

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

§ 18531. Return or Attribution of Excessive Contributions.

(a) Attribution. A committee that elects to attribute a contribution, or a portion thereof, that exceeds the applicable contribution limit set forth in Section 85301, 85302, 85303, or 85316 to another election pursuant to Section 85319.5(a) or (b) must obtain written confirmation from the contributor that the contribution may be attributed to a different election except the committee may attribute a contribution, or a portion thereof, between a primary and general election for the same term of office without obtaining prior permission from the contributor.

(b) Non-monetary contributions. A committee that receives a non-monetary contribution whose fair market value, or a portion thereof, exceeds a contribution limit set forth in Section 85301, 85302, 85303, or 85316, may return the non-monetary contribution, or a portion thereof, either in its original form or in a monetary equivalent, or attribute the portion of the non-monetary contribution whose fair market value exceeds the limit to another election by attributing the excess amount to another election or attributing the monetary equivalent of the contribution to another committee established for another election. The return or attribution of a non-monetary contribution pursuant to Section 85319.5 must occur within 14 days of receiving a contribution and the committee may not make use of the non-monetary contribution prior to its return or attribution.

(c) Making Over-the-Limit Contributions. This regulation shall not be construed to authorize the making or solicitation of any contribution in excess of the contribution limits of Sections 85301, 85302, 85303, and 85316.

(d) Contributions not for Candidates. Contributions to a committee, other than a candidate controlled committee, which are earmarked for purposes other than making contributions directly to candidates for elective office, shall not be deemed in excess of limits and need not be returned, provided the contributions are deposited to a separate account within the applicable time period as prescribed by either Section 85319.5(a) or (b), depending on whether the committee has actual knowledge that the contribution exceeds the applicable limit.

(e) Reporting. A contribution returned or attributed, in whole or in part, under Section 89519.5, must be reported as a contribution in its entirety pursuant to Chapters 4 and 5 of the Act if the committee deposits the contribution in its bank account. The amount returned or attributed must also be reported.

(1) A committee that elects to automatically attribute a contribution, or a portion thereof, that is in excess of the applicable limit between the primary and general elections as prescribed by Section 85319.5(d)(2) must disclose the cumulative totals of contributions received for both the primary and the general elections, respectively, in accordance with Regulation 18421.4.

(2) An amount transferred to another committee must be reported by the transferring committee as an expenditure.

(3) An amount attributed to another committee must be reported by the receiving committee as a contribution from the original contributor and identify the attributing committee as an intermediary pursuant to Section 84302.

(f) Notification. For purposes of Section 85319.5(c), a committee shall be deemed to have “informed” a contributor that their contribution was in excess of the applicable contribution limit if the committee sends written notification to the contributor noting that their contribution exceeded the applicable limit by the applicable deadline for returning or attributing the

contribution or excess portion thereof. A committee required to send notification to a contributor that their contribution, or a portion thereof, was automatically attributed under Section 85319.5(d)(2) and that they may request a refund as required by Section 85319(c) must send such notification in writing and at the same time as informing the contributor that their contribution exceeded the applicable limit.

Credits

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 84302, 85301, 85302, 85303, 85316 and 85319.5, Government Code.

HISTORY

1. New section filed 6-23-89; operative 6-23-89 (Register 89, No. 26).
2. Amendment of subsections (a), (b) and (d) and footnote filed 11-16-90; operative 12-26-90 (Register 91, No. 1).
3. Amendment filed 4-26-95; operative 4-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 17).
4. Amendment of subsections (a) and (a)(3)-(e), repealer of footnote and amendment of NOTE filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
5. Amendment of NOTE filed 5-26-98; operative 5-26-98. Submitted to OAL for printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law, Linda Stockdale Brewer*, Sacramento Superior Court, Case No. 51275 (1991) (Register 98, No. 22).
6. Amendment of section and NOTE filed 5-4-2001; operative 6-3-2001 (Register 2001, No. 18).
7. Editorial correction of subsection (b) (Register 2005, No. 38).

8. Amendment filed 5-5-2020; operative 6-4-2020 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 2020, No. 19).

9. Amendment of section heading, section and NOTE filed 7-20-2023; operative 8-19-2023 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 2023, No. 29).