Chapter 10
Restrictions

Although the Political Reform Act is primarily a disclosure law, there are several important restrictions and prohibitions on receiving contributions and spending committee funds. This chapter reviews these restrictions and prohibitions, as well as some that are contained in laws other than the Political Reform Act.

Restrictions on Contributions

Launed Funds

If a contribution of $100 or more is received from a single source in a calendar year, the source must be identified on the committee’s Form 460. If a contribution is received through an intermediary, both the intermediary and the true source of the contribution must be identified. If the information for both the true source and the intermediary is not provided, this is considered laundering, a serious violation of the Political Reform Act. Any laundered contributions must be paid to the Secretary of State for deposit in the State General Fund.

Examples

Barry owns a music store and supports the Committee for a Better Tomorrow, Sponsored by the California Optimists, a state general purpose committee. Since Barry was going to be out of town when the committee’s fundraiser was held, he asked an employee of his to attend on behalf of the store. The employee attended the fundraiser using a personal check to pay $100. Upon his return, Barry reimbursed the employee the $100 with a company check. At the time the employee made the contribution to the committee, she informed them that Barry’s music store was the true source of the funds. The committee’s campaign report must itemize both Barry’s store and the employee. The name of Barry’s store and its address, along with the employee’s name, address, occupation, and employer are reported.

Barry’s employee attended another fundraiser for the Committee for a Better Tomorrow, Sponsored by the California Optimists, but this time Barry wrote a company check to the committee, which the employee used to attend the fundraiser. In this case, the committee reports only Barry’s store as the source of the contribution; the employee is not an intermediary.

Cash

A committee may not accept a cash contribution of $100 or more. Such a contribution may be returned to the contributor prior to the end of the reporting period, provided the cash was not previously deposited or spent. A cash contribution that is inadvertently deposited into the committee bank account must be refunded within 72 hours of receipt.

Anonymous Contributions

Anonymous contributions of $100 or more are prohibited. If the committee receives a cash contribution of $100 or more from an unknown source, it must be sent to the Secretary of State for deposit in the State General Fund.

Commingling

Committee funds may not be commingled with an individual’s personal funds and may not be used for personal expenses. Committee funds must be kept in an account separate from any account that contains personal funds.

Money Orders/Cashier’s Checks/ Traveler’s Cheques

All monetary contributions of $100 or more must be made by written instrument (such as
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a check) containing the name of the donor and drawn from the account of the donor or the intermediary. Contributions of $100 or more made by money order, cashier’s check, or traveler’s cheque are prohibited and must be returned to the contributor, or, if made anonymously, sent to the Secretary of State for deposit in the State General Fund.

Contributions may be received by credit card (including over the Internet), wire transfer, or other electronic means. (See Chapter 3.)

Legal Name
Contributions must be made in the name by which the contributor is identified for legal purposes.

Delivered in State Office Buildings
A contribution may not be received or delivered to another person, personally or through an agent, in the State Capitol or any other office building for which the State of California pays the majority of the rent.

This prohibition does not apply to contributions received or delivered in a legislative district office or through the mail.

State Lobbyists
A lobbyist may not make a contribution to an elected state officer or a candidate for elective state office if the lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer. A lobbyist is not prohibited from advising his or her clients (including sponsored committees) regarding the making of contributions to state candidates. However, if the committee receives personal funds from a lobbyist and the lobbyist participates in the decisions to make contributions, the committee is prohibited from making contributions to state candidates who are seeking or holding an office of an agency the lobbyist is registered to lobby.

From Foreign Governments or Principals
Committees are prohibited from soliciting or accepting contributions from a foreign government or foreign principal in connection with the qualification or support of, or opposition to, any state or local ballot measure.

For purposes of this prohibition, a “foreign principal” includes:

- A foreign political party;
- A person outside the United States, unless either of the following is established:
  - The person is an individual and a citizen of the United States; or
  - The person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States;
- A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country; or
- 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 neither a citizen of the United States nor a lawfully-admitted permanent resident of the United States.

Contributions, expenditures, or independent expenditures made by a lawfully-admitted permanent resident of the United States are permitted.
Misuse of Public Resources

The Political Reform Act prohibits public financing of campaigns, except for elections in charter cities and counties.

In addition, laws outside the Act prohibit the use of public resources, such as office equipment, staff time, etc., for campaign or personal purposes. (Gov. Code Section 8314; Penal Code Section 426.)

Government Code Section 54964 prohibits an officer, employee, or consultant of a local agency from expending or authorizing the expenditure of any local agency funds to support or oppose a ballot measure or a candidate.

For further information on laws outside the Act, contact the Attorney General’s office at (800) 952-5225 or your district attorney.

Use of Campaign Funds

To ensure that campaign funds are not used for personal benefit, the expenditure of committee funds must be reasonably related to a political, legislative, or governmental purpose. An expenditure must be directly related to a political, legislative, or governmental purpose if it confers a substantial personal benefit on any individual authorized to approve committee expenditures or the controlling candidate, if applicable.

Examples

The Thousand Oaks Residents for Education committee buys pizzas for its volunteers who meet every month to discuss committee business and strategy. This is allowed, since there is a reasonably-related political purpose for this expenditure.

