ste. 495
Sacramento, CA 95814
- Two copies with the county clerk or registrar of voters.

Multi-County Office

For local offices in agencies with jurisdiction in two or more counties:

- Original and one copy with the county with the largest number of registered voters in the jurisdiction; and
- Two copies with the candidate/officeholder's county of domicile, if different from the county receiving the original.

County Office

- Original and one copy with the county clerk or registrar of voters; and
- Two copies with the candidate/officeholder's county of domicile, if different from the county receiving the original.

City Office

- Original and one copy with the city clerk.

**Form 470
Officeholder
and
Candidate
Campaign
Statement**

Officeholder and Candidate Campaign Statement – Short Form <small>(Government Code Section 84206)</small>		<small>Type or print in ink.</small>	<small>Date Signed</small>	<small>SHORT FORM CALIFORNIA FORM # 470 For Official Use Only</small>
Date of election if applicable: <small>(Month, Day, Year)</small> 6/6/20XX		<input type="checkbox"/> Amendment <small>(Explain Below)</small>		
1. Statement Covers Calendar Year 20 <u>XX</u>				
2. Officeholder or Candidate Information			3. Office Sought or Held	
<small>NAME OF OFFICEHOLDER OR CANDIDATE</small> Sunny M. Tyme			<small>OFFICE SOUGHT OR HELD</small> City Council	
<small>STREET ADDRESS</small> 200 McFadden Street			<small>JURISDICTION (LOCATION)</small> City of Playa del Sol	
<small>CITY</small> Playa del Sol			<small>DISTRICT NUMBER (IF APPLICABLE)</small> 1	
<small>STATE</small> CA			<small>ZIP CODE</small> 95888	
<small>AREA CODE/DAYTIME PHONE NUMBER</small> 555/333-7421			<small>OPTIONAL: FAX / E-MAIL ADDRESS</small> 555/333-7621/Styme@aol.com	
4. Committee Information <small>List all committees of which you have knowledge that are primarily formed to receive contributions or to make expenditures on behalf of your candidacy.</small>				
<small>COMMITTEE NAME AND I.D. NUMBER</small> Concerned Citizens ID #102046		<small>COMMITTEE ADDRESS</small> 1220 60th Street Playa del Sol, CA 95888		<small>NAME OF TREASURER</small> Dorleen Abrahms
5. Verification <small>I declare under penalty of perjury that to the best of my knowledge I anticipate that I will receive less than \$1,000 and that I will spend less than \$1,000 during the calendar year and that I have used all reasonable diligence in preparing this statement. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</small>				
<small>Executed on</small> _____ [Date Required]			<small>By</small> _____ [Signature Required]	
<small>DATE</small>			<small>SIGNATURE OF OFFICEHOLDER OR CANDIDATE</small>	

How to Complete Form 470

Date of Election

If the candidate or officeholder is running in an election during the calendar year, indicate the month, day, and year of the election.

Period Covered

The period covered is always the calendar year.

Officeholder or Candidate Information

Provide the candidate/officeholder's name, a daytime telephone number, and a residential or business address. A post office box number, Mail Boxes Etc. street address, or some similar service's street address may not be used.

Office Held or Sought

Indicate the office being held and/or sought and provide the location and district number of the office, if applicable.

Committee Information

A candidate or officeholder who is aware of a primarily formed committee that is receiving contributions and making expenditures on behalf of his or her candidacy must disclose the primarily formed committee's name, identification number, address, and the name of the treasurer.

(Example) *Sunny Tyme's neighbors formed the Concerned Citizens'*

Committee for the purpose of getting her elected as mayor. Sunny is aware of the committee but has no involvement with its day-to-day activities. Sunny discloses this committee on her Form 470.

Verification

The Form 470 is not considered filed if it is not signed. The officeholder/candidate must sign and date the form.

Answering Your Questions

Q. What reporting period does the Form 470 cover?

A. Form 470 is filed once each calendar year and covers the entire calendar year. When you file Form 470 covering the year of the election with your declaration of candidacy, or on or before the deadline for filing your first preelection statement, you do not need to file any additional campaign statements as long as neither your total receipts nor your total expenditures are \$1,000 or more during the calendar year.

Q. If I am a non-incumbent candidate, am I required to file a Form 470 in connection with my election if I am running unopposed, my name does not appear on the ballot, and the only expenditure I make is from personal funds for a filing or ballot statement fee?

A. No. A Form 470 is not required. However, once you assume office, a Form 470 may be required.

Q. As a member of a county central committee, am I required to file a Form 470 for years when I will not appear on the ballot?

A. In connection with your county central committee office, file the Form 470 only if you receive a contribution or make campaign expenditures of less than \$1,000 in a calendar year, or will appear on the ballot in that year.

Q. If I am in a January election and will not raise or spend \$1,000 in connection with that election, when am I required to file Form 470?

A. File Form 470 in the preceding November, the deadline for filing your first preelection statement in connection with the January election. In addition, if your second preelection statement is due

in January, another Form 470 must be filed. The reason for this is because a Form 470 is filed in each calendar year. The first Form 470 covers the calendar year preceding the election, and the second Form 470 covers the calendar year in which the election takes place.

