

USE OF CAMPAIGN FUNDS

The Political Reform Act (“Act”) strictly regulates how campaign funds may be spent. The general rule is that the expenditure of campaign funds must be reasonably related to a political, legislative, or governmental purpose.

A campaign expenditure that confers a substantial personal benefit on any individual authorized to approve campaign expenditures, a controlling candidate, or a state ballot measure proponent, must be directly related to a political, legislative, or governmental purpose. A substantial personal benefit means an expenditure of campaign funds which results in a direct personal benefit with a value of more than \$200.

Ex 5.1 – The Thousand Oaks Residents for Libraries, A Committee for Proposition K, offers sodas and snacks for precinct walkers. This is allowed, since there is a **reasonably** related political purpose for this expenditure.

The treasurer of the committee has decided to enter an accounting certificate program at their local community college. While the program may enhance their qualifications as a treasurer, they may not use campaign funds for this purpose; a certificate would confer a personal benefit to them that is not considered directly related to a political, legislative, or governmental purpose.

Ballot measure committees should also consult Elections Code Section 18680, which provides that ballot measure funds are held in trust for use on the measure and specifies permissible expenditures. Under Elections Code Section 18680, expenditures for food, clothing, shelter and other personal needs of the trustee are not permissible.

A ballot measure committee that is controlled by a candidate for state elective office or a state elected officeholder is subject to additional specific restrictions when making campaign expenditures. Some of the expenditures discussed below in Section A that are permissible for most ballot measure committees are not permissible

for a ballot measure committee that is controlled by a state candidate or officeholder (e.g., making a contribution to a candidate). Section B of this chapter discusses the expenditure restrictions for these committees.

QUICK TIP: The FPPC has fined committees for payments made from a campaign account that were used for the following personal purposes: auto care services, doctor visits, clothing, and personal life insurance premiums.

The following are examples of specific expenditures and the rules regarding the use of campaign funds for such purposes. If the examples are not helpful, contact the FPPC for assistance by sending an email with specific facts to advice@fppc.ca.gov.

A. Campaign Expenditures

Election Night Celebrations

Costs associated with election night celebrations or similar campaign events are considered to be directly related to a political, legislative, or governmental purpose; therefore, campaign funds may be used.

Attorneys' Fees

Generally, attorneys' fees and other costs related to administrative, civil, or criminal litigation may not be paid with campaign funds. However, where the litigation is directly related to activities of the committee that are consistent with its primary objectives, campaign funds may be used to pay for expenses related to the following:

- Action to halt defamation;
- Defense of an action to halt defamation;
- Defense of an action for violation of state or local campaign, disclosure, or election laws;
- Litigation to secure a place on the ballot or challenge the wording of the ballot pamphlet;

- Contest an election;
- Election recount; and
- Compliance expenses (for example, completing campaign disclosure reports).

Reimbursements

A volunteer, campaign worker, or any other individual may make expenses from personal funds and be reimbursed, so long as the expenses are incurred for political, legislative, or governmental purposes.

Ex 5.2 – A campaign volunteer buys food and beverages for volunteer workers. The treasurer may reimburse the volunteer for expenses; a receipt is required for expenses of \$25 or more.

Automobile Lease or Purchase

When making payments associated with leasing, purchasing, or operating a vehicle, such as insurance, maintenance, and repairs, the campaign committee must be the lessee or hold title to the vehicle. Additional titleholders may not be the controlling candidate, treasurer, or any other person who may approve campaign expenditures, or a member of any such person's immediate family (i.e., spouse or registered domestic partner and dependent children). Additional lessees may not be the controlling candidate, treasurer, or a member of any of these persons' immediate family.

Reimbursed Automobile Expenses

A controlling candidate, immediate family member, treasurer, and committee staff may be reimbursed by the committee for use of a personal vehicle if the use is directly related to a political, legislative, or governmental purpose. Documentation should be kept that includes the trip's purpose and mileage in a manner approved by the Internal Revenue Service for deducting mileage expenses. The rate for reimbursement may not exceed that allowed under Internal Revenue Code Section 162. For more details, the Internal Revenue Service may be contacted at (800) 829-1040 (www.irs.gov).

