



California Political Attorneys Association

c/o Olson Remcho LLP
555 Capitol Mall, Suite 400
Sacramento, CA 95814
Telephone: (916) 442-2952
eandrews@olsonremcho.com

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VIA EMAIL

Chair Silver and Commissioners Brandt, Ortiz, Wilson, and Zettel
California Fair Political Practices Commission
1102 Q St #3000
Sacramento, CA 95811

Re: Comment Letter on Proposed Regulation 18430.1

Dear Chair Silver and Commissioners Brandt, Ortiz, Wilson, and Zettel

The California Political Attorneys Association (CPAA) writes to offer comment on Proposed Regulation 18430.1 regarding prepaid cards, which will be considered for adoption by the Commission at its August 21, 2025 meeting. While CPAA understands the intent behind this regulation, we believe that the restrictions imposed by the current draft on expenditures made using prepaid cards are not supported by statutory authority and that there are less restrictive means to address the identified concerns. CPAA agrees with the Commission that prohibiting receipt of contributions made using these instruments is valid and, therefore, this letter does not address concerns related to 18430.1(a)(2).

Proposed Regulation 18430.1(a)(1) provides that candidates and committees may not use campaign funds of \$100 or more to purchase a prepaid debit, prepaid credit, or gift card. Proposed Regulation 18430.1(b) allows for a committee to purchase a gift card exceeding \$100 for certain employees and campaign staff.

In its Adoption Memorandum dated August 11, 2025, FPPC staff reason that limiting use of campaign funds for expenditures of \$100 or more for prepaid cards is necessary to stop misuse of campaign funds where expenditures using prepaid cards cannot be tracked. The memo provides: "Enforcement Division Special Investigators discovered instances where candidates and officeholders provided prepaid debit cards to staffers who used these cards for a variety of purchases, including alcohol, gas, groceries, and food delivery services, with little to no oversight or transparency. As these prepaid cards are not linked to an account, there are no payment records to verify these expenditures..."

CPAA agrees with the FPPC that the ability to track use of campaign funds is central to the purposes of the Political Reform Act (the “Act”). However, current Draft Regulation 18430.1(a)(1) exceeds the FPPC’s statutory authority, and the FPPC can instead achieve its objective through imposing recordkeeping requirements for prepaid cards.

Statutory Authority

The Act provides that “[n]o expenditure of one hundred dollars (\$100) or more shall be made in cash.” Gov. Code § 84300(b). The Act and its accompanying regulations do not define “cash;” nor do they define prepaid cards. *Black’s Law Dictionary* defines cash as: “1. Money or its equivalent. 2. Currency or coins, negotiable checks, and balances in bank accounts.” *Black’s Law Dictionary* 268 (11th ed. 2019.) As the Act clearly differentiates currency and coins from checks, cash must refer to only currency and coins. A prepaid card is not currency or a coin.

The Commission has previously advised that cashier’s checks and money orders are covered under the \$99 cash contribution limit. *See Avila* Advice Letter, No. I-99-006. This interpretation is in line with the Act’s provisions, as the Act requires that contributions over \$99 cannot be made “unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary.” Gov. Code § 84300(c). This language is absent from the Act’s provision limiting cash expenditures. Accordingly, the Act only limits expenditures over \$99 in currency or coin. If the FPPC wishes to further limit the means by which a committee is permitted to make expenditures, doing so should be done via a statutory change.

Proposed Alternative Language

Even assuming that the Commission has the authority to restrict expenditures on prepaid cards, Proposed Regulation 18430.1(a)(1) attempts to prohibit expenditures made using prepaid cards by a means that is far more restrictive than necessary. As discussed above, the rationale identified by FPPC staff for this change is that campaigns are able to use prepaid cards with little oversight or transparency.

CPAA believes there is a less restrictive means to address this valid concern. Specifically, the FPPC can use its recordkeeping oversight authority to allow for use of prepaid cards for expenditures of \$100 or more so long as the prepaid card can be registered and its detailed transactions recorded. There are several vendors that provide for registration of prepaid cards.¹ These registered cards allow for tracking of transactions on those cards along with limits on spending and fraud monitoring. Such prepaid cards are more akin to a credit or debit card, which are permitted under the Act and its Regulations. Furthermore, the tracking and fraud prevention available for these prepaid cards address the Commission’s concerns when it comes to recordkeeping, investigations, and enforcement.