Q. I am running as a non-incumbent for city council in November 2008. I filed a Candidate Intention Statement (Form 501) and Statement of Organization (Form 410) to form a committee on May 1, 2008. If I have not raised or spent \$1,000 by June 30, 2008, should I file Form 470 or Form 460 by the July 31 semi-annual due date?

A. Because you intend to raise \$1,000 or more during 2008, you should file Form 460. Form 470 is filed only when a candidate has not raised \$1,000 or more and does not intend to raise \$1,000 or more in the calendar year. (If you file Form 470 as a semi-annual statement and ultimately receive or spend \$1,000 or more during 2008, refer to the requirements for filing the Form 470 Supplement.)

Q. I am a city council member and I closed my campaign committee in March. May I file the Form 470 for the statement due July 31?

A. No. You may not file the Form 470 if you have had a committee open at any time during the calendar year, or intend to have one later in the year. You must continue filing the Form 460 as an officeholder for the remainder of the calendar year. The Form 470 may be filed the following calendar year if you do not have, nor intend to have, a committee for that entire calendar year.

Form 470 Supplement

Officeholder and Candidate Campaign Statement Form 470 Supplement <small>(Government Code Section 84206)</small>		Type or print in ink.	
SEE INSTRUCTIONS ON REVERSE.		<input type="checkbox"/> Amendment (Explain Below)	Date Stamp
This form is written notification that the officeholder/candidate listed below has received contributions totaling \$1,000 or more or has made expenditures of \$1,000 or more during the calendar year.		FORM 470 SUPPLEMENT CALIFORNIA FORM 470 <small>FOR OFFICE USE ONLY</small>	
1. Officeholder or Candidate Information			
NAME OF OFFICEHOLDER OR CANDIDATE Sunny M. Tyme			
STREET ADDRESS 200 McFadden Street			
CITY Playa del Sol		STATE CA	ZIP CODE 95888
AREA CODE/DAYTIME PHONE NUMBER 555/333-7421		OPTIONAL: FAX/E-MAIL ADDRESS 555/333-7621/Styme@aol.com	
2. Office Sought			
OFFICE SOUGHT City Council		DISTRICT NUMBER (IF APPLICABLE) 1	
DATE OF ELECTION (MONTH, DAY, YEAR) 6/6/20XX			
3. Date Contributions Totalling \$1,000 or More Were Received or Date Expenditures of \$1,000 or More Were Made 4/6/20XX <small>(MONTH, DAY, YEAR)</small>			

Form 470 Supplement

If a candidate files a Form 470 covering a calendar year in which the candidate is running in an election (i.e., with the declaration of candidacy, in lieu of a first preelection statement, or for the June 30 semi-annual filing) and later receives contributions totaling \$1,000 or more, or makes expenditures totaling \$1,000 or more, prior to the election, the candidate must send a Form 470 Supplement or other written notice.

When and Where to File

The Form 470 Supplement must be filed within 48 hours of receiving or spending \$1,000.

The notification is sent to:

- Secretary of State's Office;
- Each candidate seeking the same office; and
- City or county clerk, or county registrar of voters, if the candidate is running for a city or county office.

Method of Delivery

The notification must be sent via guaranteed overnight delivery, personal delivery, or fax.

Content of Notification

The Form 470 Supplement is included in the Form 470, or the candidate may provide the following information on a blank piece of paper:

- The candidate's name, address, and daytime telephone number;
- The elective office sought and district number, if applicable;
- The date of the election; and
- The date contributions or expenditures totaling \$1,000 or more were received or made.

The candidate also must file a Statement of Organization (Form 410) and begin filing the Recipient Committee Campaign Statement (Form 460). (See Chapter 6.)

Answering Your Questions

- Q. *I am in an election in June of this year and filed a Form 470 for last year because I had activity in December. Am I required to file a 470 Supplement if I receive contributions totaling more than \$1,000 in January?*
- A. No. If you file a Form 470 in connection with your election (either with your declaration of candidacy or on the first preelection deadline), a Form 470 Supplement would be required if you raise or spend \$1,000 or more in the year of the election.

Statement of Organization (Form 410)

A person or group that receives \$1,000 or more in contributions in a calendar year qualifies as a recipient committee and must file Form 410. The Form 410 identifies the name of the committee and provides the public information regarding the committee's purpose and its officers.

When and Where to File

The original and one copy of the Form 410 is filed with the Secretary of State within 10 days of receiving \$1,000 or more.

Secretary of State
Political Reform Division
1500 11th Street, Suite 495
Sacramento, CA 95814

Candidates for local office and committees formed to support or oppose candidates for local offices also must file a copy of the Form 410 with the local filing officer (city clerk, county clerk/registrar of voters) with whom the committee will file its original campaign statements. (See Chapter 5.)

The Form 410 may be filed prior to raising \$1,000 and then must be amended within 10 days of reaching the \$1,000 threshold to

disclose the date qualified as a committee. (See below for how to amend a Form 410.)

