

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

§ 18404.1. Termination and Reopening of Committees.

(a) When a candidate controlled committee organized for elective state office has no “net debts outstanding” as defined in Regulations 18531.6(d) and 18531.61(d), the committee must be terminated as set forth in Regulation 18404 no later than 24 months after the earliest of the date the candidate is defeated, leaves office or the term of office for which the committee was formed ends or, for withdrawn candidates, no later than 24 months after the election from which the candidate withdrew.

(b) Campaign Bank Accounts. On or before termination of the candidate controlled committee, the campaign bank account associated with that committee must be closed. No further activity, including receipt of contributions or making of payments, is allowed after the date of the termination of the committee unless the committee and a campaign bank account are reopened pursuant to this regulation or the committee is accepting a refund under subdivision (g)(1)(A)-(C) of this regulation. Contributions received while a committee is closed must be returned to the contributors. Contributions received by a committee reopened in accordance with this regulation are subject to the limits applicable to the election for which the committee was originally formed as well as Regulations 18531.6, 18531.61 and 18536.

(c) Local Committees. Candidates who are elected to an elective state office must terminate any controlled committees formed for local elections held concurrent with or prior to their election to state office. Such termination shall be pursuant to Regulation 18404 within 24 months of the candidate's election to state office.

(d) Creditors' Notice. The committee shall give at least 60 days notice of its impending

termination to all creditors. Such notice shall include the date upon which the committee expects to file its terminating statement of organization.

(e) Requests for Extensions. A committee may, for good cause, seek from the Executive Director an extension of time to comply with the committee termination requirements of this regulation. Such a request shall be submitted to the Executive Director prior to the original due date for the committee's termination, and shall include evidence of good cause for the request.

(f) Local Candidate Controlled Committees. This regulation does not apply to local candidate controlled committees, except as provided in subdivision (c) and subdivision (g)(1)(A)-(C) of this regulation.

(g) Reopening of Terminated Committees. A committee subject to the requirements of this regulation may submit a request to the Executive Director of the Fair Political Practices Commission to reopen for any of the following reasons:

(1) To receive a refund or similar payment received after termination of the committee, except as provided in subdivision (g)(1)(A)-(C);

(A) A state or local candidate controlled committee that has terminated may accept a refund from a governmental entity without reopening. A state or local committee that has terminated may accept a refund from a vendor or other person without reopening if the committee did not know of its entitlement to the refund prior to termination and the refund or refunds total no more than \$10,000.

(B) A refund allowed by subdivision (g)(1)(A) may only be transferred to a committee that would have been lawfully allowed to receive funds from the terminated committee prior to termination. A committee receiving a refund under subdivision (g)(1)(A) is not required to place the refund in its bank account if transferring the refund to another committee.

(C) A refund allowed by subdivision (g)(1)(A) must be reported as follows: The terminated committee must file a campaign statement for the period in which any refund was received by the committee and report the refund as a miscellaneous increase to cash on the campaign statement and as an expenditure when the funds are used. In the case that the funds are transferred to a new committee, this transfer must be reported as an expenditure on the terminated committee's campaign statement. If attribution is required under Section 85306, the committee to which a refund is transferred must report the receipt of funds as a contribution and attribute as required by Section 85306. If attribution is not required, the committee to which a refund is transferred must report the receipt of funds as a miscellaneous increase to cash on its campaign statement covering the period in which the funds were transferred.

(2) To pay a fine as permitted under Section 89513(c);

(3) To pay expenses incurred in connection with an audit or investigation of the committee under this title;

(4) To pay litigation expenses as permitted under Sections 89513 and 89514, other than expenses subject to Section 85304 and Regulation 18530.4; or

(5) For any other good cause shown that would further the disclosure requirements or contribution limits of this title.

(h) Expenditure of a refund or similar payment under this regulation must be made consistent with Sections 89510-89519, as applicable, including payment of debts that the committee declared it had no intention or ability to discharge under Regulation 18404. In addition, the reopening of a committee to receive payments and make expenditures must be in compliance with Sections 85316 and 85321 and Regulations 18531.6 and 18531.61. A determination by the Executive Director under this regulation does not constitute a determination

regarding the applicability of the statutes and regulations referenced in this subdivision.

(i) Procedures for Reopening Terminated Committees. In order for the committee's reopening to be effective, the committee must:

(1) Request and receive approval to reopen the committee from the Executive Director as specified in this subdivision. The purpose(s) for requesting the reopening of the committee must be included in the request. Within 15 days after a request is received by the Executive Director, the requestor shall be notified in writing of the decision of the Executive Director. In denying or granting the request, the Executive Director shall consider whether the proposed purpose(s) for reopening the committee are as specified in subdivision (g) of this regulation, and specify the purpose(s) for reopening the committee in the notification if the request is granted. If the request is denied, the notification shall state the reason for the denial and advise the requestor of the right to appeal the decision to the Chairman within 10 days after the date of the transmittal of the denial notification. Any such appeal shall:

(A) Be submitted to the office of the Executive Director either in person, by fax, or by overnight delivery service;

(B) Include all material, if any, submitted with the original request to reopen supporting any of the permissible reasons for reopening as set forth in subdivision (g) of this regulation upon which the committee is basing its request; and

(C) Directly address the reasons for the denial of the request stated in the Executive Director's notification to the committee.

The Chairman's decision shall be final, and may not be appealed to the Commission.

(2) File an amendment to Form 410 (Statement of Organization) declaring the committee's reopening with the Secretary of State along with written authorization from the Executive Director granting the reopening of the committee;

(3) Mark "Amendment" on the Form 410 and list the committee's original identification number and name;

(4) Include the word "Reopened" in parentheses after the committee name on the Form 410; and

(5) File a copy of the amended statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(j) Filing Requirements. A reopened committee is subject to all of the committee filing requirements of this title including those specified in subdivision (i) of this regulation.

