

CONTRIBUTIONS

This chapter begins with the definition of “contribution” and provides guidelines necessary for proper reporting, including a discussion on valuing nonmonetary contributions.

Many cities and counties have adopted campaign ordinances that include contribution limits and other restrictions. Check with your local elections or ethics agency. Effective January 1, 2021 a default state campaign contribution limit applies to city and county candidates when the city or county has not already enacted a contribution limit on such candidates per AB 571 (2019). Special rules apply to AB 571 candidate committees. Please see the FPPC’s AB 571 fact sheet available on the FPPC website for additional rules applicable only to AB 571 candidates.

A. What is a Contribution?

A “contribution” is a monetary or nonmonetary payment received by a candidate or committee for which the candidate or committee has not provided full and adequate consideration in return. A contribution may take any of the following forms:

- Money (cash, check, credit card, wire transfers, text contributions).
- Nonmonetary items (donated goods or services, discounts, cryptocurrency).
- Payments made by a third party for advertising or other communications coordinated with the committee.
- Loans (including loan guarantees, co-signing, and lines of credit).
- Money, nonmonetary items, and loans from the candidate to their own committee or from the candidate’s family.

- Enforceable promises to make a payment (for example, a contributor promises, in writing, to pay for specific goods or services and, based on that written promise, the committee expends funds or enters into a legally-enforceable contract to purchase the goods or services).

QUICK TIP: Contributions of \$100 or more may never be made or received in cash.

B. When is a Contribution Received?

A **monetary** contribution is received on the date the candidate, committee, or an agent of the committee, obtains possession or control of the cash, check, or other item that constitutes the contribution.

When an agent of the committee, such as a campaign consultant, receives a contribution for the committee, the agent must notify the treasurer no later than the closing date of the next campaign statement due. The date of the contribution is the date the agent obtained possession of the contribution.

Ex 4.1 - A committee's campaign consultant received a hand-delivered check at a May 14, Friday evening fundraiser. The check was delivered to the committee's treasurer the following Monday, May 17. The contribution was received on May 14, the day the committee's agent obtained possession of the check.

Ex 4.2 - The committee also contracts with a website service to receive contributions over the Internet. The website service sends the committee's treasurer an email each time a contributor logs on to the website service and enters their donor information and credit card number. By logging onto the website service, the treasurer can accept the contribution and receive the funds. The committee reports receipt of the contribution on the date it receives the email because it controls the contribution on that date.

A **nonmonetary** contribution is received on the **earlier** of the following:

- The date funds were expended by the contributor for the goods or services;
- The date the candidate, committee, or an agent of the committee obtained possession or control of the goods or services; or
- The date the candidate or committee received the benefit of the expenditure.

A nonmonetary contribution of **employee services** is made by the contributor and received by the candidate or committee on the **payroll date** of the employee. See the discussion later in this chapter for information about how to value a contribution of employee services.

A committee may solicit a contribution of **cryptocurrency** as a nonmonetary contribution, subject to specific requirements. Contributions received in cryptocurrency are subject to any applicable limits and may not be accepted from foreign principals, lobbyists, or anonymous sources. Committees cannot receive cryptocurrency contributions directly. However, a committee may receive cryptocurrency contributions through a payment processor selected to act as a vendor on behalf of the committee.

Any cryptocurrency contribution must be made and received through a U.S. based cryptocurrency payment processor registered with the U.S. Department of Treasury, Financial Crimes Enforcement Network, which utilizes know your customer (KYC) protocols to verify the identity of the contributor for all contributions. A committee that chooses to solicit contributions in cryptocurrency must ensure that the payment processor it selects to process these contributions does all of the following:

- Utilizes KYC procedures that enable it to know the identity of each contributor,
- Collects the name, address, occupation, and employer of each contributor at the time the contribution is made and transmits this to the committee within 24 hours of the time the contribution is made, and
- Immediately converts the cryptocurrency to U.S. dollars upon receipt at the prevailing rate of exchange at the time of receipt, and deposits the funds into the committee's campaign bank account within two business days of receipt.

The amount of a cryptocurrency contribution is the fair market value of the cryptocurrency at the time the payment processor obtains possession of the contribution. A cryptocurrency contribution is received on the date the payment processor, an agent of the committee, obtains possession of the cryptocurrency that constitutes the contribution.

An **enforceable promise** is received on the date the candidate, committee, or an agent of the committee, receives documents verifying that a contributor has made a legally enforceable promise to make a payment. A person makes an "enforceable promise to make a payment" if they:

- Guarantee, furnish security for, endorse or cosign a loan.
- Make and deliver a post-dated check.
- Establish a line of credit at a bank or other commercial lending institution for a candidate or committee.

Exceptions: A pledge card is not considered an enforceable promise to make a payment. "Enforceable promise" also does not include a contributor's agreement to make future installment payments through wire transfer, credit card transaction, debit account transaction, or similar electronic payment.

C. Contribution Exceptions

There are many exceptions to the definition of “contribution.” In addition to the most common exceptions listed below, Chapter 6 discusses certain types of communications that are not considered contributions.

Volunteer Personal Services: If an individual donates their personal or professional services to a campaign (including a volunteer’s travel expenses), no contribution has been made or received as long as there is no understanding of reimbursement.

However, if an employer donates employee services to a campaign, and any employee spends more than 10 percent of their compensated time in a calendar month performing campaign activity for one or more campaigns, the employer has made a nonmonetary contribution to the committee. Determine the contribution amount by allocating the gross salary to the time spent on campaign activity. See “Employee Time” later in this chapter for additional information.