Upon receipt of the Form 410, the Secretary of State's office will assign the committee an identification number. This number is used on all reporting forms. Once assigned, the identification number will be posted on the Secretary of State's website (www.sos.ca.gov) and written notification will be sent to the committee treasurer. Contact the Secretary of State's office at (916) 653-6224 with questions about obtaining a committee identification number.

Candidate Controlled Committees

Personal funds used to pay the filing and ballot statement fees do not count toward the \$1,000 threshold for qualifying as a committee. However, all other personal funds used in connection with the election are counted.

(Example) *On February 15, Megan Waters, a candidate for mayor, opened her campaign bank account with a personal loan of \$1,500. By February 25, Megan must either mail or personally deliver the Form 410 to the Secretary of State and a copy to the city clerk.*

Primarily Formed Committees

(Example) *A group of neighbors joined forces to help elect Sunny Tyme, a candidate for mayor. On March 1, the group received 10 checks of \$100 each. Because they qualified as a committee on that date, they must mail or personally deliver a Form 410 to the Secretary of State and a copy to the city clerk no later than March 11.*

24-Hour Deadline

A committee that qualifies during the last 16 days before the election must file Form 410, or the information required on the 410, within 24 hours of qualifying. The information must

be provided to the filing officer with whom the committee will be filing its original campaign disclosure statements, by fax, guaranteed overnight delivery, or personal delivery. In addition, an original Form 410 must be filed with the Secretary of State within 10 days of qualifying as a committee (regular mail may be used).

(Example) *Fourteen days before the city election, candidate Lilly Pond received a contribution of \$900, bringing her cumulative contributions received to date to \$1,250. Because she qualified as a committee within 16 days before her election, she must file the information contained on the Form 410 with her city clerk within 24 hours of qualifying as a committee. She must also file an original Form 410 within 10 days with the Secretary of State. Because she did not anticipate receiving or spending \$1,000 during the calendar year, Lilly filed a Form 470 as a first preelection statement. Within 48 hours, she must file the Form 470 Supplement with the Secretary of State, her city clerk, and provide a copy to all her opponents. The Form 470 Supplement must be sent to all recipients by guaranteed overnight delivery, fax, or personal delivery.*

Amendments

When any information on the Form 410 changes, an amendment must be filed within 10 days of the change. To amend:

- The “Amendment” box is checked at the top of the Form 410 and the committee’s identification number entered;
- The name of the committee must be provided;
- The information that has changed is included; and
- The verification is signed. In the case of a controlled committee, both the treasurer and the candidate(s) must sign.

(Example) *In January, Cynthia Doorman, a city council candidate, filed a Form 410 prior to qualifying as a committee. On February 10, Cynthia received a number of contributions totaling more than \$1,000. By February 20, Cynthia must have either mailed or personally delivered an amended Form 410 to the Secretary of State and a copy to her city clerk showing the date the committee qualified.*

24-Hour Deadline for Amendments

If, during the last 16 days before the election, the committee changes:

- The name of the committee;
- The treasurer or other principal officers;
- Any candidate who controls the committee; or
- Any committee with which the committee acts jointly,

the amended information must be filed within 24 hours with the filing officer with whom the committee files its original campaign statements. The information must be delivered by guaranteed overnight delivery, personal delivery, fax, or online transmission if the filing officer is capable of receiving notification in that manner. In addition, local committees must file an amended Form 410, with an original signature, with the Secretary of State within 10 days of the change.

Using Funds for a Future Election Controlled Committee

An amendment to the Form 410 is required for a local candidate to “redesignate” a campaign committee and bank account for a future election to the same office. An incumbent intending to seek reelection may redesignate any time prior to receiving contributions in connection with reelection. A defeated candidate intending to run for the same office in a future election must redesignate the committee and bank account

before the end of the post-election reporting period. Failure to do so restricts the use of leftover campaign funds. (See Chapter 8 for further discussion.)

(Examples) *Dolores Sunghi was an unsuccessful candidate in the June election. Dolores must redesignate the committee and bank account no later than June 30 of the same year, the end of the post-election reporting period, if she wishes to use those funds for a future election.*

Joe Winner is seeking reelection to the city council. He wishes to use the same committee and bank account. In order to do so, Joe files a Form 410, checking the amendment box and indicating the year of the election. After filing the Form 501 for the new election, Joe is free to raise and deposit campaign contributions into the bank account.

A local candidate's committee and bank account may be redesignated for a future election only if:

- The future election is for the same elective office;
- The funds in the campaign bank account/committee are not considered "surplus campaign funds" (see Chapter 9);
- The candidate amends the committee's Form 410 to reflect the redesignation for the future election;
- The candidate files a new Form 501, Candidate Intention Statement, for the specific future election; and
- There are no local laws prohibiting the redesignation.

Primarily Formed Committee

A primarily formed committee may remain open after the election to support or oppose other candidates or ballot measures. The Form 410 should be amended to reflect the

change in the "Type of Committee." (See instructions on the Form 410 or contact the FPPC to discuss what type of committee will be formed.)

Termination

The Form 410 is also used to terminate a committee. In order to terminate, the committee may no longer be receiving contributions or making expenditures, and must have disposed of all funds and filed all required campaign reports. To terminate:

- Check the "Termination" box at the top of the Form 410 and enter the committee's identification number;
- Enter the name of the committee; and
- Sign the verification. For a controlled committee, both the treasurer and the candidate must sign.

