

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

**§ 18615. Accounting by Lobbyist Employers.**

(a) Pursuant to Government Code section 86110, lobbyist employers shall maintain a journal, ledger or other record of payments in the following categories:

(1) Payments to lobbying firms;

(2) Payments to lobbyists;

(3) Activity expenses;

(4) Other payments to influence legislative or administrative action. This includes payments for or in connection with:

(A) Support or assistance of lobbyists;

(B) Direct communication with a legislative, agency or elective state official for the primary purpose of influencing legislative or administrative action; and

(C) Soliciting or urging persons other than the lobbyist employer's employees to enter into direct communication with a legislative, agency or elective state official for the primary purpose of influencing legislative or administrative action.

(5) Contributions to elected state officers, state candidates and committees controlled by or primarily formed to support such officers or candidates;

(b) The lobbyist employer shall keep records using one of the following methods:

(1) Maintaining records of payments in connection with lobbying separate from records of activities which are not described in subdivision (a); or

(2) Using any system with records maintained in accordance with accepted accounting principles.

(c) Records of payments by the lobbyist employer shall include:

(1) All payments in connection with lobbying activities made to or on behalf of a lobbying firm, including but not limited to fees, retainers and reimbursement of expenses.

To the extent that payments to a lobbying firm are only partially in connection with lobbying activities, the lobbyist employer or person may keep records of payments made for lobbying separate from payments made in connection with non-lobbying activities.

The following must be included for each payment:

(A) The full name of the payee;

(B) If the payee is a person other than the lobbying firm, the full name of both the payee and the lobbying firm;

(C) The date and amount of the payment; and

(D) The calendar quarter during which the services paid for were rendered.

(2) All direct or indirect payments, such as salaries, fees and reimbursement of expenses, advances or other payments made to a lobbyist. Salary includes gross wages paid, plus any fringe benefits which are in lieu of wages such as the granting of stock options or purchase of annuities, but does not include routine fringe benefits such as contributions to a health plan, retirement plan or payroll taxes. To the extent payments made to a lobbyist are only partially in connection with activities as a lobbyist, the lobbyist employer may apportion the payments based on the percentage of the lobbyist's compensated time which is spent influencing or attempting to influence legislative or administrative action. The following must be included for each payment:

(A) The full name of the payee; and

(B) The date and amount of the payment.

(3) All activity expenses incurred or paid by the lobbyist employer, other than those activity expenses incurred by a lobbyist which shall be recorded as reimbursements to the lobbyist or “other payments to influence legislative or administrative action” under the provisions of subdivision (c)(4), as appropriate. The following must be included for each activity expense:

(A) The full name of the payee;

(B) The full name and official position of each elective state official, legislative official, agency official, state candidate or member of the immediate family of one of those individuals who was a beneficiary;

(C) The total number of all beneficiaries;

(D) A description of the goods or services or other consideration for which the payment was made or incurred;

(E) The date and total amount of the expenditure; and

(F) The amount of the payment attributable to each beneficiary.

(4) All other payments to influence legislative or administrative action, including:

(A) The full name, title and proportionate share of compensation paid to each employee, other than a lobbyist, who is engaged for 10 percent or more of the employee's compensated time in a calendar month in or in connection with any of the activities described in subdivision (a). Such employees include those providing research services and those preparing materials to be used by a lobbyist or to be used in direct communication or in soliciting or urging others to engage in direct communication for the primary purpose of influencing legislative or administrative action. Compensation includes gross wages paid plus any benefits which are in lieu of wages such as the

granting of stock options or the purchase of annuities. It does not include, however, routine fringe benefits, such as contributions to health plans, retirement plans, etc., which are made on behalf of all employees nor does it include the payment of payroll taxes.

(B) The payment by the lobbyist employer of expenses incurred by a lobbyist;

(C) The payment of expenses incurred by the lobbyist employer for goods or services used by a lobbyist or used to support or assist a lobbyist in connection with activities as a lobbyist;

(D) For state and local government agencies that file reports pursuant to Government Code sections 86115 and 86116, the payment of dues or similar payments made to any organization, including a federation, confederation, or trade, labor, or membership organization, that makes expenditures equal to 10 percent of its total expenditures, or fifteen thousand dollars (\$15,000) or more, during any calendar quarter, to influence legislative or administrative action;

(E) The payment of any other expense which would not have been incurred but for the lobbyist employer's activities to influence or attempt to influence legislative or administrative action, i.e., those activities described in subdivision (a), including, but not limited to, office overhead and operating expenses, payments to expert witnesses and expenses incurred by employees other than a lobbyist.

