

USE OF CAMPAIGN FUNDS

The use of campaign funds by candidates, elected officials, and others who control the expenditure of campaign funds, is strictly regulated. The expenditure of campaign funds must be reasonably related to a political, legislative, or governmental purpose.

If an expenditure confers a substantial personal benefit on the candidate, officeholder, or any individual authorized to approve campaign expenditures, the expenditure must be directly related to a political, legislative, or governmental purpose. A substantial personal benefit means an expenditure of campaign funds which results in a direct personal benefit with a value of more than \$200.

QUICK TIP: The FPPC has fined committees for payments made from a campaign account that were used for the following personal purposes: auto care services, doctor visits, clothing, and personal life insurance premiums.

The following are examples of specific expenditures and the rules regarding the use of campaign funds for such purposes. If the examples are not helpful, contact the FPPC for assistance about whether or not a specific use of campaign funds is permissible by sending an email with detailed facts to advice@fppc.ca.gov. Political expenditures to other committees are discussed elsewhere in this manual.

A. Campaign Expenditures

Election Night Celebrations

Costs associated with election night celebrations or similar campaign events are considered to be directly related to a political, legislative, or governmental purpose; therefore, campaign funds may be used.

Attorneys' Fees

Generally, attorneys' fees and other costs related to administrative, civil, or criminal litigation may only be paid with campaign funds if the litigation is directly related to activities of the committee that are consistent with its primary objectives. Campaign funds may be used to pay for expenses related to the following:

- Action to halt defamation;
- Defense of an action to halt defamation;
- Defense of an action for violation of state or local campaign, disclosure, or election laws;
- Litigation to secure a place on the ballot or challenge the wording of the ballot pamphlet;
- Contested election;
- Election recount; and
- Compliance expenses (for example, completing campaign disclosure reports).

NOTE: “Attorneys’ fees and other costs” does not include expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer, except as expressly authorized by the Act.

Reimbursements

The candidate must deposit personal funds in the campaign bank account and make expenditures from that account instead of spending personal funds for the campaign and later seeking reimbursement from campaign funds. However, any other individual (e.g., a volunteer or campaign worker) may make expenses from personal funds and be reimbursed, so long as the expenses are incurred for political, legislative, or governmental purposes and repayment is made within

45 days. An officeholder may use personal funds and be reimbursed for “officeholder” expenses. (See Chapter 9 for specific reporting rules and deadlines for reimbursements.)

Ex 6.1 - A volunteer buys bagels for the morning shift of volunteer workers. After providing the treasurer with a receipt for bagels, the treasurer may reimburse the volunteer for their expenses so long as the reimbursement is made within 45 days of the payment.

Automobile Lease or Purchase

When making payments associated with leasing, purchasing, or operating a vehicle, such as insurance, maintenance, and repairs, the campaign committee must be the lessee or hold title to the vehicle. Additional titleholders may not be the candidate, officeholder, treasurer, or any other person who may approve campaign expenditures, or a member of any such person’s immediate family (spouse or registered domestic partner and dependent children). Additional lessees may not be the candidate, officeholder, treasurer, or a member of any of these persons’ immediate family.

Reimbursed Automobile Expenses

Campaign funds may be used to reimburse an officeholder, candidate, immediate family member, treasurer, and committee staff for use of a personal vehicle if the use is directly related to a political, legislative, or governmental purpose. Documentation should be kept which includes the trip’s purpose and mileage in a manner approved by the Internal Revenue Service for deducting mileage expenses. The rate for reimbursement may not exceed that allowed under Internal Revenue Code Section 162. For more details, contact the Internal Revenue Service at (800) 829-1040 (www.irs.gov).

Childcare Expenses

Campaign funds may be used to pay or reimburse a candidate for a dependent child’s reasonable and necessary childcare expenses resulting *directly* from engaging in campaign activities. An officeholder may use campaign funds for childcare expenses resulting from directly

engaging in campaign activity including that which is both political and legislative or governmental. Under the Act, “directly” means that the candidate would not have otherwise incurred the childcare expenses if not for the candidate engaging in campaign activities.

