

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

§ 18531.61. Treatment of Debts Outstanding After an Election.

(a) Application. Under Section 85316(a) a candidate for elective state office may solicit and accept contributions after an election to pay net debts outstanding, subject to the applicable contribution limit for that election. This regulation applies to contributions accepted under Section 85316(a) on or after January 24, 2004, by a candidate for elective state office. See Regulation 18531.6 for rules regarding the treatment of similar contributions accepted before January 24, 2004.

(b) Definitions. For purposes of Section 85316(a) and this regulation, the following definitions apply:

(1) “The applicable contribution limit for that election” means the contribution limit, if any, as provided in Sections 85301 and 85302 applicable on the date of the election.

(2) “That election” or “the election” means the election for which a candidate for elective state office is raising contributions to pay net debts outstanding.

(3) “Net debts outstanding” means the total of a committee's outstanding debts minus its assets.

(A) For purposes of calculating net debts outstanding, “outstanding debts” include the following:

(i) An amount necessary to cover the cost of raising funds as permitted under Section 85316(a) and this regulation;

(ii) Costs related to complying with the post-election requirements of Title 9 (commencing with Section 81000) of the Government Code and other necessary administrative

costs related to winding down the campaign, including office space rental, staff salaries, and office supplies;

(iii) Legal fees and expenses incurred directly in connection with monitoring the count of absentee or provisional ballots for the election, or with a ballot recount conducted under Chapter 9 (commencing with Section 15600) of Division 15 of the Elections Code for the election; and

(iv) The total amount of unpaid debts, loans and accrued expenditures incurred with respect to the election.

(B) For purposes of calculating net debts outstanding, “assets” include:

(i) The total cash on hand available to pay those debts and obligations, including: currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value;

(ii) The total amounts owed to the candidate controlled committee in the form of credits, refunds of deposits, returns, or receivables, or a commercially reasonable amount based on the collectability of those credits, refunds, returns, or receivables.

(c) Raising Funds. A candidate for elective state office may accept contributions after the date of the election only up to the amount of net debts outstanding from the election. The contributions accepted are subject to the applicable contribution limit for that election. The candidate shall reduce the total amount of net debts outstanding as additional funds are received. The candidate and the candidate's controlled committee(s) may not accept a contribution under Section 85316(a) that exceeds the total amount of net debts outstanding on the date the contribution is received. A contribution that exceeds the amount of net debts outstanding shall be treated in the same manner as a contribution in excess of the contribution limits.

(d) Paying the Debt. A candidate for elective state office may only use a contribution accepted after the election pursuant to Section 85316(a) for payment of net debts outstanding from the election. The candidate may only use the funds on hand and owed to the committee, described in clauses (b)(3)(B)(i) and (ii), for payment of net debts outstanding from the election. The candidate shall use available funds to pay net debts outstanding as soon as practicable.

(e) Transfer. Pursuant to Section 85306, a candidate may transfer campaign funds from another of the candidate's controlled committees for the purpose of paying the net debts outstanding of the candidate's committee for elective state office under Section 85316(a). A transfer of this type made to a committee for an election to a statewide elective office held on or after November 6, 2002, or to any other elective state office held on or after January 1, 2001, is subject to the contribution limits of Sections 85301 and 85302 and attribution requirements of Regulation 18536.

Note: Authority cited: Section 83112, Government Code. Reference: Section 83 of Proposition 34; and Sections 85201, 85301, 85302, 85306, 85316, 85317, 85318 and 85321, Government Code.

HISTORY

1. New section filed 1-23-2004 as an emergency; operative 1-24-2004. 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 2004, No. 4). A Certificate of Compliance must be transmitted to OAL by 5-24-2004 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 1-23-2004 order transmitted to OAL 4-16-2004 and filed 5-13-2004 (Register 2004, No. 20).
3. Amendment of section heading and section filed 1-7-2008; operative 2-6-2008. 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 2008, No. 2).
4. Amendment of subsection (b)(3), new subsection (b)(3)(A), renumbering and amendment of former subsections (b)(3)(A)-(D) to subsections (b)(3)(A)(i)-(iv), new subsection (b)(3)(B) and renumbering amendment of former subsections (b)(3)(D)(i)-(ii) to subsections (b)(3)(B)(i)-(ii) filed 7-22-2019; operative 8-21-2019 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 2019, No. 30).
5. Amendment of subsection (d) 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).

6. Amendment of subsections (c) and (e) filed 5-12-2021; operative 6-11-2021 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 2021, No. 20).