**Form 410
Statement of
Organization**

Statement of Organization Recipient Committee		<small>Type or print in ink</small>	<small>STATEMENT OF ORGANIZATION CALIFORNIA FORM 410 For Official Use Only</small>	
Statement Type <input checked="" type="checkbox"/> Initial <small>Not yet qualified <input type="checkbox"/> or</small>		<input type="checkbox"/> Amendment <small>List LD. number: _____</small>	<input type="checkbox"/> Termination - See Part 5 <small>List LD. number: _____</small>	
<u>9 / 5 / 20XX</u> <small>Date qualified as committee</small>		<u> </u> <small>Date qualified as committee (if applicable)</small>	<u> </u> <small>Date of Termination</small>	
1. Committee Information		2. Treasurer and Other Principal Officers		
<small>NAME OF COMMITTEE</small> Committee to Elect Waters Mayor		<small>NAME OF TREASURER</small> Ben Rogers		
<small>STREET ADDRESS (NO P.O. BOX)</small> 10 Parkway Plaza		<small>STREET ADDRESS</small> 10 Parkway Plaza		
<small>CITY</small> Playa del Sol	<small>STATE</small> CA	<small>ZIP CODE</small> 95888	<small>AREA CODE/PHONE</small> 555/333-5432	
<small>MAILING ADDRESS (IF DIFFERENT)</small>		<small>NAME OF ASSISTANT TREASURER, IF ANY</small> Megan Waters		
<small>OPTIONAL: FAX / E-MAIL ADDRESS</small> Brogers@jps.net		<small>STREET ADDRESS</small> 100 Sandburg Street		
<small>COUNTY OF DOMICILE</small> Beach	<small>COUNTY WHERE COMMITTEE IS ACTIVE IF DIFFERENT THAN COUNTY OF DOMICILE</small>			
<small>OPTIONAL: FAX / E-MAIL ADDRESS</small>		<small>CITY</small> Playa del Sol	<small>STATE</small> CA	<small>ZIP CODE</small> 95888
<small>Attach additional information on appropriately labeled contribution sheets.</small>		<small>AREA CODE/PHONE</small> 555/333-1601		
3. Verification				
<small>I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.</small>				
Executed on <u> </u> <small>DATE</small>		By <u> </u> <small>(Signature Required)</small>		
Executed on <u> </u> <small>DATE</small>		By <u> </u> <small>SIGNATURE OF TREASURER OR ASSISTANT TREASURER (Signature Required)</small>		
<small>SIGNATURE OF CONTROLLING OFFICER/HOLDER, CANDIDATE, OR STATE MEASURE PROPONENT</small>				

How to Complete Form 410

Statement Type

Check the "Initial" box if this is the first filing and indicate the date on which the committee met the \$1,000 threshold, or check the "Not Yet Qualified" box.

Check the "Amendment" box to amend information on an existing Form 410, e.g., to report the date the committee qualified as a committee, or to redesignate the committee or bank account for a future election.

Check the "Termination" box to close the campaign committee. The committee's campaign filing obligations will continue until it meets the requirements to terminate and files a Form 410, checking the "Termination" box. (See Chapter 8.)

Committee Name

Provide the full name of the committee. A controlled committee must include in its name the last name of the controlling candidate.

Committees established by an officeholder to defend against a recall attempt must include the term "recall" in the committee name.

If a primarily formed committee is sponsored by a business entity, organization, or association, the name of the sponsor must be included in the name of the committee. (See later in this chapter for the definition of "sponsored committee.")

Committee Address

Use a street address as the address of the committee. A post office box may be used as a mailing address. The committee may have more than one mailing address.

County of Domicile

Indicate the county in which the committee is located. This may be different than the county in which the committee is active.

(Example) Joy O. Cooking is running for the Board of Supervisors in Sierra County. However, the committee's address is in Plumas County where her treasurer has

his office. The Form 410 reports Plumas County as the "County of Domicile" and Sierra County under "County Where Committee is Active if Different than County of Domicile." Statements are filed in both locations.

Treasurer, Assistant Treasurer, and Other Principal Officers

The committee must have a treasurer and may have an assistant treasurer. Report the names of the treasurer and assistant treasurer along with their mailing addresses and phone numbers. If the committee has principal officers, other than the treasurers, list each officer's full name, position held, and street address.

If a candidate chooses to be his or her own treasurer, list the name, mailing address, and telephone number of the candidate.

Remember that for statements requiring signatures of the candidate and treasurer, the candidate must sign on both lines.

Verification

The Form 410 is not considered filed if it is not signed. The treasurer, or assistant treasurer, must sign the verification. In the case of a controlled committee, both the treasurer or assistant treasurer and the candidate/officeholder must sign.

When two or three candidates control a committee, each candidate must sign the verification. If more than three candidates control the committee, one of the candidates may sign on behalf of all controlling candidates.

