



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Miadich, Commissioners, Cardenas, Hatch, and Hayward

From: Dave Bainbridge General Counsel, Zachary W. Norton, Senior Counsel

Subject: Sponsored Committees 18419

Date: August 5, 2019

Requested Action and Summary of Proposed Action

Staff requests approval to notice draft Regulation 18419 for adoption on or after October 17, 2019, the scheduled date of the Commission's October meeting. The proposed amendments would clarify when a committee qualifies as a "sponsored committee" and how the sponsors must be identified in the name of the sponsored committee, and make other minor changes to the existing regulation as discussed below.

A final version of the amended regulation is not up for consideration at this meeting. The proposed language for the amended regulation included with this memo is intended to facilitate discussion, and to allow the Commission to provide guidance and instruction to staff prior to presenting the amended regulation for approval at a subsequent Commission meeting.

Background/Overview

A recipient committee receives contributions to use for political purposes, such as making contributions or independent expenditures to support or oppose candidates and ballot measures, or making contributions to political parties and other state and local campaign committees. All recipient committees are required to file semi-annual statements for each half of the year, whether or not they have received any contributions or made any expenditures during the six-month period covered by the statement.

In 1977, the regulated community requested that the FPPC address the problem of redundant reporting. An organization, such as a labor union or trade association, that had established a separate bank account from which to receive and make political contributions was required to report the same contributions and expenditures that its connected committee was required to report. The Commission decided to solve this problem by introducing the concept of a "sponsored" committee. If a sponsored committee engaged in political activity, then only the committee would have to report contributions and expenditures. The sponsoring organization would merely be identified in the committee's name, but would not have reporting obligations.¹

¹ The Legislature subsequently codified the concept of a sponsored committee through legislation in 1985. The Act's definition of "sponsored committee" is found in Section 82048.7.

Current Regulation

The Act provides that every recipient committee must file a statement of organization. (Section 84101.) The statement of organization must include, among other things, the name of the committee. If the committee is a “sponsored committee,” the committee’s name must include the name of its sponsor. (Section 84102(a).)

Regulation 18419 contains certain requirements for sponsored committees. These requirements are three-fold. First, the sponsored committee must include the sponsor’s name in its name. Second, the sponsored committee must indicate on its statement of organization the industry group or affiliation of the sponsor. Third, the sponsor must itself file as a committee unless it fits within an exception created by the regulation. (Section 18419(c)(1)-(3).)

Qualification as a “Sponsor”

A sponsored committee is a committee, other than a controlled committee, that has a sponsoring organization. (Section 82048.7(a) and Regulation 18419(a)(1).) A sponsoring organization is an entity, such as a business entity, or an organization, such as a trade association or labor union, that does one of the following:

- Provides 80 percent or more of the contributions received by the committee, either directly or from the entity or organization’s members, officers, employees, or shareholders;
- Collects contributions for the committee through payroll deductions or dues;
- Provides all or nearly all the administrative services for the committee;
- Sets the policies for soliciting contributions or making expenditures of committee funds.

(Section 82048.7 and Regulation 18419.)

Naming Requirements

A committee’s name is one of the first pieces of information about a political committee that the public sees or hears. A committee’s name appears on all the committee’s mass mailings, and most advertisements including television, radio, telephone, print, and email advertisements, informing the public who sent or paid for a communication as required by the Act’s sender identification and advertisement disclosure provisions. Additionally, other electronic advertisements must also include a hyperlink to an Internet Web site containing the committee’s name. (Sections 84305, 84501-84510.)

Section 84102 sets forth basic information that committee names must contain. It requires that a sponsored committee name include the name of the sponsor. One purpose of these provisions is to provide the public with clear indication of who is responsible for a committee and prevent entities, which sponsor political committees, from obscuring their identity behind the committee name.

When more than one organization meets the definition of “sponsor,” Section 84102(a) provides that:

Whenever a committee has more than one sponsor, and the sponsors are members of an industry or other identifiable group, a term identifying that industry or group shall be included in the name of the committee.

The Act does not provide guidance regarding the appropriate “terms” which should be used to describe the industry or group affiliation of multiple sponsors. However, the multiple sponsor provision is an exception to this general rule that the specific name of the sponsor must be included. For this reason, the identifying terms used for multiple sponsors should be as specific as possible. A term that is broader than necessary would not be consistent with the purpose of Section 84102(a).

The statute permits use of a term identifying the industry or group. Which to choose depends upon the nature of the sponsor and whether a group name or an industry name more specifically identifies the sponsor. For example, if the California Trial Lawyers sponsored a committee, it would not comply with the statute to state that the committee was sponsored by “Professionals Who Represent Injured Californians.” This is because such words, while not false, are not a term that has a fixed and known meaning to the public. “California Trial Lawyers” is such a term that a reasonable person exposed to the name would recognize.

Proposed Changes

The proposed revisions to Regulation 18419 seek to further clarify what is required for determining whether a committee qualifies as a sponsored committee under the Act, and how a sponsored committee may include the identities of multiple sponsors in the committee name. The proposed version of Regulation 18419 does this in the following ways:

- Proposed amended subdivision (a)(2)(A) states that, for purposes of determining when a committee reached the 80 percent threshold for qualification as a sponsored committee, that threshold is determined based on all contributions received by a committee in the 24 months preceding. Currently, there is no timing mechanism for calculating the 80% threshold. This can lead to committees, especially those who have existed for a long period of time, not accurately reflecting a present committee sponsor. The proposed amendments also state that a committee must determine if it qualified as a sponsored committee, or if a sponsor changed, at the time of filing each campaign statement. This includes semi-annual, pre-election, and quarterly campaign statements.
- Proposed amended subdivision (b)(1) provides additional guidance regarding the appropriate terms which should be used to describe the industry or group affiliation of multiple sponsors. As proposed, the amendment defines the phrase “other identifiable group” as “members of the same business or trade; or non-profit organizations with a common purpose,” to make it clear that any name used to describe multiple sponsors must accurately characterize the common business or non-profit purpose of the sponsors. Additionally, a non-exhaustive list of examples have been provided of both sufficient and

insufficient identification of multiple sponsors (subdivisions (b)(1)(A) and (B)), and conforming changes have been made to subdivision (b)(2).

- In proposed amended subdivisions (a) (3) and (5), some now obsolete language has been omitted.
- Various references have been shortened from “Government Code section” to “Section” and from “2 Cal. Code Regs. Section” to “Regulation.”

Summary

The proposed amendments would clarify when a committee qualifies as a “sponsored committee” and provide guidance as to how the sponsors must be identified in the name of the sponsored committee. The proposal provides a “look-back” period to be used when determining whether the 80 percent funding threshold has been met, and provides greater clarification regarding the use of a term that identifies an industry or other identifiable group when a committee has multiple sponsors.

Attachment:

Proposed Regulation 18419