¹ See PEX Cards: <https://www.pexcard.com/pex-prepaid-expense/>; dash Cards: <https://getdash.io/>.

Finally, we note that there are policy reasons to not place restrictions on the use of prepaid cards more than is necessary to ensure proper use of campaign funds. For many campaigns, providing prepaid cards is an essential means to ensure voter contact without requiring staff and volunteers to front expenses for gas, food or other canvassing expenses. Requiring individuals to pay for these expenses and be subsequently reimbursed by the campaign places an unnecessary (and sometimes prohibitive) financial burden on the individual canvasser. It is crucial that the FPPC's regulation of prepaid cards consider the importance of preserving the ability of campaigns to not require individual staff and volunteers to advance funds out of pocket for election-related expenses.

Accordingly, we request that the Commission remove its prohibition on expenditures for prepaid and instead consider the attached, proposed language.

We appreciate the Commission's work on this issue and consideration of our comments.

Respectfully submitted,



KC Jenkins
CPAA Regulatory Committee Chair,
on behalf of the CPAA Board



Emily Andrews
CPAA Treasurer



Peter Leoni
CPAA Regulatory Committee
Member

1 Adopt 2 Cal. Code Regs., Section 18430.1 to read:

2 **§ 18430.1. Prepaid Cards, Prohibitions and Limitations on Contributions and**
3 **Expenditures.**

4 (a) A candidate or committee may not:

5 (1) Purchase, use, or make an expenditure of campaign funds of \$100 or more for a
6 prepaid debit, prepaid credit, or gift card, unless the prepaid debit, prepaid credit, or gift card can
be registered and its transaction statements can be downloaded in accordance with the
requirements of Regulation 18401.

7 (2) Accept contributions totaling \$100 or more from any single source of, or made with, a
8 prepaid debit, prepaid credit, or gift card.

9 (b) Notwithstanding the prohibition of subdivision (a), a candidate or committee may use
10 campaign funds to purchase a gift card exceeding \$100 for an individual employee, a committee
11 worker, or an employee of the elected officer's agency, so long as the individual does not receive
12 gifts with a total cumulative value of \$250 or more in a single year, as permitted under Section
13 89513(f)(3).

14 Note: Authority cited: Sections 83112, Government Code. Reference: Section 84300,
15 Government Code.

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

§ 18401. Required Recordkeeping for Chapters 4 & 5.

(a) Maintenance of Documents

A candidate, treasurer, and elected officer has a duty to maintain detailed accounts, records, bills, and receipts as necessary to prepare campaign statements and comply with the provisions of Chapters 4 and 5 commencing with Section 84100 of the Act. This duty includes retention of copies of filed campaign statements and reports and maintenance of detailed information and original source documentation, as follows:

(1) For a contribution received or other receipt of less than \$25, or an expenditure made of less than \$25:

(A) The accounts and records must contain a continuous computation of campaign account balances, and include a listing reflecting the dates and daily totals of the contributions, other receipts, or expenditures on the dates of the contributions, other receipts, or expenditures.

(B) The original source documentation must consist of all bank statements, check registers, check stubs, bank or passbooks, and any other records reflecting a continuous computation of campaign account balances in any savings or checking account, money market account, certificate of deposit, credit card account, or any other campaign account, in any bank or other financial institution.