Under the Act, “childcare expenses” include the reasonable costs of:

- Professional daycare services
- Babysitting
- Nannying services
- Food and beverages
- Transportation to and from the location of a childcare services provider
- Before and after school programs
- Summer day camps
- Preschool
- Costs related to a nurse, home care provider, or other care provider for a disabled dependent child

Prohibited uses of campaign funds for childcare expenses include:

- Private school tuition
- Medical expenses
- Tutoring services
- Payments to a relative within the third degree of consanguinity, unless the relative owns or operates a professional daycare or babysitting service for which the cost is no greater than the relative would otherwise charge.

Clothing

The purchase of clothing is a personal expense. The committee may not use campaign funds to pay for a candidate's business or casual clothing. Specialty clothing, such as formal wear worn by an officeholder or candidate, may be purchased with campaign funds if the use of such clothing is directly related to a political, legislative, or governmental purpose.

Ex 6.2 - A candidate has been asked to attend a formal event honoring the mayor. Since they do not own a tuxedo, they may rent one with campaign funds since the event is directly related to a political purpose.

Contributions to Other Candidates and Committees

Candidates may make contributions to other candidates and committees unless prohibited by local rules. Contributions to certain state committees are subject to limitations.

Donations

Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations as long as the donation or loan is reasonably related to a political, legislative, or governmental purpose. In addition, the donation may not personally benefit the officeholder, candidate, committee treasurer, or any individual with authority to approve the expenditure of campaign funds, or any such person's immediate family member (spouse or registered domestic partner and dependent children).

Ex 6.3 - A fundraiser will be held for a veteran's memorial at the local civic center. The committee is permitted to donate campaign funds because the payment has a political, legislative, or governmental purpose.

Ex 6.4 - Your committee would like donate funds to a homeless shelter where your spouse is a salaried employee. It is determined that a substantial part of the proceeds would benefit your spouse; therefore, this expenditure is not permissible.

Equipment and Appliances

Campaign funds may be used to buy, lease, or refurbish equipment or appliances, but only if their use is directly related to a political, legislative, or governmental purpose. As with restrictions on vehicles, the committee must hold title, or be the lessee, on the equipment; no individual may be listed as owner or lessee.

Fines, Penalties, Judgments, and Settlements

Generally, campaign funds may be used to pay the following fines, penalties, judgments, and settlements:

- Parking citations received while performing political, legislative, or governmental activities
- Fines assessed in relation to situations in which the use of campaign funds to pay for an attorney is specifically allowed under the Act
- Fines imposed for late filing of campaign statements and Statements of Economic Interests (Form 700)

QUICK TIP: The committee may use campaign funds to pay a fine assessed by the Secretary of State for a late campaign statement.

Prohibited Payments

- Campaign funds of any amount may not be used to pay a fine, penalty, judgment, or settlement relating to an improper use of campaign funds or an action involving bribery under Penal Code Section 86.

- Campaign funds cannot be used to pay a fine, penalty, judgment or settlement, if the action was related to using campaign funds for personal purposes. See Government Code Section 89513 for specific explanations.
- Legal defense funds may not be used to pay or reimburse an officeholder or candidate for a penalty, judgement or settlement related to a claim of sexual assault, sexual abuse or sexual harassment filed in any civil, criminal or administrative proceeding.

A candidate or officeholder may use legal defense committee funds for *other* legal costs and expenses related to claims of sexual assault, sexual abuse or sexual harassment, but if the candidate or officeholder is held liable, the candidate or elected officer must reimburse the legal defense fund for all funds used in connection with those other legal costs and expenses.

“Sexual assault” and “sexual abuse” have the same meaning as provided in Penal Code Section 11165.1. “Sexual harassment” has the same meaning as found in Government Code Section 12940(j).

Food

A committee may use campaign funds to purchase a meal with a cost of \$200 or less, so long as the expenditure is reasonably related to a political, legislative, or governmental purpose. However, if the aggregate cost of the meal is more than \$200, the expense must be directly related to one of these purposes. When a candidate controlled committee reports itemized expenditures for gifts, meals, or travel, specific details must be included as described in Chapter 9.