**Form 410
Statement of
Organization
Page 2**

Statement of Organization Recipient Committee		STATEMENT OF ORGANIZATION CALIFORNIA FORM 410	
INSTRUCTIONS ON REVERSE		Page 2 ID NUMBER	
COMMITTEE NAME Committee to Elect Waters Mayor			
4. Type of Committee Complete the applicable sections.			
Controlled Committee			
<ul style="list-style-type: none"> List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election. List the political party with which each officeholder or candidate is affiliated or check "non-partisan." If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee. 			
NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROponent Megan Waters	ELECTIVE OFFICE SOUGHT OR HELD (INCLUDE DISTRICT NUMBER IF APPLICABLE) Mayor	YEAR OF ELECTION 20XX	PARTY <input checked="" type="checkbox"/> Non-Partisan
<ul style="list-style-type: none"> List the financial institution where the campaign bank account is located (controlled "candidate election" committees only) 			
NAME OF FINANCIAL INSTITUTION Playa Bank	AREA CODE/PHONE 555/616-3200	BANK ACCOUNT NUMBER 030558	
ADDRESS 1611 Sandy Way	CITY Playa del Sol	STATE CA	ZIP CODE 95888
Primarily Funded Committee Primarily formed to support or oppose specific candidates or measures in a single election. List below.			
CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTERS) N/A	CANDIDATE(S) OFFICE SOUGHT OR HELD OR MEASURE(S) JURISDICTION (INCLUDE DISTRICT NO., CITY OR COUNTY, AS APPLICABLE)	CHECK ONE SUPPORT OPPOSE	

**Type of Committee
Controlled Committee**

Candidates must complete this section. A candidate may not establish more than one committee per election to a specific office. Since all local elections in California are non-partisan, check the "Non-Partisan" box in the "Party" column.

(Example) *Henry Black formed a committee for the office of mayor. Four years later, he plans to seek reelection to the same office. Henry may use his previous committee for mayor or he may form a new committee. After his last election for mayor, Henry decides to run for State Senate. Henry must form a new committee for the Senate election. This is the only committee he may control in connection with seeking the Senate seat that year.*

Name of Financial Institution

Report the name and complete address of the financial institution where the

committee's campaign bank account is located, as well as the campaign bank account number. If a bank account has not been opened at the time of filing an "Initial" Form 410, amend the Form 410 within ten days of opening the bank account to provide this information.

Committees Controlled by Two or More Candidates

If two or more candidates form one committee to support their candidacies for elective office, they must:

- Each file the Form 501;
- File one Statement of Organization (Form 410);
- Establish one bank account for the committee (each candidate must deposit all contributions and make all expenditures from this bank account);
- File one Recipient Committee Campaign Statement (Form 460) disclosing receipts and expenditures each time the statement is due.

Primarily Formed Committee

Complete this section for a non-controlled committee whose principal activity is raising or spending money to support or oppose a specific candidate or a group of specific candidates all being voted upon in the same election on the same date.

Sponsored Committee

If the committee is sponsored by an entity, provide the name and address of the sponsor. In addition, indicate the industry group or affiliation of the sponsor. Individuals do not sponsor committees.

An entity sponsors a committee if any of the following criteria apply:

- The committee receives 80% or more of its contributions from the entity or its members, officers, employees, or shareholders.
- The entity collects contributions for the committee through payroll deductions or dues from its members, officers, or employees.
- The entity, alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.
- The entity, alone or in combination with other organizations, sets the policies for contribution solicitation or payment of expenditures from committee funds.

Answering Your Questions

- Q. Must we wait until \$1,000 is received to file a Form 410?*
- A. No. You may file a Form 410 prior to committee qualification. Check the box "Not Yet Qualified." Once you have reached the \$1,000 threshold, file an amendment reporting the date the committee qualified.

- Q. May our committee use a mail receiving and forwarding service, such as Mail Boxes Etc., as the committee's street address on the Form 410?*
- A. No. A post office box or lock box number is not acceptable as a street address. You may use a post office box address on a mass mailing as long as you indicated this address as your mailing address on the Form 410.
- Q. As a candidate, may I be designated treasurer on the Form 410?*
- A. Yes, you may be the treasurer or assistant treasurer.
- Q. May more than one candidate control a single committee to run for office?*
- A. Yes. Each candidate should file a Form 501 prior to raising or spending any money. For both Form 410 and Form 460, each candidate must sign the verification, in addition to the treasurer or assistant treasurer. If the committee is controlled by more than three candidates, one candidate may sign on behalf of the other candidates.
- Q. I am an officeholder and the target of a recall election. I have formed a separate committee to oppose the recall. On the Form 410, what sections do I complete under Part 4 — Type of Committee?*
- A. You should complete both the Controlled Committee and Primarily Formed Committee sections. Be sure to include the word "recall" in the name of the committee.
- Q. I am running as a replacement candidate on a recall ballot. On the Form 410, what sections do I complete under Part 4— Type of Committee?*
- A. You should complete the Controlled Committee section.

Candidate Statement of Economic Interests (Form 700)

In addition to filing reports of their campaign finances, most candidates are required to disclose certain personal financial interests under the Political Reform Act's conflict of interest rules by completing a Statement of Economic Interests (Form 700). Investments and real property held on the day the declaration of candidacy is due, as well as income received during the 12 months prior to the date of filing the declaration of candidacy, must be reported. This statement is due no later than the final filing date for the declaration of candidacy. Candidates file the Form 700 with the city clerk or registrar of voters where the declaration of candidacy is filed.

