

CONTRIBUTIONS

This chapter begins with a discussion of common types of contributions and includes information on the state contribution limits.

A. What is a Contribution?

A contribution is a monetary or nonmonetary payment made to a candidate or committee for which the candidate or committee has not provided full and adequate consideration in return. A contribution may take any of the following forms:

- Money (cash, check, credit card, wire transfers)
- Loans (including loan guarantees, co-signing, lines of credit, and forgiveness of a loan)
- Tickets to political fundraisers (full value of the ticket)
- Nonmonetary items (donated goods or services)
- Enforceable promises

Common types of nonmonetary contributions include:

Staff: If a business donates the use of an employee to work on a campaign, the amount the individual is paid for working on the campaign is a nonmonetary contribution if the employee spends more than 10 percent of his or her compensated time in a calendar month working on campaign activity for any number of candidates or committees. The amount is the pro-rata portion of the gross salary attributed to political activity. The names, addresses, and specific salaries of the employees are not required to be reported.

Discounts: If an entity provides a discount on goods or services to a committee and the discount is not offered to the public in the regular course of business, the discount is a nonmonetary contribution.

Enforceable Promises: A legally enforceable promise to pay for goods or services is a contribution. A pledge card is not considered an enforceable promise to make a contribution. “Enforceable promise” also does not include a contributor’s agreement to make future installment payments through wire transfer, credit card transaction, debit account transaction, or similar electronic payment.

Quick Tip

Office Space: The value of donated office space may be computed based on comparable rental rates for office space in the area.

Phone Banks: Businesses and other entities will sometimes allow a committee to use their phones to call prospective voters during non-business hours. The fair market value of the use of the phones is calculated to determine the amount reported as a nonmonetary contribution, even if only local calls are made. One method to determine the fair market value is to contact organizations that provide phone banks as a business.

Joint Fundraisers: Major donors will sometimes pay for a fundraising event for multiple candidates. The fair market value of the contribution for each candidate may be allocated based on the amount of expenditures and the number of candidates at the event. Also see page 2.5.

Polls: A person or entity that provides data from a privately purchased public opinion poll or survey to a candidate or committee is making a nonmonetary contribution if the candidate or committee requests the data or the data are used for political purposes. A formula utilized by the Federal Election Commission may be used for valuing polling or survey data, as long as the formula is used in a reasonable manner to provide a fair estimate. The formula calculates the value based on the age of the data. The chart below illustrates the fair market value of data based on the number of days that pass from the date the entity originally received the data to the date the data were provided to the candidate or committee.

Age of Data	Value
0 -15 days	Full Value
16 - 60 days	50%
61 - 180 days	5%
More than 180 days	No Value

When only a portion of a survey is provided to or for the benefit of a candidate or committee, the nonmonetary contribution is the prorated portion of the total value of the survey.

B. Reporting Contributions Made

In general, a monetary contribution is made on the date that the contribution is mailed, delivered, or otherwise transmitted to the candidate or committee. Alternatively, the date of the check may be used provided it is no later than the date the contribution is mailed, delivered, or otherwise transmitted. For example, a check dated July 10 and delivered June 10 is made on June 10. Whereas, a check dated May 5 but delivered June 10 may be reported as made on either May 5 or June 10.

A nonmonetary contribution is made on the earlier of the following:

- The date funds were expended by the contributor for the goods or services; or
- The date the committee or an agent of the committee obtained possession or control or otherwise receives the benefit of the goods or services.

Services of salaried personnel are considered made on the payroll date.

When a nonmonetary contribution is made, the fair market value must be reported. The value of all nonmonetary contributions of \$100 or more must be reported in writing to the recipient upon the recipient's written request.

Joint Checking Accounts: Individuals (including spouses) may make separate contributions from a joint checking account. For reporting purposes, the full amount of the contribution is reported as made from the individual who signs the check. If two or more individuals sign the check, the contribution is divided equally between or among the signers, unless there is an accompanying document signed by each individual whose name is printed on the check that clearly indicates a different apportionment.