Ex 6.5 - An officeholder attends a dinner sponsored by the police department to honor a local good samaritan. Since the expenditure is directly related to a governmental purpose, the campaign may pay for their attendance even if the total cost is more than \$200.

Gifts

Unless directly related to a political, legislative, or governmental purpose, personal gifts may not be paid for with campaign funds. However, gifts of less than \$250 in a calendar year to campaign employees or workers are permitted because they are considered to be directly related to a political, legislative, or governmental purpose. When a candidate controlled committee reports itemized expenditures for gifts, meals, or travel, specific details must be included as described in Chapter 9.

Health-Related Expenses

A committee may use campaign funds to pay for health care benefits for its employees or independent contractors. However, campaign funds may not be used to pay for other health-related expenses such as health club dues, special dietary foods, or medical check-ups.

Loans

Campaign funds may be used to make loans to other political committees, subject to applicable limits, if any.

Campaign funds may also be used to make loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations, so long as the loan does not personally benefit the officeholder, candidate, committee treasurer, or any individual with authority to approve the expenditure of campaign funds, or any such person's immediate family member. The loan must be reasonably related to a political, legislative, or governmental purpose. Campaign funds may not be loaned to an individual or to an entity other than those described above.

Professional Services

When the committee reasonably requires the services of professionals, such as accountants or attorneys, their fees may be paid with campaign funds as these expenditures are considered to be directly related to a political, legislative, or governmental purpose. (See below for restrictions on salary and compensation.)

Real Property

The committee may not purchase real property. It may, however, lease property for up to one year, so long as its use is directly related to a political, legislative, or governmental purpose. The candidate, officeholder, committee treasurer, any individual with authority to approve the committee's expenditures, or an immediate family member of any of these persons may not be a lessee or sublessor, or hold legal title to the leased property.

Refunding Contributions

The return of contributions to contributors, other than the state candidate, is permitted. A state candidate may provide the committee a personal loan which does not exceed \$100,000.

Returning Contributions Lacking Contributor Information

When a contribution of \$100 or more is received in a calendar year from a single contributor, the committee must disclose the contributor's name and address, and, if the contributor is an individual, their occupation and employer. If the committee does not have this information in its records within 60 days of receipt of the contribution, it must be returned to the contributor. (See Chapter 3.) Additionally, contributions of \$100 or more from an LLC must be returned if, within 60 days, the committee's records do not contain the name of the LLC and the full legal name of the LLC's responsible officer (for an LLC that has qualified as an independent expenditure committee or major donor); the name of the LLC's principal officer (for an LLC that has qualified as a recipient committee); or, for an LLC that has not qualified as a committee, the full legal name of the individual primarily responsible for approving the contribution. If more than one individual shares in the primary responsibility of approving a contribution, at least one such individual must be identified and recorded.

Contributions Received In Excess of the Contribution Limits

A contribution received in excess of the applicable contribution limit must be returned to the contributor either: (1) within 14 days of receipt before deposit so long as the committee did not make use of the contribution prior to returning it, or (2) within 14 days of receipt even after deposit, so long as there was **no actual knowledge** the contribution was over the limit when deposited and the committee did not make use of the contribution prior to returning it. If the contribution is returned after deposit it must be reported. A contribution must be reported even if not deposited if it is not returned to the contributor by the close of the reporting period.

A committee that receives a monetary contribution with **actual knowledge** that the contribution is over the applicable contribution limit in the Act may accept the contribution and return or attribute the portion in excess within 72 hours of receipt or before the date of the election, whichever is sooner without being in violation of the contribution limit. However, a committee is prohibited from making use of the excessive contribution prior to returning or attributing it and the amount of a contribution that may be accepted is capped at twice the applicable contribution limit.

A committee may request that the contributor attribute in writing a contribution to a different election. A committee may automatically attribute a portion of a contribution that is in excess of the applicable limit between the primary and general elections. A committee attributes a contribution when the committee designates the portion of the contribution in excess of the applicable limit to another election.