Authority

The following Government Code sections and Title 2 regulations provide authority for the preceding information in this chapter:

Government Code Sections

- 81004 *Reports and Statements; Perjury; Verification.*
- 81004.5 *Reports and Statements; Amendments.*
- 81007 *Mailing of Report or Statement.*
- 82007 *Candidate.*
- 82013 *Committee.*
- 82016 *Controlled Committee.*
- 82025 *Expenditure.*
- 82044 *Payment.*
- 82047.5 *Primarily Formed Committee.*
- 82048.7 *Sponsored Committee.*
- 84101 *Statement of Organization; Filing.*
- 84102 *Statements of Organization; Contents.*
- 84103 *Statement of Organization; Amendments.*
- 84106 *Sponsored Committee; Identification.*
- 84200 *Semi-Annual Statements.*

- 84200.3 *Odd-Year Reports in Connection with a Statewide Direct Primary Election Held in March of an Even-Numbered Year.*
- 84200.5 *Preelection Statements.*
- 84200.6 *Special Campaign Statements and Reports.*
- 84200.7 *Time for Filing Preelection Statements for Elections Held in June or November of an Even-Numbered Year.*
- 84200.8 *Time for Filing Preelection Statements for Elections Not Held in June or November of an Even-Numbered Year.*
- 84206 *Candidates Who Receive or Spend Less than \$1,000.*
- 84214 *Termination.*
- 84215 *Campaign Reports and Statements; Where to File.*
- 85200 *Statement of Intention to be a Candidate.*
- 85201 *Campaign Bank Account.*
- 87201 *Candidates (Statement of Economic Interests).*

Title 2 Regulations

- 18402 *Committee Name.*
- 18404 *Termination of Candidate's and Committees' Filing Requirements.*
- 18406 *Short Form for Candidates or Officeholders Who Receive and Spend Less than \$1,000 in a Calendar Year.*
- 18419 *Sponsored Committees.*
- 18430 *Committee Controlled by More Than One Candidate.*
- 18520 *Statement of Intention to Be a Candidate.*
- 18521 *Establishment of Separate Controlled Committee for Each Campaign Account.*
- 18531.5 *Recall Elections.*

Chapter 5

When and Where to File Reports

This chapter reviews when and where committees file reports disclosing receipts and expenditures. Most candidates and committees will use the Recipient Committee Campaign Statement (Form 460). Primarily formed committees may be eligible to use the Recipient Committee Campaign Statement—Short Form (Form 450) or the Semi-Annual Statement of No Activity (Form 425). (Also see Chapter 7 for additional special reports that may be required.)

Candidates and officeholders without a committee should consult Chapter 4, Officeholder/Candidate Campaign Statement—Short Form (Form 470), to determine whether a report is due and, if so, when and where to file.

All reports and statements filed under the Political Reform Act are public records open for public inspection.

When to File

The law sets specific deadlines for when Forms 460, 450, and 425 must be filed. Most campaign committees file two semi-annual statements each year. When an individual is listed on a ballot, and when a committee is raising or spending money in connection with an election, preelection statements also are required.

Many filing officers provide candidates and committees with an election packet that includes the dates for filing campaign statements. In addition, filing deadlines for certain local elections may be obtained online at www.fppc.ca.gov. (Click onto "Candidates and Committees," then click onto "Filing Deadlines.") The filing deadlines found on the Commission's website will not include any special filings required under a local ordinance. For this information, contact the local filing officer. The committee

treasurer is responsible for meeting all applicable filing deadlines. Filing officers are not required to send a reminder notice prior to the filing deadline.

Deadlines that fall on a Saturday, Sunday, or official state holiday are extended to the next business day. **This rule does not apply to late contribution reports and late independent expenditure reports discussed in Chapter 7, and there are no other provisions for extensions.** Filing after a deadline may lead to late filing penalties of \$10 for each day the statement is late, and committees that fail to file are subject to administrative penalties of up to \$5,000 per violation. Except where noted, statements must be hand delivered or postmarked as first-class mail, by the due date.

Judges and Unpaid Elected Officeholders

Unpaid officeholders (defined in the Act as those who receive less than \$200 per month for serving in office), judges, and judicial candidates are not required to file semi-annual statements during any six-month period in which they have not received or made any contributions or expenditures. This is also true for election committees controlled by unpaid officeholders, judges and judicial candidates.

To determine whether \$200 has been received, only the elected official's fixed compensation for services (i.e., salary) need be counted. Do not count payments for health benefits, reimbursement of expenses (including travel expenses), or per diem received from the elected official's agency.

Semi-Annual Statements

Most committees file a semi-annual statement for each half of the year, whether

or not they receive contributions or make expenditures during the six-month period. An existing committee or a committee newly formed during the first six months of the year will have a semi-annual statement due July 31 for the period January 1 - June 30.

