

1 Amend 2 Cal. Code Regs., Section 18401 to read:

2 **§ 18401. Required Recordkeeping for Chapters 4 & 5.**

3 (a) Maintenance of Documents

4 A candidate, treasurer, and elected officer has a duty to maintain detailed accounts,  
5 records, bills, and receipts as necessary to prepare campaign statements and comply with the  
6 provisions of Chapters 4 and 5 (~~commencing with Section 84100~~) of the Act. This duty includes  
7 retention of copies of filed campaign statements and reports and maintenance of detailed  
8 information and original source documentation, as follows:

9 (1) For a contribution received or other receipt of less than \$25, or an expenditure made  
10 of less than \$25:

11 (A) The accounts and records ~~shall~~ must contain a continuous computation of campaign  
12 account balances, and include a listing reflecting the dates and daily totals of the contributions,  
13 other receipts, or expenditures on the dates of the contributions, other receipts, or expenditures.

14 (B) The original source documentation ~~shall~~ must consist of all bank statements, check  
15 registers, check stubs, bank or passbooks, and any other records reflecting a continuous  
16 computation of campaign account balances in any savings or checking account, money market  
17 account, certificate of deposit, credit card account, or any other campaign account, in any bank  
18 or other financial institution.

19 (2) For a contribution received of \$25 or more, but less than \$100, and for other receipts  
20 of \$25 or more:

21 (A) The accounts and records ~~shall~~ must contain all information required in subdivision  
22 (a)(1)(A), and include the date of each contribution or other receipt, the amount, and the full  
23 name and street address of the contributor or the source of the other receipt. In the case of a

1 contribution, the accounts and records ~~shall~~ must also contain the cumulative amount received  
2 from the contributor and specify whether the contribution is monetary or nonmonetary. In the  
3 case of a nonmonetary contribution, the fair market value ~~shall~~ must also be recorded, along with  
4 a description of the goods or services received. If a contribution is earmarked as defined in  
5 Section 85704 or received through an intermediary or agent, as defined in Regulation 18432.5,  
6 the accounts and records ~~shall~~ must also contain the full name and street address, occupation, and  
7 employer (or, if self-employed, the name of the principal place of business) of the intermediary  
8 or agent and of the true source of the contribution or the contributor or contributors who  
9 earmarked their funds and other supporting documents, including correspondence and  
10 communications, indicating the true source of the contribution.

11 (i) Records of earmarked funds must provide a notation that the funds have been  
12 earmarked and document the amount of the earmarked funds and the specific ballot measure,  
13 candidate or committee for which the funds have been earmarked.

14 (ii) A committee making contributions with earmarked funds must maintain  
15 documentation showing which earmarked funds were contributed to another committee.

16 (iii) For purposes of Sections 84501(c)(3)(A) and 85704(d) if a committee that received  
17 earmarked funds makes contributions and still has earmarked or non-earmarked funds remaining  
18 after making such contributions, it must retain documentation showing how a determination of  
19 which top contributors to disclose on its advertisements was made. This determination must be  
20 done using a reasonable accounting method such as but not limited to the last in first out  
21 accounting method, however, earmarked funds must be counted first before non-earmarked  
22 funds.

1 (B) The original source documentation ~~shall~~ must consist of all items required in  
2 subdivision (a)(1)(B), and copies of contributor checks, cashier's checks, money orders, wire  
3 transfers, deposit or duplicate deposit slips, and any other documents, reflecting all items  
4 deposited, and all deposits made, to any campaign account, in any bank or other financial  
5 institution. Original source documentation ~~shall~~ must also include contributor cards, letters of  
6 transmittal, and notices received from contributors. In the case of a nonmonetary contribution, if  
7 the contributor has not provided the value of the nonmonetary contribution, the original source  
8 documentation ~~shall~~ must also include a memorandum or other record describing the method  
9 used to determine the value of the goods or services contributed. In the case of contributions  
10 made through wire transfer, credit card transaction, debit account transaction, or similar  
11 electronic payment option (including those made via the Internet), the original source  
12 documentation ~~shall~~ must also include all credit card receipts, transaction slips or other writings  
13 signed by the contributor, credit card vouchers, and other documentation of credit card  
14 transactions, including credit card confirmation numbers and itemized transaction reports, as  
15 well as any other information collected when debiting the contributor's account. In the case of  
16 contributions made through electronic transactions via the Internet, original source  
17 documentation ~~shall~~ must also include a record of the transaction created and transmitted by the  
18 cardholder including the name of the cardholder, the cardholder's address and the last four digits  
19 of the card number or if no credit card was used in the transaction, a transaction number.

20 (3) For a contribution received of \$100 or more:

21 (A) The accounts and records ~~shall~~ must contain all information required in subdivisions  
22 (a)(1)(A) and (a)(2)(A), and include the occupation and employer (or, if self-employed, the name  
23 of the principal place of business) of the contributor. Section 85700 requires the return, not later

1 than 60 days from receipt, of a contribution of \$100 or more for which the candidate or  
2 committee does not have on file the name, address, occupation and employer of the contributor.  
3 Regulation 18570 sets forth additional recordkeeping requirements concerning occupation and  
4 employer information.

5 (B) The original source documentation ~~shall~~ must consist of all items required in  
6 subdivisions (a)(1)(B) and (a)(2)(B), and all communications caused to be sent by the candidate,  
7 treasurer, elected officer, or committee to secure this information.