(k) Termination of Reopened Committees. Unless the Executive Director specifies a date of termination in his or her notification, a reopened committee must terminate pursuant to the requirements of Regulations 18404(b) and (c) within 30 days of the date the specified purpose(s) for which the committee was reopened ceases to exist. The Executive Director may specify in his or her notification the projected date of completion and the date of termination for the reopened committee. If the reopened committee requires additional time before terminating for a purpose or purposes other than specified in its initial request for reopening under subdivision (i), or the Executive Director specifies a date of termination in his or her notification and the reopened committee requires additional time to complete the original reopening purpose, then the committee must reapply for and receive approval of the Executive Director under the same procedures and timelines set forth in subdivision (i)(1) prior to the termination date for the

reopened committee.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 84102, 84103, 84214 and 84215, Government Code.

HISTORY

1. New section filed 2-14-2002; operative 2-15-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 7).
2. Amendment of subsections (a)-(a)(2) 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).
3. Amendment of subsections (f), (f)(1)(B) and (f)(1)(D), new subsections (g)-(g)(3) and subsection relettering filed 7-29-2003; operative 7-29-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 31).
4. Amendment of section heading and subsections (b)(1)-(f), (f)(1)(B), (g) and (h), new subsections (i)-(m) and amendment of Note filed 7-27-2004; operative 7-27-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 31).
5. Amendment filed 3-7-2011; operative 4-6-2011. 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 2011, No. 10).

6. Amendment of subsections (b), (f) and (g)(1) and new subsections (g)(1)(A)-(C) filed 10-27-2011; operative 11-26-2011. 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 2011, No. 43).

1 Amend 2 Cal. Code Regs. Section 18404.2 to read:

2 **§ 18404.2. Administrative Termination.**

3 ~~(a) The Executive Director, or any person to whom this authority is delegated by the~~
4 ~~Executive Director, may administratively terminate a recipient committee, as defined under~~
5 ~~Section 82013(a), if all of the following conditions are met:~~

6 ~~(1) The committee has not filed campaign statements pursuant to Chapter 4 of the Act in~~
7 ~~the previous 12 months;~~

8 ~~(2) The ending cash balance on the committee's last filed campaign statement is \$3,000 or~~
9 ~~less;~~

10 ~~(3) The committee is provided notice of the proposed administrative termination at least~~
11 ~~90 days prior to the termination, and;~~

12 ~~(4) The committee fails to file a written objection to the administrative termination with~~
13 ~~the Commission within 90 days of receiving a notice of the proposed termination.~~

14 ~~(b) A committee that has been administratively terminated shall not receive any~~
15 ~~subsequent contributions, and shall not make expenditures exceeding the ending cash balance on~~
16 ~~the committee's last filed campaign statement, unless the committee's status is reinstated. A~~
17 ~~committee may reinstate its committee status after an administrative termination by filing a~~
18 ~~written request for reinstatement with the Commission.~~

19 ~~(c) The Commission shall not require an explanation for an objection to an administrative~~
20 ~~termination or a request for reinstatement filed pursuant to this regulation, and no objection or~~
21 ~~request shall be denied.~~

22 ~~(d) The Commission shall provide notice of an administrative termination, or the~~
23 ~~reinstatement of a committee subsequent to an administrative termination, to the Office of the~~

1 ~~Secretary of State and any local filing officer with whom the committee was required to file their~~
2 ~~last filed campaign statement.~~

3 (a) Bases for Administrative Termination. The Chief of the Enforcement Division may
4 terminate a recipient committee if the committee failed to:

5 (1) File a campaign statement in the previous 12 months, and the committee had an
6 ending cash balance of \$3,000 or less on its last campaign statement;

7 (2) File a campaign statement in the previous 12 months, the committee had an ending
8 cash balance of \$5,000 or less on its last campaign statement, and the committee owes \$2,000 or
9 more to the controlling candidate;

10 (3) File a campaign statement in the previous 48 months; or

11 (4) Respond to the Enforcement Division's reasonable efforts to contact the committee
12 regarding the committee's failure to file campaign statements or pay annual fees. "Reasonable
13 efforts to contact the committee" means sending a written notice by certified mail to the
14 committee treasurer at the treasurer's address listed on the committee's statement of
15 organization, and attempting to contact an individual identified as a controlling candidate,
16 principal officer, treasurer, or assistant treasurer on the committee's most recent campaign
17 statement or statement of organization at the telephone number or email address listed on the
18 statement.

19 (b) 45 Day Notice of Termination. The Enforcement Division must provide a committee
20 with written notice of a proposed termination 45 days prior to terminating the committee.

21 (c) Objection to Termination. The Enforcement Division will not terminate a committee
22 if the committee files a written objection to a proposed termination. If no written objection is
23 received within 45 days, the committee automatically terminates without further notice.

1 (d) Reinstatement. The Executive Director must reinstate a terminated committee if the
2 committee files a written request for reinstatement with the Commission, files any delinquent
3 statements required by the Enforcement Division, and pays any outstanding fees or fines.

4 (e) Prohibited Activity after Termination. A committee may not receive contributions or
5 make expenditures exceeding the ending cash balance on the committee's last campaign
6 statement after the Enforcement Division terminates the committee, except to pay outstanding
7 filing fees or fines.

8 (f) Notice to Filing Officers. The Commission will provide notice of a termination or
9 reinstatement of a committee within 90 days to the filing officers with whom the committee was
10 required to file its last campaign statement.

11 Note: Authority cited: Sections 83112 and 84212, Government Code. Reference: Sections 82013
12 and 84212, Government Code.