

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

§ 18531.5. Recall Elections.

(a) Definitions. For purposes of this section:

(1) “Target officer” means an elected officer who is the subject of a recall effort.

(2) “Replacement candidate” means a candidate within the meaning of Section 82007 who is running to replace a target officer in the event the recall is successful and who is on the same ballot as the recall measure.

(b) Application of Contribution and Voluntary Expenditure Limits to State and Elective City and County Offices Subject to Section 85301(d) Recalls.

(1) Target Officer. Pursuant to Section 85315, the contribution limits of Chapter 5 of the Act do not apply to contributions made to or accepted by an elected state officer, or an elected city or county officer subject to Section 85301(d), who is the target of a recall into a separate recall committee established to oppose the qualification of the recall measure or the recall election. Pursuant to Section 85315, the voluntary expenditure limits of the Act do not apply to expenditures made by an elected state officer who is the target of a recall to oppose the qualification of the recall measure or the recall election.

(2) Replacement Candidates. The replacement candidates in a state recall election are seeking elective state office and therefore the contribution and the general election voluntary expenditure limits of Chapter 5 of the Act apply to replacement candidates. The replacement candidates in a city or county recall election for offices that are subject to Section 85301(d) are seeking elective city or county office subject to Section 85301(d) and therefore the contribution

limits under the Act apply to replacement candidates seeking elective city or county office subject to Section 85301(d).

(3) Committees Primarily Formed to Support or Oppose a Recall. A recall is included within the definition of a “measure” in Section 82043. Therefore, except as provided in this subdivision, the contribution and voluntary expenditure limits of Chapter 5 of the Act do not apply to a committee primarily formed to support or oppose a recall.

(c) Committee Formation and Campaign Report Filing Obligations. All candidates and committees that raise and spend funds in connection with a recall have full reporting and disclosure obligations under Chapters 4 and 5 of the Act.

(1) Target Officer. A target officer may use a committee for the office held to oppose the recall. A target officer may also establish a separate committee to oppose a recall upon receiving a notice of intent to recall the officer pursuant to Elections Code section 11021. A target officer must deposit contributions accepted in the separate committee to oppose the recall in a single bank account at a financial institution located in the State of California which is separate from any other bank account held by the officer, including any campaign bank account. The word “recall” and the name of the target officer shall be included as part of the committee name in the statement of organization filed for the committee pursuant to Section 84107. The target officer's other controlled committees are not required to file campaign statements pursuant to Regulation 18405(a), however, they may separately be required to file preelection statements pursuant to Section 84200.5 based upon their activity. Contributions to any other controlled committee of the target officer will not incur late contribution reporting requirements pursuant to Section 82036 and 84203 by virtue of the recall measure pertaining to the target officer appearing on the ballot. A target officer opposing a recall is not required to file a new statement of intention to be

a candidate for elective office pursuant to Section 85200, nor a candidate statement of economic interests pursuant to Section 87201.

(2) Replacement Candidate. A replacement candidate may establish a committee to seek elective office in a recall election. A replacement candidate must disclose all contributions received and expenditures made pursuing elective office, even if the target officer has not yet been served with notice of intent to recall. A replacement candidate is required to file a statement of intention to be a candidate for elective office pursuant to Section 85200 and a statement of economic interests pursuant to Section 87201.

(3) Committees Primarily Formed to Support or Oppose a Recall (Including Recall Proponents and Opponents). A person or group of persons who raises or spends more than \$2,000 for a recall attempt qualifies as a “committee” under Section 82013 when the target officer is served with a notice of intent to recall pursuant to Elections Code section 11021. Once the notice of intent to recall is given, the committee must report on its first campaign statement all contributions received and expenditures made for the purpose of influencing the electorate to sign a recall petition or to vote for or against a recall election, regardless of when the contributions were received or expenditures were made. A committee primarily formed to support or oppose the recall of an elected officer must identify in the committee name, the name of the elected officer and whether the committee is in support of or opposition to the recall.

(d) Target Officer Committee Termination. Pursuant to Section 85315(b) after the failure of a recall petition or after the recall election, the target officer's committee must wind down its activities and dissolve within 12 months. Any remaining funds shall be treated as surplus funds and shall be expended within 30 days. The committee may remain open for more than 30 days only to receive refunds from vendors and government entities for items paid on or prior to the

recall date and to pay, using existing funds, anticipated expenses associated with winding down the committee including expenses associated with tax preparation, audit compliance, and to pay outstanding invoices for items incurred on or before the recall election date.