8 (4) For an expenditure of \$25 or more, or a series of payments for a single product or  
9 service totaling \$25 or more:

10 (A) The accounts and records ~~shall~~ must contain the date the expenditure was made (or,  
11 for an accrued expense, the date the goods or services were received), the amount of the  
12 expenditure, the full name and street address of the payee, and a description of the goods or  
13 services for which each expenditure was made. If the person or vendor providing the goods or  
14 services is different from the payee, the accounts and records ~~shall~~ must also contain the same  
15 detailed information for that person or vendor. For an expenditure that is a contribution to  
16 another candidate or committee, or an independent expenditure, the records ~~shall~~ must also  
17 contain the cumulative amount of the contributions to, or independent expenditures to support or  
18 oppose, each candidate, committee, or ballot measure.

19 (B) The original source documentation ~~shall~~ must consist of cancelled checks, wire  
20 transfers, credit card charge slips, bills, receipts, invoices, statements, vouchers, and any other  
21 documents reflecting obligations incurred by the candidate, elected officer, campaign treasurer,  
22 or committee, and disbursements made from any checking or savings account, or any other  
23 campaign accounts, in any bank or other financial institution. In lieu of cancelled checks, the

1 original source documentation may consist of copies of cancelled checks that contain a legible  
2 image of the front and back of the cancelled check, provided the copy was obtained from the  
3 financial institution.

4 (5) For an itemized expenditure under Section 84211(k) or Section 84303 by a committee  
5 controlled by a candidate for a gift, a meal, or travel, the original source documentation in  
6 addition to the requirements of subdivisions (a)(4)(A) and (a)(4)(B) ~~shall~~ must include a dated  
7 memorandum, or other dated written record, containing the information required to be reported  
8 under Regulation 18421.7 and the names of all individuals for whom an expenditure for a meal  
9 or travel was paid.

10 (6) For an expenditure of \$100 or more made by a general purpose ballot measure  
11 committee controlled by a candidate for elective state office, the original source documentation  
12 in addition to the requirements of subdivisions (a)(4)(A) and (a)(4)(B) ~~shall~~ must include a dated  
13 memorandum, or other dated written record, as follows:

14 (A) Identifying each measure that has been assigned a ballot designation for which the  
15 expenditure is made to support or oppose by its assigned designation.

16 (B) Briefly describing the purpose of each potential measure that has not yet been  
17 assigned a ballot designation for which the expenditure is made to support or oppose.

18 (C) Specifying the amount of the expenditure that is attributed to the support or  
19 opposition of each measure or potential measure if the expenditure is made to support or oppose  
20 more than one measure or potential measure and requires additional disclosure under Regulation  
21 18421.8(b).

22 (7) For a loan made or received:

1 (A) The accounts and records ~~shall~~ must contain the detailed information set forth in  
2 subdivisions (a)(1)(A), (a)(2)(A), and (a)(3)(A), and include the interest rate and due date, if any,  
3 of the loan, and the full name and street address of any guarantor, or any person liable directly,  
4 indirectly, or contingently for the loan.

5 (B) The original source documentation ~~shall~~ must consist of all promissory notes,  
6 extensions of credit, security agreements, loan guarantees, and any other documents reflecting  
7 the indebtedness.

8 (8) For receipt of an enforceable promise to make a payment, as defined in Regulation  
9 18216:

10 (A) The accounts and records ~~shall~~ must contain the detailed information required for a  
11 contribution set forth in subdivisions (a)(1)(A), (a)(2)(A), and (a)(3)(A).

12 (B) The original source documentation ~~shall~~ must consist of written contracts and any  
13 other documents reflecting the enforceable promise to pay.

14 (9) For each mass mailing, as defined in Section 82041.5, sent or delivered pursuant to  
15 Regulation 18435:

16 (A) The accounts and records ~~shall~~ must contain the date of the mailing, the number of  
17 pieces mailed, and the method of postage.

18 (B) The original source documentation ~~shall~~ must consist of an original sample of each  
19 mass mailing caused to be sent by the candidate, treasurer, elected officer, or committee.

20 (10) For each mass electronic mailing, as defined in Section 84305:

21 (A) The accounts and records must contain the date of the electronic mailing and the  
22 number of individual electronic mailings sent.

1           (B) The original source documentation must consist of an original sample of each  
2 electronic mass mailing caused to be sent by the candidate, treasurer, elected officer, or  
3 committee.

4           ~~(10)~~ (11) For all written notices sent to all contributors of \$5,000 or more, pursuant to  
5 Section 84105 and Regulation 18427.1:

6           (A) The accounts and records ~~shall~~ must contain the date of each notice and the name and  
7 address of the person to whom each notice is sent.

8           (B) The original source documentation ~~shall~~ must consist of a copy of each notice sent.

9           (b) Retention of Documents

10          (1) A filer, as defined in Section 82026, has a duty to retain the accounts, records, bills  
11 and receipts, and other original source documentation required to be maintained pursuant to  
12 subdivision (a).

13          (2) A filer ~~shall~~ must maintain copies of filed campaign statements and reports and the  
14 accounts, records, bills and receipts, and original source documentation for a period of four years  
15 following the date the campaign statement to which they relate is filed. However, in the case of  
16 an elected state officer serving a four-year term, the records for campaign statements filed during  
17 the first year following his or her election must be kept for five years following the date the  
18 campaign statement to which they relate is filed.

19          Comment: In addition to other recordkeeping requirements in the Act or applicable regulations,  
20 candidates and committees ~~shall~~ must keep the records required in Regulation 18428 regarding  
21 contributions from affiliated entities. Additional recordkeeping requirements for candidates for  
22 the Legislature and statewide elective office are found in Regulation 18536 concerning the  
23 transfer and attribution of contributions, and Regulation 18540 concerning the allocation of

- 1 expenditures to the primary, general, special or runoff election for purposes of the voluntary
- 2 expenditure limits.
- 3 Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 84100-
- 4 84400, 84501, 85704 and 85700, Government Code.