A committee that receives an excessive contribution **with or without actual knowledge** that the contribution was over the limit must inform the contributor:

- that their contribution was in excess of the applicable limit, and
- if the contribution was automatically attributed to the connected primary or general election, that the contribution was attributed and the contributor may request a refund.

Salary and Compensation

The candidate or officeholder, or any individual authorized to approve the committee's expenditures, may not receive a salary or other compensation from the committee for the performance of political, legislative, or governmental activities. However, the committee may pay for professional services such as an accountant or treasurer, even if the accountant or treasurer has authority to sign committee checks.

A spouse or domestic partner of an elected officer or a candidate for elective office may not receive, in exchange for any services rendered, compensation from campaign funds held by a controlled committee of the officer or candidate.

A committee may pay for the professional services of a public employee, if the employee's services are rendered while on vacation, leave or outside of compensated public time.

Security Systems

A candidate may use campaign funds to purchase an electronic security system. To do so, the candidate must have received threats to their physical safety because of their status as a candidate or elected official and the incidents must be verified by an appropriate law enforcement agency. No more than \$5,000 may be spent and a report to the FPPC is required.

Effective January 1, 2020, campaign funds may be used to pay for, or reimburse the state for, the installation and monitoring of hardware, software, and services related to the cybersecurity of the electronic devices of a candidate, elected officer, or campaign worker. Any expenditure of campaign funds for these purposes must be reported in the candidate or elected officer's campaign statements.

Tickets for Entertainment and Sporting Events

Campaign funds may not be used to purchase entertainment and sporting event tickets for use by the candidate or officeholder, or staff of the committee, unless attendance at the event is directly related to a political, legislative, or governmental purpose.

Tickets to Political Fundraisers

A committee may purchase tickets to political fundraisers (subject to any applicable contribution limits) for the candidate, officeholder, or their immediate family, or an officer, director, employee, or staff of the committee or the officeholder's governmental agency.

Travel

A committee may use campaign funds to pay for travel or accommodations for the candidate or officeholder, any individual with authority to approve the committee's expenditures, or staff of the committee so long as the standards set by Internal Revenue Code Sections 162 and 274 (deduction of travel expenses for tax purposes) are complied with. Contact the Internal Revenue Service at (800) 829-1040 for more information. When a candidate controlled committee reports itemized expenditures for gifts, meals, or travel, specific details must be included as described in Chapter 9.

Airline Mileage Programs

Some airlines have mileage programs that allow individuals to earn free tickets or other awards. These mileage credits and awards belong to the individual traveler, not the committee. The committee is not required to report either the receipt of the mileage credit awards or the redemption of the credits.

B. Surplus Funds

There are restrictions on how campaign funds held by an elected officeholder or candidate may be spent once the funds become "surplus." Surplus funds may not be used for a future election. See Chapter 11 for information about all requirements that must be met in order to use leftover campaign funds for a future election before the funds become surplus.

Campaign funds held by an officeholder become surplus on the 90th day after the officeholder leaves the office for which the funds were raised, or on the 90th day after the end of the postelection reporting period following their defeat, whichever occurs last. Campaign funds held by a non-incumbent defeated candidate or a candidate that withdrew become surplus on the 90th day after the postelection reporting period following the election. The end of the postelection reporting period is June 30 for elections held during the first six months of the calendar year and December 31 for elections held during the last six months of the calendar year.

Surplus funds may only be used to make the following expenditures:

- Payments for outstanding campaign debts or officeholder expenses.
- Refunds to contributors.
- Donations to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization, provided no substantial part of the proceeds will have a material financial effect on the candidate, on any member of the candidate's immediate family (spouse or registered domestic partner and children), or the campaign treasurer.
- Contributions to a political party or committee, so long as the funds are not used to make contributions in support of or opposition to a candidate for elective office. (For example, funds earmarked for overhead expenses.)
- Contributions to support or oppose any candidate for federal office, any candidate for elective office in a state other than California, or any ballot measure.
- Payments for professional services or attorneys' fees for litigation that arises out of campaign or election activities.
- Payment for an electronic security system. Contact the FPPC for information about specific requirements that must be met.