(e) Advertisement Disclosures.

(1) Target Officer. Advertisements paid for by a target officer's primarily formed ballot measure committee to oppose the recall, that are not subject to Section 84504.6, shall include the disclosures required for ballot measure advertisements paid for by a committee other than a candidate controlled committee established for an elective office of the controlling candidate or political party committee pursuant to Sections 84502--84504.3, 84504.7, and 85411 and accompanying regulations.

(2) Replacement Candidate Committee for Election to Office. Advertisements paid for by a replacement candidate's committee for election, that are not subject to Section 84504.6, that both support the candidate and pertain to the recall shall be treated as advertisements for the candidate's election and not as ballot measure advertisements. Such advertisements shall include the disclosures required for a candidate controlled committee established for an elective office of the controlling candidate pursuant to Sections 84305, 84310, 84502, 84504.4, and 84504.7 and accompanying regulations.

(3) Replacement Candidate Primarily Formed Recall Ballot Measure Committee. Advertisements pertaining to the recall paid for from a separate ballot measure committee controlled by the replacement candidate, that are not subject to Section 84504.6, shall include the disclosures required for ballot measure advertisements paid for by a committee other than a candidate controlled committee established for an elective office of the controlling candidate or

political party committee pursuant to Sections 84502--84504.3, 84504.7 and 84511 and accompanying regulations.

(4) Committees Primarily Formed to Support or Oppose a Recall. Advertisements paid for by a non-candidate controlled committee primarily formed to support or oppose the recall, that are not subject to Section 84504.6, shall include the disclosures required for ballot measure advertisements paid for by a committee other than a candidate-controlled committee established for an elective office of the controlling candidate or political party committee pursuant to Sections 84502--84504.3, 84504.7 and 84511 and accompanying regulations.

COMMENT: Committees active in a recall must file all campaign reports required by Chapters 4 and 5 of the Act. These reports include the following: the target officer, committees primarily formed to support or oppose a recall measure, and the replacement candidates must all file the semi-annual campaign reports and two pre-election reports preceding the recall election, required by Sections 84200, 84200.5 and 84200.8. In addition, committees primarily formed to support or oppose a recall measure, including a separate committee established by a target officer to oppose a recall measure, must file quarterly campaign reports required by Section 84202.3. For recalls of an elected state officer, the electronic reports required by Section 85309 must be also filed.

In addition, pursuant to Sections 81013, 81009.5, and 85301, nothing in the Act prevents a local jurisdiction from adopting a local ordinance with additional or different requirements applicable to candidates or committees involved in recall elections in that jurisdiction, including applying contribution limits to all candidates and committees participating in the recall, so long as the local ordinance does not prevent the persons from complying with the Act.

Credits

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 82007, 82036, 82043, 84107, 84200.5, 84200.8, 84203, 84211, 84214, 84305, 84310, 84502, 84503, 84504, 84504.1, 84504.2, 84504.3, 84504.4, 84504.7, 84511, 85200, 85301, 85302, 85315, 85702.5 and 87201, Government Code.

HISTORY

1. New section filed 8-14-2003; operative 8-14-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 33). For prior history, see Register 2001, No. 18.
2. Amendment of subsections (b)(3) and (c)(1), new subsection (d) and amendment of NOTE filed 7-26-2004; operative 11-3-2004 (Register 2004, No. 31).
3. Change without regulatory effect amending section filed 3-22-2016; operative 4-21-2016 pursuant to 2 CCR 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 2016, No. 13).
4. Amendment of subsection (b)(3) filed 8-31-2016; operative 9-30-2016. 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 2016, No. 36).
5. Amendment of subsection (b)(1) filed 11-27-2017; operative 12-27-2017 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 2017, No. 48).

6. Amendment of subsections (b)-(b)(2) and COMMENT to subsection (c)(3) and amendment of NOTE filed 3-22-2021; operative 4-21-2021 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 2021, No. 13).

7. Amendment of subsections (b)(2) and (c)(1)-(2), new subsections (d)-(e)(4) and amendment of NOTE filed 11-17-2022; operative 12-17-2022 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 2022, No. 46).