

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

2 **§ 18401. Required Recordkeeping for ~~Chapter~~ 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, but no accounting method will be given more credence over another and no
22 presumption of any kind regarding compliance is hereby created by the use of the last in first out

1 accounting method. Notwithstanding anything else in this clause, earmarked funds must be taken
2 into account first before non-earmarked funds.

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

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

1 (A) The accounts and records ~~shall~~ must contain all information required in subdivisions
2 (a)(1)(A) and (a)(2)(A), and include the occupation and employer (or, if self-employed, the name
3 of the principal place of business) of the contributor. Section 85700 requires the return, not later
4 than 60 days from receipt, of a contribution of \$100 or more for which the candidate or
5 committee does not have on file the name, address, occupation and employer of the contributor.
6 Regulation 18570 sets forth additional recordkeeping requirements concerning occupation and
7 employer information.

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

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

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

22 (B) The original source documentation ~~shall~~ must consist of cancelled checks, wire
23 transfers, credit card charge slips, bills, receipts, invoices, statements, vouchers, and any other

1 documents reflecting obligations incurred by the candidate, elected officer, campaign treasurer,
2 or committee, and disbursements made from any checking or savings account, or any other
3 campaign accounts, in any bank or other financial institution. In lieu of cancelled checks, the
4 original source documentation may consist of copies of cancelled checks that contain a legible
5 image of the front and back of the cancelled check, provided the copy was obtained from the
6 financial institution.

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

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

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

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

21 (C) Specifying the amount of the expenditure that is attributed to the support or
22 opposition of each measure or potential measure if the expenditure is made to support or oppose

1 more than one measure or potential measure and requires additional disclosure under Regulation
2 18421.8(b).

3 (7) For a loan made or received:

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

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

11 (8) For receipt of an enforceable promise to make a payment, as defined in Regulation
12 18216:

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

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

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

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

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

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

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

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

6 ~~(10)~~ (11) For all written notices sent to all contributors of \$5,000 or more, pursuant to
7 Section 84105 and Regulation 18427.1:

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

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

11 (b) Retention of Documents

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

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

21 Comment: In addition to other recordkeeping requirements in the Act or applicable regulations,
22 candidates and committees ~~shall~~ must keep the records required in Regulation 18428 regarding
23 contributions from affiliated entities. Additional recordkeeping requirements for candidates for

1 the Legislature and statewide elective office are found in Regulation 18536 concerning the
2 transfer and attribution of contributions, and Regulation 18540 concerning the allocation of
3 expenditures to the primary, general, special or runoff election for purposes of the voluntary
4 expenditure limits.

5 Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 84100-
6 84400, 84501, 85704 and 85700, Government Code.