Ex 2.1 – Linda and Jerry Nelson are both listed names on a joint checking account. From this account, Linda signed a \$15,000 check payable to Citizens Against Street Crime, Yes on Measure D. Linda is the contributor of the full \$15,000.

A check drawn on a joint checking account that is signed by an individual not listed on the check (e.g., an accountant) must be accompanied by a document signed by at least one of the individuals listed on the check stating to whom the check is to be attributed.

Generally, if a check is drawn on the account of a business entity, the contributor is the business entity, not the individual who signed the check.

A contribution made by a child under the age of 18 is presumed to be a contribution from his or her parent or guardian, unless the facts show otherwise (i.e., that the child actually chose to make the contribution).

Affiliated Committees: A major donor committee that files campaign statements disclosing contributions made by affiliates must notify the recipients of its contributions of the name used on the major donor campaign statement under the “name of filer.”

C. Contribution Exceptions

There are many exceptions to the definition of “contribution.” Four common exceptions include:

Volunteer Personal Services: If an individual donates his or her personal or professional services to a campaign, no contribution has been made or received. However, if an employer donates employee services to a campaign, and any employee spends more than 10 percent of his or her compensated time in a calendar month providing the services, the employer has made a nonmonetary contribution. “Volunteer personal services” does not include any tangible items. Donated goods are contributions. A volunteer’s travel expenses are not nonmonetary contributions as long as there is no understanding that the expenses will be repaid.

Ex 2.2 – Global Software made a \$13,000 contribution to a ballot measure committee. Global Software’s contributions are reported on the major donor statement filed under the name of Pace Computers, Global Software’s parent. Global Software must notify the ballot measure committee that the contribution is disclosed on the campaign statement filed by Pace Computers. The ballot measure committee will identify both Global Software and Pace Computers on its campaign statement.

Home/Office Fundraisers: If someone holds a fundraiser or other campaign event in his or her home or office for one or more candidates, the costs incurred by the occupant of the home or office need not be reported as long as the total cost of the event is \$500 or less. However, if someone else donates food, beverages, or anything else of value for the event, the fair market value of those donated goods is a nonmonetary contribution. In addition, the donated goods must be counted to determine whether the total cost of the event is \$500 or less. This exception does not apply to a lobbyist (or a cohabitant of a lobbyist) or a lobbying firm.

Member Communications: Payments made by an entity (including a business entity) for a communication that supports or opposes a candidate or ballot measure are not contributions or expenditures as long as the communication is sent only to the organization's members, employees, shareholders, or their families. The payments may not be for general public advertising, such as billboards, newspaper, radio, or television ads.



Ex 2.3 – Shannon sponsors an event for a candidate after work in her business' office. She spends \$450. A friend supplies decorations worth \$75. Since the total cost of the event exceeds \$500, the candidate must report receiving contributions of \$450 from Shannon and \$75 from the friend.

Quick Tip

The total cost of a home or office fundraiser must be \$500 or less. This is true no matter how many committees or candidates benefit from the event.

Ex 2.4 – A corporation sends a mailing supporting a ballot measure to the corporation's shareholders. The mailing is not a contribution to the ballot measure committee whose position is supported or an independent expenditure.

At the behest of a ballot measure committee, the corporation sends a mailing supporting Measure A to all registered voters in the district where the measure will appear on the ballot. The mailing to the voters is a nonmonetary contribution.

Quick Tip

Consult Regulation 18215 for a complete list of exceptions to the definition of a contribution.

Payments for Governmental, Legislative, or Charitable Purposes:

Payments made in connection with a governmental, legislative, or charitable event, such as a job or health fair, a charity fundraiser, or a conference on educational issues, that are coordinated or requested by an elected official from a source other than the official's agency, such as a business, are generally not considered gifts or contributions to the elected official who is co-sponsoring the event. This includes payments behested by the official or by his or her agent or employee on the official's behalf. These payments (sometimes referred to as "behested payments") are not for personal or campaign purposes. However, the official may be required to report such payments on the Form 803 if they total \$5,000 or more. A major donor is not required to report such payments on Form 461.

