

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

§ 18536. Transfer and Attribution of Contributions.

For purposes of Section 85306:

(a) A committee transferring funds must designate in its records at the time of its first transfer whether it elects the “first in, first out” or a “last in, first out” method of accounting for the current and future transfers. That designation is irrevocable.

(1) “First in, first out” means that campaign funds being transferred are attributed to the transferring committee's contributors in chronological order beginning with the earliest of its contributors or, if there has been a prior transfer, beginning with the earliest contributor for which unattributed contributions remain.

(2) “Last in, first out” means that campaign funds being transferred are attributed to the transferring committee's contributors in reverse chronological order beginning with the most recent of its contributors or, if there has been a prior transfer, beginning with the most recent contributor for which unattributed contributions remain.

(3) Campaign funds shall be attributed to contributors in the lesser of the following amounts:

(A) The actual amount of the original contribution from the person to whom the campaign funds are being attributed;

(B) The applicable contribution limit under Section 85301 or 85302; or

(C) The amount of campaign funds the committee is seeking to transfer that has not yet been attributed.

(b) Except as provided in subdivisions (b) and (c) of Section 85306, campaign funds transferred, when aggregated with all other transfers attributable to, and contributions from, the same contributor, may not exceed the contribution limits applicable to the candidate at the time of the transfer. Campaign funds attributed to a contributor who is a candidate for elective state office or a candidate for an elective city or county office subject to the contribution limit in Section 85301(d) at the time of the transfer, when aggregated with all other contributions from that contributor, may not exceed the amount provided in subdivision (a) of Section 85301.

(c) The committee transferring the funds shall maintain records that identify the specific contributors to whom any transferred contributions have been attributed. If the transferring committee no longer is required by Section 84104 to maintain detailed records, the receiving committee shall maintain either:

(1) Such records from the transferring committee as are sufficient, pursuant to paragraphs (1), (5) and (6) of subdivision (f) of Section 84211, to confirm the identity of the original contributors to whom transfers are being attributed; or

(2) Copies of the transferring committee's original verified and filed campaign reports that show the original contribution received from each contributor to whom a transferred contribution is attributed.

(d) A committee receiving transferred funds must disclose on its campaign statements each attributed contribution of one hundred dollars (\$100) or more, providing the same information required by subdivision (f) and, if applicable, subdivision (m) of Section 84211 as disclosed on the campaign statement on which the contribution was originally reported or as contained in the committee's records at the time of the transfer.

(e) Transfers made prior to a primary election, when aggregated with all other transfers attributable to, and contributions from, the same contributor, may include amounts that could have been raised for the general election pursuant to Section 85318, provided the receiving committee complies with the requirements of this section.

(f) A candidate or committee that receives a contribution which, when aggregated with contributions attributed to the same contributor, would otherwise constitute a violation of Section 85301 or 85302, shall not be in violation of either of those sections provided the contribution is returned pursuant to Regulation 18531.

(g) A contributor that makes a contribution which, when aggregated with contributions attributed to the same contributor, would otherwise be in violation of Section 85301 or 85302, shall not be in violation of either of those sections unless the contributor was aware of the attribution at the time the contribution was made.

(h) This regulation does not apply to a candidate for statewide elective office, or the candidate's controlled committee for that office, in an election held before November 6, 2002. This regulation applies on and after November 6, 2002, to a candidate for statewide elective office, and the candidate's controlled committee for that office, in an election held on or after November 6, 2002.

(i) This regulation applies to a candidate for an elective city or county office subject to the contribution limit of Section 85301(d) or the candidate's controlled committee for that office, in an election held on and after January 1, 2021.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 85200, 85301, 85305, 85306, 85318 and 85702.5, Government Code.

HISTORY

1. New section filed 7-17-2001; operative 7-17-2001 (Register 2001, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-14-2001 or emergency language will be repealed by operation of law on the following day. 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). For prior history see Register 93, No. 9.

2. Repealer and new section filed 11-6-2001; operative 11-15-2001 (Register 2001, No. 45).

3. Amendment of first paragraph and subsections (a)(3)(B), (b)-(c)(1) and (d)-(g), new subsection (i) 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).