The treasurer of the committee has decided to enter an accounting certificate program at the university in Thousand Oaks. While the program may enhance her qualifications as a treasurer, she may not use committee funds for this purpose; a certificate would confer a personal benefit to her that is not considered directly related to a political, legislative, or governmental purpose.

Campaign funds held in general purpose ballot measure committees controlled by state candidates are restricted. Campaign funds may not be used to make contributions to controlled committees for elective office. Campaign funds must be used only to make expenditures related to the measures or potential measures identified on the Form 410. Expenditures may also include reasonable and ordinary operating costs, administrative overhead, fundraising activities, travel, compliance costs and attorney’s fees incurred as a result of the committee’s activities. The committee may at any time return all or part of a contribution to a committee contributor. A committee that is preparing to close may, in the 60 days before the committee terminates, disburse leftover funds to a bona fide charitable, educational, civic, religious or similar non-profit organization as long as the donation does not personally benefit the controlling candidate, committee treasurer or any individual with authority to approve the expenditures of committee funds or any such person’s immediate family member.

Election Night Celebrations

Costs associated with election night celebrations or similar campaign events may be paid by the committee.

Attorneys’ Fees

Generally, attorneys’ fees and other costs related to administrative, civil, or criminal litigation may not be paid with committee funds unless the litigation is directly related to the committee’s activities that are consistent with its primary objectives. Some expenses that may be paid with committee funds include:
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- 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 a ballot or challenge the wording of a ballot pamphlet;
- Contest an election;
- Election recount; and
- Compliance expenses (for example, completing campaign disclosure reports).

Automobile Expenses

Lease or Purchase
When making payments associated with leasing, purchasing, or operating a vehicle, such as insurance, maintenance, and repairs, the committee must be the lessee or hold title to the vehicle. Additional titleholders may not be the controlling candidate, if applicable, treasurer, or any other person who may approve committee expenditures, or a member of any such person’s immediate family (spouse, registered domestic partner, and dependent children). Additional lessees may not be the controlling candidate, treasurer, or a member of any of these persons’ immediate family.

Reimbursed Automobile Expenses
A controlling candidate, immediate family member, treasurer, and committee staff may be reimbursed by the committee for use of a personal vehicle if the use is directly related to a political, legislative, or governmental purpose. Documentation should be kept that 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
Clothing is a personal expense. The committee may not pay for an individual’s business or casual clothing.

Donations and Loans
Committee funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organizations. The donation or loan must be reasonably related to a political, legislative, or governmental purpose. In addition, the donation may not personally benefit the controlling candidate, if applicable, committee treasurer, or any individual with authority to approve the expenditures of committee funds, or any such person’s immediate family member (spouse, registered domestic partner, and dependent children). A sponsored committee may not donate campaign funds to its sponsoring organization for general expenses of the sponsor.

Equipment and Appliances
Committee 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.

Food
A committee may pay for a meal when the expenditure is $200 or less, as long as the expense 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. Committees controlled by a candidate or
officeholder have additional disclosure and recordkeeping requirements for meals. (See Chapters 3 and 8.)

**Fines, Penalties, Judgments, and Settlements**

Only the following fines, penalties, judgments, and settlements may be paid with committee funds:

- Parking citations received while performing political, legislative, or governmental activities.
- Fines assessed in relation to situations in which the use of committee funds to pay for an attorney is allowed (discussed above).
- Fines imposed for late filing of campaign statements.

**Example**

*Your treasurer was two days late in filing the committee’s first pre-election statement and the Secretary of State has fined the committee $20. The committee may pay the fine with committee funds.*

**Gifts**

Unless directly related to a political, legislative, or governmental purpose, personal gifts may not be paid for from committee funds. However, as long as no one individual receives a total of $250 or more in a calendar year, gifts to committee employees or workers are permitted because they are considered directly related to a political, legislative, or governmental purpose. If the committee pays for a gift to a member of the immediate family (spouse, registered domestic partner, and dependent children) of a committee employee or worker, it should be considered a gift to the employee or worker when calculating whether the $250 per person limit has been met. Committees controlled by a candidate or officeholder have additional disclosure and recordkeeping requirements for gifts. (See Chapters 3 and 8.)

**Health-Related Expenses**

A committee may pay for health care benefits for its employees or independent contractors. However, no other health-related expenses may be paid with committee funds; a committee may not, as an example, pay for any volunteer’s health club dues, special dietary foods, or medical check-ups.

**Loans**

Committee funds may be loaned to other political committees. (Certain state committees are subject to contribution limits. See Chapter 2.) In addition, committee funds may be used to make loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organizations. However, the loan may not personally benefit the controlling candidate, if applicable, committee treasurer, or any individual with authority to approve the expenditure of committee funds, or any such person’s immediate family member (spouse, registered domestic partner, and dependent children). The loan must be reasonably related to a political, legislative, or governmental purpose. Committee funds may not be loaned to an individual or to an entity other than those described above. A sponsored committee may not loan campaign funds to its sponsoring organization for general expenses of the sponsor.