The official must file Form 803 within 30 days following the date on which the payment(s) meets or exceeds \$5,000 in the aggregate from a single source in a calendar year. The FPPC posts on its website payments made at the behest of state elected officials and members of the Public Utilities Commission.

Ex 2.5 – At Councilmember Stark's request, Diamond Dairy made a \$10,000 donation to the Boys' and Girls' Club. Councilmember Stark will file Form 803 with the city clerk disclosing the donation and donor's name and address. Diamond Dairy is not required to report the payment.

Quick Tip

Merely inviting an elected official to speak at an event is not a behested payment.

D. Contribution Restrictions

The True Source of Contributions Must Be Disclosed: One of the prohibitions in the Act states that no contribution shall be made, directly or indirectly, by any person in a name other than the name by which the person is identified for legal purposes. Failure to disclose the true source of a contribution is a serious violation of the law. For example, reimbursing employees or others so that the original source of the contribution is hidden from the candidate or committee is unlawful.

Ex 2.6 – Build Right Homes is a housing company located in Sun City, California. Sun City has a \$1,000 per election contribution limit for local officials. The City Council is considering a contentious slow-growth plan for Sun City. Concerned about the plan, the president of Build Right Homes makes a maximum contribution to a council candidate who opposes it. He asks the employees of Build Right Homes to do the same, and plans to reimburse them. Reimbursing employees or others to get around contribution limits is called campaign money laundering and is illegal.

Ex 2.7 – In the weeks before an election, an out-of-state nonprofit organization for citizen rights made a \$5 million contribution to a California state ballot measure committee, without reporting the source of the funds. The \$5 million contribution originated with another out-of-state nonprofit organization and was transferred through two other nonprofit groups before it was contributed to the ballot measure committee. Failing to report the true source of the contribution is campaign money laundering. Under Sections 84301 and 84302, the true source of the contribution must be reported, and the nonprofit organizations through which the funds were transferred must be identified as intermediaries for the contribution.

Quick Tip

Reimbursing contributions of employees or others, in attempts to avoid or to get around state or local contribution limits, is a violation of Section 84301.

Quick Tip

An intermediary of a contribution also has a duty to disclose to a candidate or committee the true source of the funds.

Contributions of \$100 or More: Monetary contributions of \$100 or more must be made by written instrument (such as a check) containing the name of the donor and drawn from the account of the donor or intermediary. Contributions may also be made by credit card or electronic transmission (e.g., wire transfer).

Contributions of \$100 or more made by money order, cashier's check, or traveler's check are prohibited. A cash contribution of \$100 or more is prohibited and an anonymous contribution of \$100 or more is prohibited.

In addition, a candidate or committee must return a contribution of \$100 or more from an individual if the individual's name, address, occupation, and employer are not obtained within 60 days of receipt of the contribution. All contributions to a candidate or committee must be made in the name by which the contributor is identified for legal purposes.

Intermediary: An intermediary is a person or entity that makes a contribution on behalf of another person and has been or will be reimbursed for the contribution. For each contribution of \$100 or more from an intermediary, the name, address, and, if applicable, the occupation and employer information must be disclosed for both the true source of the contribution and the intermediary.

Contributions in State Office Buildings Prohibited: Contributions may not be delivered, personally or through an agent, in the State Capitol or other state office building if the State of California pays the majority of the rent for that building. "Personally delivered" includes the delivery of a copy or facsimile of a contribution, and the original or a copy of a contribution transmittal letter. This prohibition does not apply to contributions received or delivered in a legislative district office, or those sent by mail.

Contributions from Foreign Governments or Principals

Prohibited: A foreign government or foreign principal may not make contributions or expenditures in connection with the qualification or support of, or opposition to, any state or local ballot measure. The term “foreign principal” as defined in 22 U.S.C.A. Section 611(b) includes:

- A foreign political party;
- A person outside the United States, unless the person is a U.S. citizen or a U.S. corporation whose principal place of business is in the United States;
- A foreign partnership, association, corporation, or organization; and
- A domestic subsidiary of a foreign corporation if the decision to contribute or expend funds is made by an officer, director, or management employee of the foreign corporation who is not a U.S. citizen or lawful permanent resident.