(2) For a contribution received of \$25 or more, but less than \$100, and for other receipts of \$25 or more:

(A) The accounts and records must contain all information required in subdivision (a)(1)(A), and include the date of each contribution or other receipt, the amount, and the full 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 must also contain the cumulative amount received from
2 the contributor and specify whether the contribution is monetary or nonmonetary. In the case of a
3 nonmonetary contribution, the fair market value must also be recorded, along with a description
4 of the goods or services received. If a contribution is earmarked as defined in Section 85704 or
5 received through an intermediary or agent, as defined in Regulation 18432.5, the accounts and
6 records must also contain the full name and street address, occupation, and employer (or, if self-
7 employed, the name of the principal place of business) of the intermediary or agent and of the
8 true source of the contribution or the contributor or contributors who earmarked their funds and
9 other supporting documents, including correspondence and communications, indicating the true
10 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 must consist of all items required in subdivision
4 (a)(1)(B), and copies of contributor checks, cashier's checks, money orders, wire transfers,
5 deposit or duplicate deposit slips, and any other documents, reflecting all items deposited, and all
6 deposits made, to any campaign account, in any bank or other financial institution. Original
7 source documentation must also include contributor cards, letters of transmittal, and notices
8 received from contributors. In the case of a nonmonetary contribution, if the contributor has not
9 provided the value of the nonmonetary contribution, the original source documentation must also
10 include a memorandum or other record describing the method used to determine the value of the
11 goods or services contributed. In the case of contributions made through wire transfer, credit card
12 transaction, debit account transaction, or similar electronic payment option (including those
13 made via the Internet), the original source documentation must also include all credit card
14 receipts, transaction slips or other writings signed by the contributor, credit card vouchers, and
15 other documentation of credit card transactions, including credit card confirmation numbers and
16 itemized transaction reports, as well as any other information collected when debiting the
17 contributor's account. In the case of contributions made through electronic transactions via the
18 Internet, original source documentation must also include both a record of the transaction created
19 and transmitted by the cardholder including the name of the cardholder, the cardholder's address
20 and the last four digits of the card number or if no credit card was used in the transaction, a
21 transaction number- as well as documentation from the credit card merchant showing the
22 accountholder's verified billing address, the date the transaction was initiated, and the amount of
23 the contribution.

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

2 (A) The accounts and records must contain all information required in subdivisions

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

9 (B) The original source documentation must consist of all items required in subdivisions

10 (a)(1)(B) and (a)(2)(B), and all communications caused to be sent by the candidate, treasurer,
11 elected officer, or committee to secure this information.

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

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

1 (B) The original source documentation must consist of cancelled checks, wire transfers,
2 credit card charge slips, bills, receipts, invoices, statements, vouchers, and any other documents
3 reflecting obligations incurred by the candidate, elected officer, campaign treasurer, or
4 committee, and disbursements made from any checking or savings account, or any other
5 campaign accounts, in any bank or other financial institution, **including by prepaid debit, prepaid
credit, or prepaid gift card in accordance with Regulation 18430.1(a)(1)**. In lieu of cancelled
6 checks, the
7 original source documentation may consist of copies of cancelled checks that contain a legible
8 image of the front and back of the cancelled check, provided the copy was obtained from the
9 financial institution.

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

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

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

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

1 (C) Specifying the amount of the expenditure that is attributed to the support or
2 opposition of each measure or potential measure if the expenditure is made to support or oppose
3 more than one measure or potential measure and requires additional disclosure under Regulation
4 18421.8(b).

5 (7) For a loan made or received:

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

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

13 (8) For receipt of an enforceable promise to make a payment, as defined in Regulation
14 18216:

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

17 (B) The original source documentation must consist of written contracts and any other
18 documents reflecting the enforceable promise to pay.

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

21 (A) The accounts and records must contain the date of the mailing, the number of pieces
22 mailed, and the method of postage.

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

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

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

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

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

11 (A) The accounts and records must contain the date of each notice and the name and
12 address of the person to whom each notice is sent.

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

14 (b) Retention of Documents

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

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

1 COMMENT: In addition to other recordkeeping requirements in the Act or applicable
2 regulations, candidates and committees must keep the records required in Regulation 18428
3 regarding contributions from affiliated entities. Additional recordkeeping requirements for
4 candidates for the Legislature and statewide elective office are found in Regulation 18536
5 concerning the transfer and attribution of contributions, and Regulation 18540 concerning the
6 allocation of expenditures to the primary, general, special or runoff election for purposes of the
7 voluntary expenditure limits.
8 Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 84100-
9 84400, 84501, 85700 and 85704, Government Code.