An existing committee will have a semi-annual statement due January 31 of the following year for the period July 1 - December 31. A committee newly formed during the last six months of the year will have a semi-annual statement due January 31 of the following year for the period January 1 - December 31.

(Examples) *A county supervisor has a controlled committee. The supervisor receives over \$200 a month for serving in office. The supervisor is not seeking reelection and the committee did not raise or spend any funds during the calendar year. The committee must file a semi-annual statement covering the period January 1 through June 30, due on or before July 31, and a semi-annual statement covering the period July 1 through December 31, due by January 31.*

A primarily formed committee formed in May to support a candidate's election in November. The committee files a semi-annual statement for the period January 1 through June 30, due July 31. Preelection statements are due in October, in addition to a semi-annual statement due in January of the following year. (Some local jurisdictions have additional filing requirements.) The committee must file semi-annual reports until it terminates.

Preelection Statements

In addition to semi-annual statements, controlled committees and primarily formed committees will file preelection statements before the election in which the candidate is listed on the ballot.

For specific reporting periods and filing deadlines, contact the local filing officer.

The second preelection statement must be filed by personal delivery or guaranteed overnight delivery.

Candidates who will not appear on the ballot because they are running unopposed are not required to file preelection statements.

Recall Elections

A committee established by an officeholder who is the subject of a recall election must file campaign statements (Form 460) on a quarterly schedule until the semi-annual period in which the recall election is held. The quarterly filing schedule is:

Period Covered	Filing Deadline
January 1 - March 31	April 30
April 1 - June 30	July 31
July 1 - September 30	October 31
October 1 - December 31	January 31

During the semi-annual period in which the recall election is held, the committee must file two pre-election statements and a semi-annual statement on the schedule provided by the filing officer.

(Example) *District Attorney Don Williams is the subject of a recall election being held in September. In March, he formed a separate committee to oppose the recall. The committee must file quarterly statements on April 30 and July 31. During the period July 1 through December 31, the committee must file two pre-election statements in connection with the election, and a semi-annual statement for the period ending December 31, due on January 31 of the following year. After the January 31 filing, the committee will file semi-annual statements until it is terminated.*

Amendments

Except for amendments required to provide contributor information (see Chapter 1), there is no deadline for filing amendments to campaign reports. However, amendments should be filed as soon as practicable in the same location(s) as the original.

Faxing Statements

Campaign statements that contain 30 pages or less may be faxed provided that the faxed copy of the campaign statement is the exact copy of the original version. However, the original document, with an original signature, must still be sent by first-class mail, guaranteed overnight delivery, or personal delivery within 24 hours of the filing deadline.

Where to File

Candidates, controlled committees and primarily formed committees file statements based on the office sought by the candidate.

An “original” campaign statement is one containing the original signature of the officeholder or candidate, and/or treasurer or assistant treasurer.

Quick TIP The county of domicile for a candidate is the county where the candidate maintains his or her permanent residence. A committee is domiciled at the address listed on its statement of organization. When a candidate is domiciled in a different county than his or her controlled committee, copies of campaign statements must be filed in each county of domicile.

Multiple Controlled Committees

When a candidate or officeholder controls more than one committee, whether the committees are formed for different elections to the same office or for a different office within the **same jurisdiction**, all committees must file statements each time any committee statement is due.

Forms 460, 470, 425, 450	Filing Officers	What
Superior Court Superior court judges, candidates for superior court judge, their controlled committees, and primarily formed committees:	Secretary of State County with the largest number of registered voters in the jurisdiction affected (also county of domicile, if different)	Original & 1 copy 2 copies
Multi-County Offices Elected officers in local agencies that have jurisdiction in two or more counties, candidates for these offices, their controlled committees, and primarily formed committees:	County with the largest number of registered voters in the jurisdiction affected County of domicile, if different from above	Original & 1 copy 2 copies
County Offices Elected county officers, candidates for these offices, their controlled committees, and primarily formed committees:	County Clerk County of domicile, if different from above	Original & 1 copy 2 copies
City Offices Elected city officers, candidates for these offices, their controlled committees, and primarily formed committees:	City Clerk	Original & 1 copy

When an elected officeholder in one jurisdiction runs for an office in **another jurisdiction**, the officeholder and all committees he or she controls file originally-signed campaign disclosure statements with the filing officer in the jurisdiction in which the officeholder holds office **and** the jurisdiction in which the officeholder is seeking office.

(Example) *Nels Nelson controls a committee for his election to the Beach County School Board. In addition, Nels formed a committee to run for mayor of Playa del Sol in a June election. As an incumbent school board member and a candidate for mayor, he files campaign statements for both committees with the following filing officers in connection with the June election:*

- *School Board committee files an original and one copy of the Form 460 with:*

*County Clerk, Beach County
City Clerk, Playa del Sol*

- *Mayoral committee files an original and one copy of the Form 460 with:*

*City Clerk, Playa del Sol
County Clerk, Beach County*

An officeholder who does not have a controlled committee may file the Form 470 by July 31 for the position held. If the officeholder subsequently opens a committee to run for a different office, he or she must file the Form 460 for the required preelection and semi-annual statements. Since the Form 470 was filed in connection with a position for which the candidate does not have a committee, a Form 470 Supplement is not required. (See Chapter 4.) However, if the officeholder opens a committee prior to June 30 for election to a different office, the Form 460 must be filed by July 31 for both the position held and the office sought. The officeholder may file one Form 460 and list both the position held and the office sought on the Cover Page, Part 5.