**Lobbying**

A committee’s funds may be used to attempt to influence legislative or administrative action. Expenditures for lobbying may include salaries for lobbyists and their support staff, bill tracking services, overhead expenses in support of a lobbyist, and other payments associated with lobbying.
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(Additional reports may be required. See the Information Manual on Lobbying Disclosure.)

Professional Services
When the committee reasonably requires the services of professionals, such as accountants or attorneys, their fees may be paid with committee funds.

Real Property
The committee may NOT purchase real property. It may, however, lease property for up to one year, as long as its use is directly related to a political, legislative, or governmental purpose. Neither the controlling candidate, if applicable, committee treasurer, any individual with authority to approve the committee’s expenditures, or an immediate family member (spouse, registered domestic partner, and dependent children) of any of these persons may 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 in a calendar year is received from a single contributor, the committee must report 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, the contribution must be returned. (See Chapter 3.)

Salary and Compensation
The controlling candidate, if applicable, 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.

Example Paula Greene, a member of Senator Howard’s staff, also is the treasurer of the Senator’s state general purpose ballot measure committee. Ms. Greene does all recordkeeping for the committee and completes the committee’s campaign reports. She also has authority to approve committee expenditures. Committee 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.

Tickets for Entertainment and Sporting Events
The committee may purchase entertainment and sporting event tickets for use by the controlling candidate, if applicable, or officer, director, employee, or staff of the committee, as long as attendance is directly related to a political, legislative, or governmental purpose. Committees controlled by a candidate or officeholder have additional disclosure and recordkeeping requirements for gifts. (See Chapter 3 and 8.)

Tickets to Political Fundraisers
The committee may purchase tickets to a political fundraiser. A lobbyist may attend a fundraising event paid for by the committee. See page 10-2 for state lobbyist restrictions.

Travel
A committee that pays for travel or accommodations for the controlling candidate, if applicable, any individual with authority to approve the committee’s expenditures, or employees or staff of the committee must comply with the standards
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set by Internal Revenue Code Sections 162 and 274 (deduction of travel expenses for tax purposes). The Internal Revenue Service may be contacted at (800) 829-1040 or www.irs.ustreas.gov for more information.

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.

Answering Your Questions

Q. I am the treasurer of a state general purpose ballot measure committee. I make long distance campaign phone calls on my home phone. How may I pay for them?
A. One method is to calculate the portion of the phone bill that is campaign related. Have the committee write a check for that portion directly to the phone company. Otherwise, you may pay for the bill with personal funds and subsequently request reimbursement from the committee treasurer by providing a copy of the bill.

Q. As a volunteer for our general purpose committee, I will occasionally use my personal car to assist the committee. Is mileage considered a reportable contribution to the committee if I do not want to be reimbursed?
A. No. Incidental use of your personal car for campaign purposes is not considered a contribution and is not reportable.

Q. May I use committee funds to have an additional telephone line put in my home?
A. Yes, as long as the additional phone line is used for committee purposes only. If you choose to retain the additional phone line for personal purposes, you may pay the committee what it would cost to install an additional line at that time.

Q. Is it permissible to have an agreement with an independent contractor (e.g., the committee fundraiser) to pay additional money if we surpass our fundraising goals?
A. Yes, under the Act you may make contingency agreements that the committee will not pay a contractor unless a particular outcome is achieved in fundraising or campaign results, or that a bonus will be paid depending upon an outcome. The arrangement should be made part of the written contract.

Q. May we give bonuses to our committee workers?
A. Yes, but in most cases, the bonuses would be considered gifts and must be limited to less than $250 per calendar year.

Q. May we give campaign funds to our committee’s sponsor to help pay the sponsor’s general operating expenses?
A. No. Committee funds may only be used for political, legislative, or governmental purposes.

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

Government Code Sections
82025  Expenditure.
82044  Payment.
84300  Cash and In-Kind Contributions; Cash Expenditures.
84301  Contributions Made Under Legal Name.
84302  Contributions by Intermediary or Agent.
84304  Anonymous Contributions.
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84307  Commingling with Personal Funds.
84309  Transmittal of Campaign Contributions in State Office Buildings.
84607  Prohibition Against Political or Campaign Use.
85320  Foreign Entities.
85700  Donor Information Requirements; Return of Contributions.
85701  Laundered Contributions.
85702  Contributions from Lobbyists.
89511  Campaign Funds Held by Candidates and Committees.
89512.5 Expenditures by Committees Not Controlled by Candidates.
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.
89518  Use of Campaign Funds for Compensation.

Title 2 Regulations

18225  Expenditure.
18421.7 Reporting an Expenditure for a Gift, a Meal, or Travel.
18421.8 Reporting an Expenditure by a Candidate Controlled General Purpose Ballot Measure Committee.
18432.5 Intermediary.
18439  Definition of “Personally Deliver.”
18521.5 Ballot Measure Committees Controlled by Candidates for Elective State Office.
18570  Return of Contributions with Insufficient Donor Information.
18572  Lobbyist Contributions-Making a Contribution Defined.
18960  Direct Personal Benefit Defined.
18961  Incidental Use.