Answering Your Questions

A. Are there private firms that provide treasurer or campaign reporting services?

Yes. The FPPC does not endorse or recommend any particular private firm. Candidates may find useful information on the websites of the California Political Attorneys' Association and the California Political Treasurers' Association.

B. I am a candidate. I make long-distance phone calls on my home phone to request support from organizations statewide. How may I pay for them?

When the bill arrives and there are additional charges that can be directly attributed to the campaign activity, the committee should pay for that portion. If the personal charges are not changed by the campaign activity, there is no reporting required.

C. May I use campaign funds to pay a babysitter for the evenings that I am out campaigning?

Yes. Candidates may use campaign funds to pay for babysitting services for events that are directly related to campaign activity because the candidate would not have otherwise incurred childcare expenses if the candidate did not engage in the campaign activity.

D. As a candidate, I will be using my personal car to get around during the campaign. Is mileage considered a reportable contribution if I do not want to be reimbursed?

No. Incidental use of your personal car for campaign purposes is not considered a contribution and is not reportable.

E. May I use campaign funds to have an additional telephone line put in my home?

Yes, as long as the additional phone line is used for campaign purposes only. If, after the campaign, you choose to retain the additional phone line for personal purposes, you must pay the campaign what it would cost to install an additional line at that time.

F. Is it permissible to use campaign funds to pay an independent contractor (e.g., the campaign consultant) additional money if I win my election?

Yes. You may use campaign funds to pay a contractor for fees that are part of the written contract.

G. May I host a victory party or give bonuses to my campaign workers?

Yes. In most cases, the bonuses would be considered gifts and would be limited to less than \$250 per calendar year.

H. I lost my state election and have funds remaining. May I use the leftover funds to run again in two years for the same office?

You may use funds left over from an unsuccessful race for the next election to the same office so long as the funds are not “surplus.” To do this, file a new Form 501 and new Form 410 within 90 days after the end of the postelection reporting period following your defeat. For elections occurring in the first six months of the calendar year, the end of the postelection reporting period is June 30. For elections occurring in the last six months of the calendar year, the end of the postelection reporting period is December 31. You must also transfer the funds to a new campaign bank account. For information on reporting the transferred funds, see Chapter 1. Once the funds become “surplus,” they may not be used for a future election.

Authority

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

Government Code Sections

82022.5	Election-Related Activities.
82025	Expenditure.
82044	Payment.
82047.6	Principal Officer.
84307.5	Fundraising Payments Made to a Spouse or Domestic Partner.
85201	Campaign Bank Account.
85304	Legal Defense Fund.
85319	Returning Contributions.
85319.5	Attribution of Contributions.
85700	Donor Information Requirements; Return of Contributions.
89510	Contributions Held in Trust.
89511	Campaign Funds Held by Candidates and Committees.
89511.5	Use of Personal Funds for Incumbent Elected Officers.
89512	Expenditures Associated with Seeking or Holding Office.
89513	Use of Campaign Funds for Specific Activities.
89514	Use of Campaign Funds for Attorney's Fees.
89515	Use of Campaign Funds for Donations and Loans.
89516	Use of Campaign Funds for Vehicle Expenses.
89517	Use of Campaign Funds for Real Property, Appliances or Equipment.
89517.5	Use of Campaign Funds for Security System.
89517.6	Use of Campaign Funds for Cybersecurity System.
89518	Use of Campaign Funds for Compensation.
89519	Use of Surplus Campaign Funds.

Title 2 Regulations

- 18402.2 Limited Liability Companies, Responsible Officer.
- 18421.10 Reporting Contributions from Limited Liability Companies.
- 18526 Reimbursement of Expenditures.
- 18530.4 Legal Defense Funds-State Candidates and Officers.
- 18531 Return of Excessive Contributions.
- 18570 Return of Contributions with Insufficient Donor Information.
- 18951 Surplus Funds.
- 18960 Direct Personal Benefit Defined.
- 18961 Incidental Use.