

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

§ 18531.5. Recall Elections.

(a) Definitions. For purposes of this section:

(1) “Target officer” means an elected officer who is the subject of a recall effort.

(2) “Replacement candidate” means a candidate within the meaning of Section 82007 who is running to replace a target officer in the event the recall is successful and who is on the same ballot as the recall measure.

(b) Application of Contribution and Voluntary Expenditure Limits to State Recalls.

(1) Target Officer. Pursuant to Section 85315, the contribution limits of Chapter 5 of the Act do not apply to contributions accepted by an elected state officer who is the target of a recall into a separate recall committee established to oppose the qualification of the recall measure or the recall election. Pursuant to Section 85315, the voluntary expenditure limits of the Act do not apply to expenditures made by an elected state officer who is the target of a recall to oppose the qualification of the recall measure or the recall election.

(2) Replacement Candidates. The replacement candidates in a state recall election are seeking elective state office and therefore the contribution and voluntary expenditure limits of Chapter 5 of the Act apply to replacement candidates.

(3) Committees Primarily Formed to Support or Oppose a Recall. A recall is included within the definition of a “measure” in Section 82043. Therefore, except as provided in this subdivision, the contribution and voluntary expenditure limits of Chapter 5 of the Act do not apply to a committee primarily formed to support or oppose a recall.

(c) Committee Formation and Campaign Report Filing Obligations. All candidates and committees that raise and spend funds in connection with a recall have full reporting and disclosure obligations under Chapters 4 and 5 of the Act.

(1) Target Officer. A target officer may use a committee for the office held to oppose the recall. A target officer may also establish a separate committee to oppose a recall upon receiving a notice of intent to recall the officer pursuant to Elections Code section 11021. A target officer must deposit contributions accepted in the separate committee to oppose the recall in a single bank account at a financial institution located in the State of California which is separate from any other bank account held by the officer, including any campaign bank account. The word “recall” and the name of the target officer shall be included as part of the committee name in the statement of organization filed for the committee pursuant to Section 84107. A target officer opposing a recall is not required to file a new statement of intention to be a candidate for elective office pursuant to Section 85200.

(2) Replacement Candidate. A replacement candidate may establish a committee to seek elective office in a recall election. A replacement candidate must disclose all contributions received and expenditures made pursuing elective office, even if the target officer has not yet been served with notice of intent to recall. A replacement candidate is required to file a statement of intention to be a candidate for elective office pursuant to Section 85200.

(3) Committees Primarily Formed to Support or Oppose a Recall (Including Recall Proponents and Opponents). A person or group of persons who raises or spends more than \$2,000 for a recall attempt qualifies as a “committee” under Section 82013 when the target officer is served with a notice of intent to recall pursuant to Elections Code section 11021. Once the notice of intent to recall is given, the committee must report on its first campaign statement

all contributions received and expenditures made for the purpose of influencing the electorate to sign a recall petition or to vote for or against a recall election, regardless of when the contributions were received or expenditures were made. A committee primarily formed to support or oppose the recall of an elected officer must identify in the committee name, the name of the elected officer and whether the committee is in support of or opposition to the recall.

COMMENT: Committees active in a recall must file all campaign reports required by Chapters 4 and 5 of the Act. These reports include the following: the target officer, committees primarily formed to support or oppose a recall measure, and the replacement candidates must all file the semi-annual campaign reports and two pre-election reports preceding the recall election, required by Sections 84200, 84200.5 and 84200.8. In addition, committees primarily formed to support or oppose a recall measure, including a separate committee established by a target officer to oppose a recall measure, must file quarterly campaign reports required by Section 84202.3. For recalls of an elected state officer, the electronic reports required by Section 85309 must be also filed.

In addition, pursuant to Sections 81013 and 81009.5, nothing in the Act prevents a local jurisdiction from adopting a local ordinance with additional or different requirements applicable to candidates or committees involved in recall elections in that jurisdiction, including applying contribution limits to all candidates and committees participating in the recall, so long as the local ordinance does not prevent the persons from complying with the Act.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82007, 82043, 84107, 84211, 85200, 85301, 85302 and 85315, Government Code.

HISTORY

1. New section filed 8-14-2003; operative 8-14-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 33). For prior history, see Register 2001, No. 18.
2. Amendment of subsections (b)(3) and (c)(1), new subsection (d) and amendment of Note filed 7-26-2004; operative 11-3-2004 (Register 2004, No. 31).
3. Change without regulatory effect amending section 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).
4. Amendment of subsection (b)(3) filed 8-31-2016; operative 9-30-2016. 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. 36).