

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18247.5. Primarily Formed Committees.

(a) A “primarily formed” committee, as defined in Section 82047.5 and this regulation, is a recipient committee under Section 82013(a) that supports or opposes a single candidate or measure, or a specific group of measures or local candidates in the same election. In contrast, a “general purpose” committee, defined in Section 82027.5 and Regulation 18227.5, supports multiple candidates or ballot measures.

(b) A committee formed or existing primarily to support or oppose a “single candidate” includes a committee that makes contributions and expenditures for a particular candidate and against that candidate's opponent(s).

(c) Definition. For purposes of Section 82047.5, a recipient committee under Section 82013(a) is considered to be “formed or existing primarily to support or oppose” a candidate or measure if:

(1) The committee is created for or is involved in running the principal campaign for or against the candidate(s) or measures(s) as listed in Section 82047.5(a) through (d); or

(2) The committee's primary purpose and activities are to support or oppose candidate(s) or measure(s) as listed in Section 82047.5(a) through (d); or

(3) The committee makes more than 70 percent of its total contributions and expenditures on all candidates and measures (not including administrative overhead) on those specific candidates(s) or measure(s) as listed in Section 82047.5(a) through (d), during the time period specified in subdivision (d)(3).

(d) Review.

(1) A committee that has reason to know it is close to triggering the applicable threshold for changing status because its spending is concentrated on candidate(s) or measure(s) as listed in Section 82047.5(a) through (d), must determine whether it is primarily formed quarterly at the end of March, June, September and December.

(2) Newly organized committees.

(A) A committee that files its initial statement of organization within six months of an election and makes contributions and expenditures in connection with that election must determine whether it is primarily formed at the end of each month prior to the election unless the committee has not made contributions and/or expenditures of \$1,000 or more to support or oppose candidates or measures during that month.

(B) A committee that files its initial statement of organization within six months of a statewide primary or general election or within 30 days after a declaration calling a special election for a state elective office or measure and makes at least \$25,000 in independent expenditures to support or oppose a state candidate or state measure(s) listed in Section 82047.5(a) through (d), is presumed to be, and must report as, a primarily formed committee. This presumption can be rebutted when the committee's contributions and expenditures on multiple candidates or measures in different jurisdictions or elections demonstrate that it is not primarily formed and the committee may amend its statement of organization to identify itself as a general purpose committee pursuant to Regulation 18227.5.

(3) For purposes of determining whether it is primarily formed under subdivision (c)(3), a committee must count contributions and expenditures made to support or oppose candidates or measures during whichever of the following time periods most accurately reflects the current and upcoming activities of the committee:

(A) The immediately preceding 24 months; or

(B) The current two-year period, beginning with January 1 of an odd-numbered year and ending with December 31 of the following even-numbered year.

(e) File as Primarily Formed through the Election. A committee that is or becomes primarily formed within 90 days prior to an election must maintain that status and file disclosure reports as a primarily formed committee up to the date of that election and continuing until the end of the post-election reporting period.

(f) Change of Status.

(1) Amend Statement of Organization. A recipient committee whose status changes from one jurisdiction to another, or between general purpose and primarily formed must amend its statement of organization pursuant to Section 84103 to reflect the change. If, after filing reports with one jurisdiction, a committee changes jurisdiction, in addition to filing reports with a new filing officer, the committee must continue filing reports with the original filing officer through the end of the calendar year under Section 84215(g).

(2) An existing general purpose committee is not required to change its filing status to a primarily formed committee unless it meets the requirements in subdivision (c) and it makes at least \$100,000 of contributions and/or expenditures if supporting or opposing a state candidate or measure(s) listed in Section 82047.5(a) through (d), or at least \$10,000 of contributions and/or expenditures if supporting or opposing local candidate(s) or measure(s) listed in Section 82047.5(a) through (d).

(3) Contributions from a general purpose committee to a primarily formed ballot measure or candidate committee are not to be included in the calculations required under subdivision

(c)(3) if the sponsor of the general purpose committee is also a sponsor of the primarily formed committee.

(4) A committee that was primarily formed for the election of a candidate or measure, but after that election continues to exist to support or oppose different candidates or measures in the future, may remove the candidate or measure name from the committee name and change its status following the election, as long as the committee is not raising funds to pay debt from the election, except as provided in subdivision (e).

(g) Avoidance of Disclosure. A committee must not knowingly file in an incorrect jurisdiction or as an incorrect type of committee, with the intention of avoiding the appropriate legal disclosure of campaign contributions and expenditures to the public.

Note: Authority cited: Section 83112, Government Code. Reference: Section 82047.5, Government Code.

HISTORY

1. New section filed 1-30-2009; operative 3-1-2009. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2009, No. 5).

2. Amendment of section heading, repealer and new section and amendment of Note filed 1-5-2012; operative 2-4-2012. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974

Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2012, No. 1).

3. Amendment of subsection (c) filed 6-24-2013; operative 6-24-2013. Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 26).

4. Change without regulatory effect amending subsection (c) filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 13).

5. Amendment filed 2-13-2018; operative 3-15-2018 pursuant to title 2, section 18312(e)(1)(A) of the California Code of Regulations. Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2018, No. 7).

This database is current through 3/16/18 Register 2018, No. 11