

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.

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 specific facts to advice@fppc.ca.gov.

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.

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).

Reimbursements

If a bank account is required (see Chapter 1), 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 8 for specific reporting rules and deadlines for reimbursements.)

Ex 5.1 - The candidate’s spouse buys bagels for the morning shift of volunteer workers. After providing the treasurer with a receipt for bagels, the treasurer may reimburse the spouse for his 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, the Internal Revenue Service may be contacted at (800) 829-1040 (www.irs.gov).

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.

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

Ex 5.3 - A fundraiser will be held to raise funds 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 5.4 - 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 allowed (discussed above)
- Fines imposed for late filing of campaign statements and Statements of Economic Interests (Form 700)

But 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.

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 8.

Ex 5.5 - When the printer breaks down, the treasurer goes out and buys a new one. While shopping, the treasurer finds a great buy on a big screen TV. While the printer is a permissible expense, since it will be used to communicate with the voters, the television does not serve a directly-related political, legislative, or governmental purpose and, therefore, may not be paid for with campaign funds.

Ex 5.6 - Your treasurer was two days late in filing the committee's first preelection statement and the filing officer fined the committee \$20. The committee may pay the fine with campaign funds.

Ex 5.7 - 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 her attendance even if the total cost is more than \$200.

Future Election

Campaign funds leftover after an election may be redesignated for a future election to seek the **same office** so long as the funds are not “surplus funds.” In addition, campaign funds leftover after an election may be transferred to a new bank account for a future election to seek a **different office** so long as the funds are not “surplus funds.” There is a discussion on when leftover funds become “surplus funds” at the end of this chapter. See Chapter 11 for the other requirements that must be met in order to use the funds for election to a future office.

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 8.

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.

Independent Expenditures

Government Code Section 85501 states that a candidate controlled committee may not make independent expenditures and may not contribute funds to another committee for the purpose of making independent expenditures to support or oppose other candidates.

However, a recent Sacramento County Superior Court decision in *Charles R. “Chuck” Reed v. Fair Political Practices Commission* found Section 85501 unconstitutional and enjoined the Commission from enforcing that provision.

Before making an independent expenditure to support or oppose another candidate, committees should seek advice from the FPPC. An advice letter (Downing, No. A-14-148) has been issued on the matter.

A candidate controlled committee for elective office may make independent expenditures to support or oppose a ballot measure.

Loans

Campaign funds may be used to make loans to other political committees, subject to applicable limits, if any. Transfers from a local candidate's committee to his or her state committee must be attributed to the original contributors. See Campaign Disclosure Manual 1 for State Candidates for more information on transfers and attribution.

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 is permitted.

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, his or her 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 2.)

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. The committee may pay for professional services such as an accountant, however, even if the accountant 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.

Security Systems

A candidate may use campaign funds to purchase an electronic security system. To do so, the candidate must have received threats to his or her physical safety because of his or her 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.

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.

Ex 5.8 - Paula Greene, a member of Supervisor Howard's staff, is also the treasurer of the Supervisor's campaign committee. Ms. Greene does all recordkeeping for the committee and completes the committee's campaign reports. She also has authority to approve committee expenditures. Campaign funds may be used to pay Ms. Greene for services she provides as committee treasurer. Funds may not be used to supplement or pay her government salary.

Ex 5.9 - Candidates for the office of mayor have been offered the chance to speak during half-time at the local college football game. Campaign funds may be used to purchase tickets for the candidates and committee staff to attend, but only because they will be speaking.

Tickets to Political Fundraisers

A committee may purchase tickets to political fundraisers (subject to any applicable contribution limits) for the candidate, officeholder, or his or her 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 8.

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 his or her 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 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 for a local office. It appears that I won't have any problem winning my seat. I would like to return some of my contributions to my contributors. May I do this?

At any time during the campaign, you may return all or part of a contribution to your contributors.

C. 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.

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

You may use campaign funds to pay a babysitter, but only up to \$200 per event.

E. 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.

F. 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.

G. 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.

H. 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 \$250 per calendar year.

I. I lost my election and have funds remaining. May I, a non-incumbent, use the leftover funds to run again in two years?

If you wish to use funds left over from an unsuccessful race for a future election to the same office, file a new Form 501 and amend your existing Form 410 within 90 days after the end of the postelection reporting period. 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. If you plan to run for a different office, file a new Form 501, transfer the funds to a new campaign bank account, and file a new Form 410. If 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.
- 84307.5 Fundraising Payments Made to a Spouse or Domestic Partner.
- 85201 Campaign Bank Account.
- 85501 Prohibition on Independent Expenditures by Candidate Controlled Committees.
- 85700 Donor Information Requirements; Return of Contributions.
- 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.
- 89518 Use of Campaign Funds for Compensation.
- 89519 Use of Surplus Campaign Funds.

Title 2 Regulations

- 18526 Reimbursement of Expenditures.
- 18570 Return of Contributions with Insufficient Donor Information.
- 18951 Surplus Funds.
- 18960 Direct Personal Benefit Defined.
- 18961 Incidental Use.