Contributions to Candidates and Other Committees

Campaign funds of ballot measure committees that are not controlled by a candidate for state elective office may be used to make contributions to candidates and other committees, subject to applicable contribution limits. However, if a primarily formed ballot measure committee makes contributions to candidates or other committees, it may qualify as a different type of committee and be required to amend its Statement of Organization, Form 410.

Ballot measure committees controlled by candidates and officeholders for state elective office may not make contributions to other candidates and their election committees. See Regulation 18521.5.

Ex 5.3 – A state elected official is backing a state ballot measure and has a controlled committee for the measure. The state official may make a contribution to their ballot measure committee from their reelection committee; however, funds in the ballot measure committee may not be used for the official's reelection.

Donations

Campaign funds may be used to make donations or loans to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations. The donation or loan must be **reasonably** related to a political, legislative, or governmental purpose. In addition, the donation may not personally benefit the controlling candidate, committee treasurer, or any individual with authority to approve the expenditure of campaign funds, or any such person's immediate family member (spouse or registered domestic partner and dependent children).

Equipment and Appliances

Campaign funds may be used to buy, lease, or refurbish equipment or appliances, but only if their use is directly related to a political, legislative, or governmental purpose. As with restrictions on vehicles, the committee must hold title, or be the lessee, for the equipment; no individual may be listed as owner or lessee.

Food

A committee may purchase a meal with a cost of \$200 or less, so long as the expense is **reasonably** related to a political, legislative, or governmental purpose. However, if the aggregate cost of the meal is more than \$200, the expense must be **directly** related to one of these purposes.

Ballot measure committees controlled by candidates and officeholders for state or local office must itemize meal expenditures. (See Chapter 9.)

Fines, Penalties, Judgments, and Settlements

Generally, campaign funds may be used to pay the following fines, penalties, judgments, and settlements:

- Parking citations received while performing political, legislative, or governmental activities.
- Fines assessed in relation to situations in which the use of campaign funds to pay for an attorney is allowed (discussed above).
- Fines imposed for late filing of campaign statements and Statements of Economic Interests (Form 700).

However, the expenditure of campaign funds of any amount to pay a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in a personal benefit to a candidate or officer is prohibited if it is determined that the expenditure was not reasonably related to a political, legislative, or governmental purpose.

The same prohibition applies with respect to a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in a substantial personal benefit (more than \$200) to a candidate or officer if it is determined that the expenditure was not directly related to a political, legislative, or governmental purpose. In addition, campaign funds may not be used to pay a restitution fine imposed under Section 86 of the Penal Code.

Gifts

Unless **directly** related to a political, legislative, or governmental purpose, personal gifts may not be paid for from campaign funds. However, gifts of less than \$250 in a calendar year to campaign employees or workers are permitted because they are considered directly related to a political, legislative, or governmental purpose.

Ballot measure committees controlled by candidates and officeholders for state or local office must itemize gift expenditures. (See Chapter 9.)

Health-Related Expenses

A committee may use campaign funds to pay for health care benefits for its employees or independent contractors. However, campaign funds may not be used to pay for other health-related expenses, such as health club dues, special dietary foods, or medical check-ups.

Loans

Except for committees controlled by a candidate for state elective office, campaign funds may be used to make loans to other political committees. Loans to state candidate committees are subject to limits. However, if a primarily formed ballot measure committee makes contributions to candidates or other committees, it may qualify as a general purpose committee and be required to amend its Statement of Organization, Form 410.

The use of campaign funds must always be related to the measure or potential measure so contact the FPPC before making a loan. Ballot measure committees controlled by a state candidate or officeholder may not make a contribution to another committee if that committee is formed for an elective office.

Professional Services

When the committee reasonably requires the services of professionals, such as accountants or attorneys, their fees may be paid with campaign funds as these expenditures are considered to be **directly** related to a political, legislative, or governmental purpose. (See below for restrictions on salary and compensation paid to a controlling candidate.)

