

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 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 contribution, the accounts and records must also contain the cumulative amount received from the contributor and specify whether the contribution is monetary or nonmonetary. In the case of a nonmonetary contribution, the fair market value must also be recorded, along with a description of the goods or services received. If a contribution is earmarked as defined in Section 85704 or received through an intermediary or agent, as defined in Regulation 18432.5, the accounts and records must also contain the full name and street address, occupation, and employer (or, if self-employed, the name of the principal place of business) of the intermediary or agent and of the true source of the contribution or the contributor or contributors who earmarked their funds and other supporting documents, including correspondence and communications, indicating the true source of the contribution.

(i) Records of earmarked funds must provide a notation that the funds have been earmarked and document the amount of the earmarked funds and the specific ballot measure, candidate or committee for which the funds have been earmarked.

(ii) A committee making contributions with earmarked funds must maintain documentation showing which earmarked funds were contributed to another committee.

(iii) For purposes of Sections 84501(c)(3)(A) and 85704(d) if a committee that received earmarked funds makes contributions and still has earmarked or non-earmarked funds remaining after making such contributions, it must retain documentation showing how a determination of which top contributors to disclose on its advertisements was made. This determination must be done using a reasonable accounting method such as but not limited to the last in first out accounting method, but no accounting method will be given more credence over another and no presumption of any kind regarding compliance is hereby created by the use of the last in first out

accounting method. Notwithstanding anything else in this clause, earmarked funds must be taken into account first before non-earmarked funds.

(B) The original source documentation must consist of all items required in subdivision (a)(1)(B), and copies of contributor checks, cashier's checks, money orders, wire transfers, deposit or duplicate deposit slips, and any other documents, reflecting all items deposited, and all deposits made, to any campaign account, in any bank or other financial institution. Original source documentation must also include contributor cards, letters of transmittal, and notices received from contributors. In the case of a nonmonetary contribution, if the contributor has not provided the value of the nonmonetary contribution, the original source documentation must also include a memorandum or other record describing the method used to determine the value of the goods or services contributed. In the case of contributions made through wire transfer, credit card transaction, debit account transaction, or similar electronic payment option (including those made via the Internet), the original source documentation must also include all credit card receipts, transaction slips or other writings signed by the contributor, credit card vouchers, and other documentation of credit card transactions, including credit card confirmation numbers and itemized transaction reports, as well as any other information collected when debiting the contributor's account. In the case of contributions made through electronic transactions via the Internet, original source documentation must also include a record of the transaction created and transmitted by the cardholder including the name of the cardholder, the cardholder's address and the last four digits of the card number or if no credit card was used in the transaction, a transaction number.

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

(A) The accounts and records must contain all information required in subdivisions (a)(1)(A) and (a)(2)(A), and include the occupation and employer (or, if self-employed, the name of the principal place of business) of the contributor. Section 85700 requires the return, not later than 60 days from receipt, of a contribution of \$100 or more for which the candidate or committee does not have on file the name, address, occupation and employer of the contributor. Regulation 18570 sets forth additional recordkeeping requirements concerning occupation and employer information.

(B) The original source documentation must consist of all items required in subdivisions (a)(1)(B) and (a)(2)(B), and all communications caused to be sent by the candidate, treasurer, elected officer, or committee to secure this information.

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

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

(B) The original source documentation must consist of cancelled checks, wire transfers, credit card charge slips, bills, receipts, invoices, statements, vouchers, and any other documents

reflecting obligations incurred by the candidate, elected officer, campaign treasurer, or committee, and disbursements made from any checking or savings account, or any other campaign accounts, in any bank or other financial institution. In lieu of cancelled checks, the original source documentation may consist of copies of cancelled checks that contain a legible image of the front and back of the cancelled check, provided the copy was obtained from the financial institution.

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

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

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

(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.

(C) Specifying the amount of the expenditure that is attributed to the support or opposition of each measure or potential measure if the expenditure is made to support or oppose

more than one measure or potential measure and requires additional disclosure under Regulation 18421.8(b).

(7) For a loan made or received:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Retention of Documents

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

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

COMMENT: In addition to other recordkeeping requirements in the Act or applicable regulations, candidates and committees must keep the records required in Regulation 18428 regarding contributions from affiliated entities. Additional recordkeeping requirements for

candidates for the Legislature and statewide elective office are found in Regulation 18536 concerning the transfer and attribution of contributions, and Regulation 18540 concerning the allocation of expenditures to the primary, general, special or runoff election for purposes of the voluntary expenditure limits.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84104, 84100-84400, 84501, 85700 and 85704, Government Code.

HISTORY

1. Repealer and new section filed 2-3-78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 5). For prior history see Register 77, No. 14.
2. Amendment of subsection (b)(3) filed 5-22-78; effective thirtieth day thereafter (Register 78, No. 21).
3. Amendment filed 1-23-79 as an emergency; effective upon filing. Certificate of Compliance included (Register 79, No. 4).
4. Amendment filed 8-30-79; effective thirtieth day thereafter (Register 79, No. 35).
5. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
6. Amendment of section heading filed 2-17-82; effective thirtieth day thereafter (Register 82, No. 8).
7. Amendment of subsection (a), repealer of subsections (a)(1)-(2), new subsections (a)(1)-(8), and amendment of subsection (b) including new subsection (b)(1) and designation of subsection (b)(2) filed 6-16-92; operative 7-16-92 (Register 92, No. 25).
8. Amendment of subsections (a)(2)(A), (a)(3)(A), (a)(6), (a)(7), (a)(8) and (b)(1), new (b)(2) Comment and amendment of Note filed 9-12-2002 as a change without regulatory effect.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2002, No. 37).

9. Amendment of subsections (a)(2)(A)-(B) and (a)(3)(B) filed 9-23-2004; operative 9-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 39).

10. Amendment of subsections (a), (a)(2)-(a)(2)(B), (a)(3)(A)-(a)(3)(B), (a)(5)(A) and (a)(6)(A) filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).

11. Amendment of subsection (a)(2)(B) filed 12-18-2006; operative 1-17-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).

12. Amendment of subsection (a)(4)(B) filed 4-16-2007; operative 5-16-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2007, No. 16).

13. Amendment filed 6-11-2008; operative 7-1-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992

(FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements)
(Register 2008, No. 24).

14. New subsections (a)(6)-(a)(6)(C) and subsection renumbering filed 1-30-2009; operative 3-1-2009. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2009, No. 5).

15. Amendment of section heading, section and Note filed 4-25-2018; operative 5-25-2018 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2018, No. 17).

16. Amendment of subsection (b)(2) filed 5-12-2021; operative 6-11-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2021, No. 20).