

1 Amend 2 Cal. Code Regs., Section 18420.1 to read:

2 **§ 18420.1. Payments by State or Local Agencies for a Campaign Related Communication.**

3 (a) A payment of public moneys by a state or local governmental agency, or by an agent  
4 of the agency, made in connection with a communication to the public that expressly advocates  
5 the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a  
6 clearly identified measure, as defined in ~~Regulation 18225(b)(1)~~ Section 82025(c)(1), or that  
7 taken as a whole and in context, unambiguously urges a particular result in an election is one of  
8 the following:

9 (1) A contribution under Section 82015 if made at the behest of the affected candidate or  
10 committee.

11 (2) An independent expenditure under Section 82031.

12 (b) For the purposes of subdivision (a), a communication paid for with public moneys by  
13 a state or local governmental agency unambiguously urges a particular result in an election if the  
14 communication meets either one of the following criteria:

15 (1) It is clearly campaign material or campaign activity such as bumper stickers,  
16 billboards, door-to-door canvassing, or other mass media advertising including, but not limited  
17 to, television, electronic media or radio spots.

18 (2) When considering the style, tenor, and timing of the communication, it can be  
19 reasonably characterized as campaign material and is not a fair presentation of facts serving only  
20 an informational purpose.

21 (c) For purposes of subdivision (a), payments of public moneys by a state or local  
22 governmental agency made in connection with a communication include payments for both the  
23 direct and indirect costs of the communication. Indirect costs of a communication are costs

1 reasonably related to designing, producing, printing, or formulating the content of the  
2 communication including, but not limited to, payments for polling or research; payments for  
3 computer usage, software, or programming; and payments for the salary, expenses, or fees of the  
4 agency's employees, agents, vendors, and consultants.

5 (d) For purposes of subdivision (b)(2), when considering the style, tenor, timing of a  
6 communication, factors to be considered include, but are not limited to, whether the  
7 communication is any of the following:

8 (1) Funded from a special appropriation related to the measure as opposed to a general  
9 appropriation.

10 (2) Is consistent with the normal communication pattern for the agency.

11 (3) Is consistent with the style of other communications issued by the agency.

12 (4) Uses inflammatory or argumentative language.

13 (e) Notwithstanding subdivision (a), a payment for the following communications ~~shall~~  
14 are not be considered a contribution or an independent expenditure:

15 (1) An agency report providing the agency's internal evaluation of a measure made  
16 available to a member of the public upon the individual's request.

17 (2) The announcement of an agency's position at a public meeting or within the agenda or  
18 hearing minutes prepared for the meeting.

19 (3) A written argument filed by the agency for publishing in the voter information  
20 pamphlet.

21 (4) A departmental view presented by an agency employee upon request by a public or  
22 private organization, at a meeting of the organization.

23 (5) A communication clearly and unambiguously authorized by law.

1 (f) A state or local governmental agency that qualifies as a committee under Section  
2 82013 ~~shall~~ must file campaign statements and reports pursuant to Chapter 4 and any other  
3 relevant provisions of the Act.

4 COMMENT: Nothing in this regulation should be read as condoning or authorizing use  
5 of public moneys for campaign related activities by a state or local governmental agency. Under  
6 many circumstances these activities may be illegal. (See Penal Code Section 424; Government  
7 Code Sections 8314, 54964, and 89001; Education Code Section 7054; and *Vargas v. City of*  
8 *Salinas* (2009) 46 Cal.4th 1.)

9 Note: Authority cited: Section 83112, Government Code. Reference: Sections 82013, 82015 and  
10 82031, Government Code.