Controlled Ballot Measure Committees

Some officeholders and candidates also control ballot measure committees. Dates and locations for filing statements for these controlled ballot measure committees vary depending on whether the committee is a **general purpose** ballot measure committee or one that is **primarily formed** to support or oppose a particular ballot measure or measures. (See FPPC's manual for ballot measure committees.)

State Primarily Formed Ballot Measure Committees

Controlled state ballot measure committees are only required to file statements when and where state ballot measure committees are normally required to file; committees controlled by the officeholder or candidate to support their election to office are not required to file in connection with the ballot measure committee schedule.

Local Primarily Formed Ballot Measure Committees

Controlled local ballot measure committees should file according to the filing schedule provided by their local filing officer. In addition, these committees file at the same times and places the controlling officeholder or candidate is required to file campaign statements in connection with the office he or she is seeking. The candidate's controlled election committee is not required to file on the ballot measure committee schedule if he or she is not also being voted on in the election.

General Purpose Ballot Measure Committees

In addition to any other times provided by law, controlled general purpose ballot measure committees are required to file preelection statements whenever the controlling officeholder or candidate is required to file these statements in

connection with an election to office. In addition to filing with the committee's filing officers, an original and one copy of the ballot measure committee's statement is filed where the officeholder or candidate files his or her semi-annual and preelection statements for election to office.

(Example) *Teddy Graham has a committee to run for reelection to the city council for the city of Playa del Sol. In addition, Teddy controls a state general purpose ballot measure committee, domiciled in Beach County, that supports measures throughout the state dealing with shoreline protection. On the due date for the first preelection statement required for his reelection race, Teddy will file the following:*

- *Reelection Committee will file the Form 460 with:*
 - *City Clerk, Playa del Sol*
Original and one copy
- *Ballot Measure Committee will file the Form 460 with:*
 - *Secretary of State*
Original and one copy
 - *Registrar/Los Angeles County*
Two copies
 - *Registrar/San Francisco*
Two copies
 - *Beach County Clerk*
Two copies
 - *City Clerk, Playa del Sol*
Original and one copy

Answering Your Questions

Q. I am currently a city council member without a committee. I intend to run for the school board in the November election and will open a committee in July for the school board race. What are my reporting obligations?

- A. Because you intend to have a committee during that calendar year, file Form 460 for your city council position with your city clerk by July 31 for the first six months of the calendar year. By the first preelection deadline for the school board race, file an originally-signed Form 460, as well as a copy, with both the city clerk and county registrar of voters in your county. On the Form 460, indicate the office you are seeking as well as the office you hold. You may wish to note on the form that you do not have a committee for your city council seat nor a bank account. You also must file a Statement of Organization (Form 410) within 10 days of receiving contributions of \$1,000 or more.*
- Q. In June, I was elected to the city council. After filing the semi-annual statement due on July 31, I paid off remaining bills and terminated my committee in August by filing a terminating Form 460. I will not engage in any further campaign activities. Am I required to file another Form 460 by January 31 of the following year as a semi-annual statement?*
- A. As an elected officer, you must file semi-annual statements each year. You may designate the Form 460 you file in August as a terminating statement and a semi-annual statement. However, if you subsequently receive any contributions or make any expenditures through December 31, file an amendment to your statement including the new information no later than January 31 of the following year. Remember that as an elected officeholder, if you receive \$200 or more in a calendar month for your elected position, you will be required to file the Form 470 by July 31 every year, even though you have terminated your committee.*

Authority

The following Government Code sections and Title 2 regulations provide authority for the preceding information in this chapter:

Government Code Sections

- 81004 *Reports and Statements; Perjury; Verification.*
- 81004.5 *Reports and Statements; Amendments.*
- 81007 *Mailing of Report or Statement.*
- 81007.5 *Faxing of Report or Statement.*
- 81008 *Public Records; Inspection; Reproduction; Time; Charges.*
- 82027 *Filing Officer.*
- 83116 *Violation of Title.*
- 84200 *Semi-Annual Statements.*
- 84200.3 *Odd-Year Reports in Connection with a Statewide Direct Primary Election Held in March of an Even-Numbered Year.*
- 84200.4 *Time for Filing Reports Pursuant to Section 84200.3.*
- 84200.5 *Preelection Statements.*
- 84200.7 *Time for Filing Preelection Statements for Elections Held in June or November of an Even-Numbered Year.*
- 84200.8 *Time for Filing Preelection Statements for Elections Not Held in June or November of an Even-Numbered Year.*
- 84209 *Consolidated Statements.*
- 84215 *Campaign Reports and Statements; Where to File.*
- 91013 *Late Filing of Statement or Report; Fees.*

Title 2 Regulations

- 18116 *Reports and Statements; Filing Date.*
- 18426 *Semi-Annual Statement Early Filing.*
- 18531.5 *Recall Elections.*