

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

§ 18421.5. Reporting an Expenditure for Paid Online Communications.

(a) Purpose. This regulation requires additional expenditure reporting to inform the public when a recipient committee under Section 82013(a) pays a person to provide favorable or unfavorable content about a candidate or ballot measure on an Internet website, web application, or digital application other than the committee's own website, or profile or landing page.

(b) Definitions.

(1) A “digital application” - also known as an “application program,” or abbreviated as “application,” or “app.” - as used in subdivision (a) of this regulation and Section 84504.6, is a computer program that performs a specific task or set of tasks on an electronic device such as a computer, mobile device or tablet.

(2) A “web application” - often abbreviated as “web app” - as used in subdivision (a) and Section 84504.6, is an application, as defined in subsection (b)(1), in which all or some parts of the program are downloaded from the Internet or run from an Internet server each time the program runs.

(c) When reporting an itemized expenditure pursuant to Sections 84211(k) or 84303, a committee, pursuant to Section 82013(a), must specifically describe amounts the committee paid for content about a candidate or ballot measure, including:

- (1) A posting on a web site or a web log (“blog”)
- (2) A posting on a social media platform or service;
- (3) A video posted online.

(d) When reporting these expenditures, whether the payment is made directly or through a third party, committees must list specific details of the payment, including the amount of the payment, the payee, the name and public username or handle of the person providing content, the name of each website or each URL for which the communication is published and, in the case of an article, op-ed, weblog (“blog”) post, or similar communication, the title of the communication. The committee must report the expenditure for online content using the expenditure code “WEB” and the specifics described in this section.

(e) The reporting in this regulation does not apply to payments that a recipient committee makes to a person for producing content solely for the committee's own websites or social media accounts.

(f) The reporting requirements of this regulation are in addition to the reporting requirements of Sections 84211(k) and 84303.

(g) In the case of a communication that does not meet the definition of an advertisement under Section 84501, if the fact that a campaign has paid for content as described in this regulation is posted in a clearly conspicuous manner along with the posted content in each instance of the content appearing on the Internet or other digital platform, reporting is not required as described in this regulation. For example, the following type of posting would satisfy this requirement: “The author was paid by the Committee to Re-Elect Mayor Jane Doe in connection with this posting.”

(h) In the case of a communication that meets the definition of “advertisement” under Section 84501, any reporting and disclosure requirements in this regulation are in addition to the applicable advertising disclosure requirements contained in the Act.

(i) “Content” means that which is offered on a website or other digital platform in writing, picture, video, photograph or other similar format. Content does not include clicking on images to cast a “vote” or opinion, nor does it include a comment added to a commentary posted in response to another person's content, or an advertisement created by a committee, or its agent, and provided to a person to display on an Internet website, web application, or digital application other than the committee's own website.

Note: Authority cited: Sections 83112 and 84211(k), Government Code. Reference: Sections 84211, 84303, 84501, 84502, 84503, 84504, 84504.1, 84504.2, 84504.3, 84504.4, 84504.5, 84504.6, 84504.7, 84506.5, 84509 and 84511 Government Code.

HISTORY

1. New section filed 10-3-2013; operative 11-2-2013. 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. 40).
2. Amendment of section and Note filed 10-8-2021; operative 1-1-2022 pursuant to Cal. Code Regs., tit. 2, section 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 2021, No. 41).