Contributions from Foreign Nationals, National Banks, or

Corporations Prohibited: Foreign nationals, national banks, and federally-chartered corporations may not make contributions in connection with any local, state, or federal election. (The Federal Election Campaign Act (52 USCS section 30118).) Contact the Federal Election Commission for more information at (800) 424-9530.

Pay-to-Play Laws: Some localities in California have pay-to-play ordinances that prohibit city contractors from making campaign contributions to candidates for public office in that jurisdiction.

Disqualification and Campaign Contributions: Government Code section 84308 disqualifies certain appointed board members and commissioners from participating in governmental decisions affecting campaign contributors (including the parent, subsidiary, or affiliate of a campaign contributor) who have given more than \$250 within 12 months before the decision. Section 84308 applies to proceedings

on licenses, permits, and other entitlements for use pending before certain state and local agencies, boards, and commissions. In addition, the official is prohibited from accepting or soliciting contributions of \$250 or more from the parties and other participants during the proceeding. Contact the FPPC for more information.

E. State Contribution Limits

Candidate Election Committees: Candidates for state office have limits on how much they may accept from a single source per election. For purposes of contribution limits, the primary, general, special, and special runoff elections are considered separate elections. Contribution limits may increase or decrease every two years based on changes in the Consumer Price Index.

Candidates may raise contributions for a general or special general election prior to a primary or special primary election. If the candidate loses or withdraws from the general or special general election, contributions received for the general or special general election must be returned to the contributors on a pro rata basis, less the cost of raising and administering the funds. The chart on the next page lists the current contribution limits.

Quick Tip

Contributions from affiliated committees are aggregated for purposes of the limits on contributions to state candidates. (See Chapter 1.)

Ex 2.8 – Assemblymember Jones opens an officeholder committee in November. In June of the following year, Jones opens a committee to run for Senate. A \$3,000 contribution to the officeholder committee counts toward the 2015-2016 contribution limit of \$4,200 from the same contributor to the Senate committee. The donor may only contribute \$1,200 to the Senate committee.

California Fair Political Practices Commission

California State Contribution Limits

(Effective January 1, 2015 - December 31, 2016)

Candidates seeking a state office and committees that make contributions to state candidates are subject to contribution limits from a single source. (Sections 85301 - 85303.) Contributions from affiliated entities are aggregated for purposes of the limits. (Regulation 18215.1.) The chart below shows the current limits per contributor for state offices. The primary, general, special, and special run-off elections are considered separate elections. Contribution limits to candidates apply to each election. Contribution limits to officeholder and other committees apply on a calendar year basis. Contact your city or county about contribution limits for local offices.

Contribution Limits to State Candidates Per Election

Candidate or Officeholder	Contributor Sources		Political Party
	Person (individual, business entity, committee/PAC)	Small Contributor Committee (see definition on page 2)	
Senate and Assembly	\$4,200	\$8,500	No Limit
CalPERS/CalSTRS	\$4,200	\$8,500	No Limit
Lt. Governor, Secretary of State, Attorney General, Treasurer, Controller, Supt. of Public Instruction, Insurance Commissioner, and Board of Equalization	\$7,000	\$14,100	No Limit
Governor	\$28,200	\$28,200	No Limit

Contributions to Other State Committees Per Calendar Year

Committee	Contributor Sources
	Person (individual, business entity, committee/PAC)
Committee (Not Political Party) that Contributes to State Candidates (PAC)	\$7,000
Political Party Account for State Candidates	\$35,200
Small Contributor Committee	\$200
Committee Account NOT for State Candidates (Ballot Measure, PAC, Political Party)	No Limit*

*State committees (including political parties and PACs) may receive contributions in excess of the limits identified above as long as the contributions are NOT used for state candidate contributions. (Regulation 18534.)