(F) For filers reporting payments in connection with ratemaking or quasi-legislative proceedings before the California Public Utilities Commission as specified in Government Code section 86116(h)(2), the full name, title, and compensation paid to each attorney for time spent appearing as counsel or preparing to appear as counsel in

those proceedings; and the full name, title and compensation paid to each witness for time spent testifying or preparing to testify at those proceedings.

(G) Detailed records for subdivisions (c)(4)(B) through (F) must include:

1. The full name of the payee;
2. The date and amount of the payment; and
3. A description of the goods or services or other consideration for which the payment was made.

(5) All monetary and non-monetary contributions of \$25 or more made by the lobbyist employer to an elected state officer, a state candidate or committees controlled by or primarily formed to support such officers or candidates. Cancelled checks or legible images of cancelled checks, or other bank records shall support the monetary contributions. All of the following must be included for each monetary and non-monetary contribution:

- (A) The full name of the payee;
- (B) The full name of the recipient of the contribution if other than the payee;
- (C) In the case of a non-monetary contribution, a description of the goods or services or other consideration provided; and

(D) The date and amount of the payment. If the lobbyist employer or a committee sponsored by the lobbyist employer keeps records and files campaign statements with the Secretary of State pursuant to Chapter 4 of the Political Reform Act, no records are required by this paragraph.

(6) No records shall be required for payments which are not reportable pursuant to 2 Cal. Code Regs. section 18616(g)(1), (2), (3) and (4).

(d) A lobbyist employer shall maintain source documents to substantiate the information required by subdivision (c) including:

(1) Bank and credit card records evidencing payment or receipt, such as cancelled checks or legible images of cancelled checks, credit card statements and credit card receipts, and transfers received;

(2) Records of goods or services received or provided, such as receipts, invoices, contracts, and agreements;

(3) Correspondence and communications substantiating the receipts or disbursements; and

(4) Invitations to lobbyist employer sponsored events, and rosters of attendees.

(e) If a lobbyist employer is unable to obtain a source document to substantiate an activity expense, the lobbyist employer shall prepare a written dated voucher, or annotated receipt or invoice documenting the required information as soon as practicable after the activity expense is made.

(f) All records which must be kept by virtue of this regulation shall be maintained for a period of five years from the date of the filer's final report for the calendar year for which the activities were reported pursuant to Government Code section 86116.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 86110 and 91000.5, Government Code.

### **HISTORY**

1. New section filed 8-1-75 as an emergency; operative 8-1-75. Certificate of Compliance included (Register 75, No. 31).

2. Repealer of subsections (a) (1) (B) 3, (b) (1) (C) and (b) (1) (D) and new subsections (a) (1) (B) 3, (a) (1) (B) 4 and (b) (1) (C) filed 8-20-76; operative 9-19-76 (Register 76, No. 34).
3. Amendment of subsections (a)-(d) and new subsections (e) and (f) filed 10-13-78; operative 1-1-79 (Register 78, No. 41).
4. New subsections (b), (c) and (e) filed 1-25-80; operative 2-24-80 (Register 80, No. 4).
5. Amendment of section heading and subsections (d) (2) filed 11-5-82; operative 11-5-82 (Register 82, No. 45).
6. Amendment of subsections (a)-(c) filed 12-15-83; operative 1-14-84 (Register 83, No. 51).
7. Repealer and new section filed 5-28-86 as an emergency; operative 5-28-86 (Register 86, No. 22). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-25-86.
8. Certificate of Compliance filed 9-15-86 (Register 86, No. 38).
9. Editorial correction of History Note 5 (Register 95, No. 6).
10. New subsections (c)(1)(B) and (c)(4)(D), subsection relettering, and amendment of subsections (c)(4)(A) and newly designated subsections (c)(4)(F) and (c)(4)(G) filed 5-26-98; operative 5-26-98. Submitted to OAL for printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, Linda Stockdale Brewer , Sacramento Superior Court, Case No. 51275 (1991) (Register 98, No. 22).
11. Amendment of subsection (d) and Note filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).
12. Editorial correction of subsection (c)(4)(G) (Register 2002, No. 22).
13. Amendment filed 6-17-2002; operative 7-17-2002 (Register 2002, No. 25).

14. Amendment of subsections (c)(2), (c)(4)(A) and (c)(4)(C) 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).

15. Amendment of section heading and section filed 12-13-2021; operative 1-12-2022 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. 51).