Real Property

The committee may not purchase real property. It may, however, lease property for up to one year, so long as its use is directly related to a political, legislative, or governmental purpose. Neither the controlling candidate, committee treasurer, any individual with authority to approve the committee's expenditures, or an immediate family member (i.e., spouse or registered domestic partner and dependent children) of any of these persons may be a lessee or sublessor, or hold legal title to the leased property.

Refunding Contributions

The return of contributions to contributors is permitted.

Returning Contributions Lacking Contributor Information

When a contribution of \$100 or more in a calendar year is received from a single contributor, the committee must report the contributor's name and address, and, if the contributor is an individual, their occupation and employer. If the committee does not have this information in its records within 60 days of receipt, the contribution must be returned. (See Chapter 2.) Additionally, contributions of \$100 or more from a limited liability company (LLC) must be returned if, within 60 days, the committee's records do not contain the following: the name of the LLC and the full legal name the LLC's responsible officer (for an LLC that has qualified as an independent expenditure committee or major donor); the name of the LLC's committee and the LLC's principal officer (for an LLC that has qualified as a recipient committee); or, for an LLC that has not qualified as a committee, the full legal name of the individual primarily responsible for approving the contribution.

Ex 5.4 – Paula Greene, a member of Senator Howard's staff, is also the treasurer of the Senator's state ballot measure committee. Paula does all recordkeeping for the committee and completes the committee's campaign reports. Paula also has authority to approve committee expenditures. Campaign funds may be used to pay Paula Greene for services provided as committee treasurer; however, campaign funds may not be used to supplement or pay Paula's government salary. Note: Other laws require that campaign activity be conducted on Paula's personal time.

Salary and Compensation

A candidate or officeholder, or any individual authorized to approve the committee's expenditures, may not receive a salary or other compensation from the committee for the performance of political, legislative, or governmental activities. The committee may pay for professional services such as an accountant, however, even if the accountant has authority to sign committee checks.

A spouse or domestic partner of an elected officer or a candidate for elective office may not receive, in exchange for any services rendered, compensation from campaign funds held by a controlled committee of the officer or candidate.

Tickets for Entertainment and Sporting Events

Campaign funds may not be used to purchase entertainment and sporting event tickets for use by the controlling candidate or officer, director, employee, or staff of the committee, unless attendance at the event is **directly** related to a political, legislative, or governmental purpose.

Tickets to Political Fundraisers

A committee may purchase tickets to political fundraisers (subject to any applicable contribution limits) for the controlling local candidate, or officer, director, employee, or staff of the committee. However, if a primarily formed ballot measure committee makes contributions to candidates or other committees, it may qualify as a general purpose committee and be required to amend their Statement of Organization, Form 410.

Ballot measure committees controlled by state candidates for elective state office may not make contributions to candidate controlled committees for elective office.

Travel

A committee may use campaign funds to pay for travel or accommodations for the controlling candidate, any individual with authority to approve the committee's expenditures, or employees or staff of the committee so long as the standards set by Internal Revenue Code Sections 162 and 274 (deduction of travel expenses for tax purposes) are complied with. The Internal Revenue Service may be contacted at (800) 829-1040 or www.irs.gov for more information. Candidate controlled committees must itemize travel expenses.

Ballot measure committees controlled by candidates and officeholders for state or local office must itemize travel expenditures. (See Chapter 9.)

Airline Mileage Programs

Some airlines have mileage programs that allow individuals to earn free tickets or other awards. These mileage credits and awards belong to the individual traveler, not the committee. The committee is not required to report either the receipt of the mileage credit awards or the redemption of the credits.

Leftover Campaign Funds

Chapter 12 discusses the permissible uses of funds for a ballot measure committee with funds remaining after the election. Different restrictions are imposed on local measure committees, state measure committees and measure committees controlled by state elected officers.

B. Use of Campaign Funds by State Candidate Controlled Ballot Measure Committees

A ballot measure committee that is controlled by a state candidate or officeholder may use campaign funds only to make expenditures related to the measure or potential measure, such as payments for reasonable and ordinary operating costs, administrative overhead, fundraising activities, travel, compliance costs and attorney's fees incurred as a result of the committee's activities. The committee may also return a contribution to a contributor at any time. (See Regulation 18521.5 for additional information.)