Contributions to State Officeholder Committees Per Calendar Year

Committee	Contributor Sources	
	Any Source (Person, Small Contributor Committee or Political Party)	Aggregate From All Sources
Senate and Assembly	\$3,500	\$58,500
CalPERS/CalSTRS	\$3,500	\$58,500
Lt. Governor, Secretary of State, Attorney General, Treasurer, Controller, Supt. of Public Instruction, Insurance Commissioner, and Board of Equalization	\$5,900	\$117,100
Governor	\$23,400	\$234,200

F. Campaign Rules

Extensions of Credit: When there is an agreement with the provider of goods or services that a state candidate or committee will pay for goods or services on credit, the goods or services may become a contribution to the candidate or committee and be subject to contribution limits if it remains unpaid after 45 days.

Contributions that Exceed the Limits: A violation of the Act does not occur if a contribution to a state candidate that exceeds the limit is not deposited into the candidate's bank account and is returned within 14 days of receipt. For nonmonetary contributions, either the item itself, its monetary value, or the monetary amount by which the value of the nonmonetary contribution exceeds the limits must be returned within 14 days of receipt.

Legal Defense Funds: State and local candidates and officeholders may establish a legal defense fund to defray attorney's fees and other related legal costs incurred for the candidate's or officeholder's legal defense. The candidate or officeholder must be subject to a civil or criminal proceeding or administrative proceeding arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officeholder's governmental activities and duties. Contributions made to a legal defense committee are reportable but are not subject to contribution limits. Legal defense committees are required to have the candidate's or officeholder's last name and the words "legal defense" in the name of the committee.

Recall Elections: A state officeholder who is the subject of a recall may set up a separate committee to oppose the qualification of the recall measure and, if the recall petition qualifies, the recall election. Contributions to this committee are reportable but are not subject to limits.

Ballot Measure Committees: A primarily formed or general purpose ballot measure committee is not subject to state contribution limits, including those committees controlled by a state candidate or officeholder, unless the contribution is made by a state candidate or officeholder. However, funds from a ballot measure committee may not be used for the state candidate's election.

Contribution Limits and Repaid Loans: Loans are contributions subject to contribution limits. However, if a loan has been repaid, the lender may make additional contributions to the same candidate or committee up to the contribution limit.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

82015	Contribution.
82025	Expenditure.
82031	Independent Expenditure.
82044	Payment.
82047	Person.
84211	Contents of Campaign Statement.
84300	Cash and In-Kind Contributions; Cash Expenditures.
84302	Contributions by Intermediary or Agent.
84304	Anonymous Contributions; Prohibition.
84308	Contributions to Officers; Disqualification.
84309	Transmittal of Campaign Contributions in State Office Buildings; Prohibition.
85301	Limits on Contributions from Persons.
85303	Limits on Contributions to Committees and Political Parties.
85304	Legal Defense Fund.
85306	Transfers Between a Candidate's Own Committees; Use of Funds Raised Prior to Effective Date.
85307	Loans.
85308	Family Contributions.
85312	Communications to Members of an Organization.
85320	Foreign Entities.
85700	Donor Information Requirements; Return of Contributions.

Title 2 Regulations

- 18215 Contribution.
- 18215.1 Contributions; When Aggregated.
- 18216 Enforceable Promise to Make a Payment.
- 18225 Expenditure.
- 18225.7 Made at the Behest of.
- 18421.1 Disclosure of the Making and Receipt of Contributions.
- 18423 Payments for Personal Services as Contributions and Expenditures.
- 18428 Reporting of Contributions and Independent Expenditures Required to be Aggregated.
- 18432.5 Intermediary.
- 18439 Definition of “Personally Deliver.”
- 18530.4 Legal Defense Funds - State Candidates and Officers.
- 18530.45 Legal Defense Funds - Local Candidates and Officers.
- 18530.7 Extensions of Credit.
- 18531 Return of Excessive Contributions.
- 18531.5 Recall Elections.
- 18531.62 Elected State Officeholder Bank Accounts.
- 18531.7 Payments for Communications—Section 85312.
- 18533 Contributions from Joint Checking Accounts.
- 18537 Contributions Limits and Application to Repaid Loans.
- 18545 Contribution Limits and Voluntary Expenditure Ceiling Amounts.