When a general purpose ballot measure committee controlled by a state candidate or officeholder reports an expenditure of \$100 or more, it must specify the amount of the expenditure attributed to the support or opposition of each measure or anticipated measure. But, attribution is not required for expenditures made for operating costs, administrative overhead, fundraising activities, travel, compliance costs, and attorney's fees incurred in general support or opposition to the measures or potential measures if the expenditure cannot be attributed to a specific measure or potential measure. (See Regulation 18421.8 for additional information.)

While a ballot measure committee controlled by a state candidate or officeholder is actively involved in the ballot measure effort, campaign funds may not be used to make contributions to political parties or donations to a nonprofit organization. But, when the committee is preparing to terminate, within 60 days prior to the termination date, the funds may be used for the following purposes:

- Donations to a bona fide charity, educational, civic, religious or similar nonprofit organization, so long as there are no financial ties to the candidate, their family members, or the treasurer.
- Contributions to a political party committee, including a county central committee, so long as the funds are not used for a contribution to a candidate or for a communication which supports or opposes a candidate.

Committees may seek advice from the FPPC to determine if the final expenditures of a committee are permitted.

Answering Your Questions

A. I am the committee treasurer and make long distance campaign phone calls on my personal phone. How may I pay for them?

One method is to calculate the portion of the phone bill that is campaign related and have the committee write a check for that portion directly to the phone company. Or, you may pay the bill with personal funds and subsequently request reimbursement from the committee treasurer by providing a copy of the bill.

B. As the principal officer of a local ballot measure committee, I will be using my personal car to get around during the campaign. Is mileage considered a reportable contribution if I do not want to be reimbursed?

No. Incidental use of your personal car for campaign purposes is not considered a contribution and is not reportable.

C. May campaign funds be used to purchase a cell phone?

Yes, so long as the phone and service is used for campaign purposes only. If, after the campaign, an individual chooses to retain the phone for personal purposes, the individual must pay the committee the fair market value for the phone.

D. Is it permissible for a local ballot measure committee to have an agreement with an independent contractor (e.g., the campaign consultant) to pay additional money if the committee's measure is successful?

Yes, under the Act you may make contingency agreements that the committee will not pay a contractor unless the election is won, or that the committee will pay an additional amount to the contractor if the committee is successful. The arrangement should be made part of the written contract. (No contingency fee is permissible when paying a lobbyist.)

E. May we give bonuses to our campaign workers and/or hold a victory party?

Yes, but in most cases, bonuses and the food, beverages, and entertainment provided at an event are considered gifts and must be limited to less than \$250 per calendar year per individual.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter:

Government Code Sections

- 82025 Expenditure.
- 82029 Immediate Family.
- 82044 Payment.
- 82048.8 Spouse.
- 84307.5 Payments Made to a Spouse or Domestic Partner.
- 89511 Campaign Funds Held by Candidates and Committees.
- 89512.5 Expenditures by Committees not Controlled by Candidates.
- 89513 Use of Campaign Funds for Specific Activities.
- 89514 Use of Campaign Funds for Attorney's Fees.
- 89515 Use of Campaign Funds for Donations and Loans.
- 89516 Use of Campaign Funds for Vehicle Expenses.
- 89517 Use of Campaign Funds for Real Property, Appliances or Equipment.
- 89517.5 Use of Campaign Funds for Security System.
- 89518 Use of Campaign Funds for Compensation.
- 89522 Campaign Funds; Prohibited Use Under Elections Code.

Title 2 Regulations

- 18402.2 Limited Liability Companies, Responsible Officer
- 18421.8 Reporting an Expenditure by a Candidate Controlled General Purpose Ballot Measure Committee.
- 18421.10 Reporting Contributions from Limited Liability Companies.
- 18521.5 Ballot Measure Committees Controlled by Candidates for Elective State Office.
- 18570 Return of Contributions with Insufficient Donor Information.
- 18960 Direct Personal Benefit Defined.
- 18961 Incidental Use.