Home/Office Fundraisers: If a person, other than a lobbyist (or a cohabitant of a lobbyist) or lobbying firm, holds a fundraiser or other campaign event in their home or office, the costs incurred by the occupant of the home or office need not be reported as long as the total cost of the event is \$500 or less. However, if someone else donates food, beverages, or anything else of value to the event, the fair market value of those donated goods is a nonmonetary contribution. In addition, the donated goods must be counted to determine whether the total cost of the event is \$500 or less.

QUICK TIP: For the home/office fundraiser contribution exception to apply, the total cost of the event must be \$500 or less no matter how many candidates or committees benefit from the event.

Note: The home/office fundraiser exception does not apply to a state lobbyist or to a cohabitant of a state lobbyist. A registered state lobbyist may not make a contribution to an elected state officer or candidate for elective state office if the lobbyist is registered to lobby the official's agency or the agency for which the candidate is seeking election. A fundraiser held in the home of a lobbyist is considered a contribution; therefore, a lobbyist is prohibited from holding a fundraiser in their home for a candidate seeking election to a governmental agency that the lobbyist is registered to lobby. A similar prohibition applies to lobbying firms holding fundraisers at their offices.

QUICK TIP: A state lobbyist may not hold a fundraiser for a local candidate/officeholder who is seeking election to a state office.

Ex 4.3 - Your neighbor holds a fundraiser in their home for your campaign. As long as the total cost of the event is \$500 or less, your committee is not required to report the cost of the event as a nonmonetary contribution.

Ex 4.4 - A business hosts a campaign fundraiser in its conference room. The business spends \$450 for beverages. A separate business entity provides the food valued at \$200. Since the total cost of the event now exceeds \$500, both businesses have made reportable nonmonetary contributions that must be reported by your committee.

Social Media – Internet Communications: Uncompensated Internet activity by an individual, such as sending or forwarding electronic messages, social networking, blogging, creating or hosting a website, to support or oppose a candidate or ballot measure is not considered a contribution or expenditure. Certain Internet communications require advertisement disclosures as outlined in Chapter 7.

Ex 4.5 - Your friends send emails to their family and friends and post on their personal social networking sites communications supporting your campaign. Since your friends are not being compensated, these activities are not reportable even if you provided your friends with campaign materials.

Member Communications: Payments made by an organization (including a political party, union, trade association) for certain communications that are sent only to the organization's members, employees, or shareholders, or their families, are not contributions to a candidate endorsed in the communications. For example, if a union sends a mailing to only its membership, supporting your campaign, the cost of the mailing is not a reportable contribution.

Gifts: A payment or other benefit to a candidate or official that is made principally for personal purposes (not political purposes) is a gift unless the candidate or official provides payment or services of equal or greater value. Generally, gifts are subject to annual limits and must be disclosed by the candidate or official on a Form 700 (Statement of Economic Interests). For additional information about gifts, see the fact sheet on the FPPC's website entitled, *Limitations and Restrictions on Gifts, Honoraria, Travel and Loans*.

Payments for Legislative, Governmental, or Charitable

Purposes: Behested payments made in connection with a legislative, governmental, or charitable purpose, are not considered to be made for political purposes; therefore, they are not considered contributions. However, if the payment is made at the behest of an elected official and the payment(s) totals \$5,000 or more from a single source in a calendar year, the official is required to file a Form 803 (Behested Payment Report) as described in Chapter 11.

D. Aggregating Contributions

Contributions received from certain combinations of individuals and entities must be added together to determine the total amount that will be treated as received from a single contributor.

The following contributions are aggregated:

- Contributions from an individual's personal funds and contributions made by an entity when the individual directs and controls the entity's contributions.
- Contributions from two or more entities that are directed and controlled by a majority of the same persons.
- Contributions made by entities that are majority owned by any person. Contributions made by the majority owner and all other entities majority owned by that person are aggregated, unless those entities act independently in their decisions to make contributions.

QUICK TIP: The term "person" includes an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, and association.

The following examples provide general guidance regarding aggregation of contributions. The FPPC may be contacted for advice related to your specific facts.

Ex 4.6 - Sally Perez contributed \$98 from Sally's personal funds and another \$98 from the funds of Sally's wholly-owned business, Flowers by Sally Perez, to the Anderson Committee. Because contributions from an individual and their business, or from any other account they direct and control, are considered to be from a single contributor, the Anderson Committee must itemize both contributions and report a cumulative amount received from Sally and Sally's business of \$196 on its committee campaign statement.

Ex 4.7 - EXtream Snowboards, Inc., made a contribution of \$99 to the Johnson Committee. EXtream Snowboards, Inc., is a wholly-owned subsidiary of LeesureTech Industries, which also made a contribution of \$99 to the Johnson Committee. If there was coordination between EXtream Snowboards and LeesureTech Industries, their contributions are considered to be from a single contributor. The Johnson Committee must itemize both contributions and report a cumulative amount received of \$198 on its campaign statement.

Ex 4.8 - William Smith is a developer with four separate corporations. William makes political contributions from personal funds and directs and controls the contributions of each of William's corporations. William made a contribution of \$1,000 from personal funds and contributions of \$2,000 from the funds of each of William's corporations to the committee. Because William directed and controlled all of these contributions, they are considered to have been made by a single contributor. The committee must itemize each contribution and show a cumulative amount received of \$9,000.

Ex 4.9 - Southwest TeleCom has a greater than 50 percent ownership interest in American TeleCom. Each entity, entirely on its own and with separate decision making bodies, makes a contribution of \$1,000 to a committee. The committee does not aggregate these contributions because Southwest TeleCom and American TeleCom acted independently in their decisions to make the contributions.

E. Reporting the Intermediary of a Contribution

An intermediary is a person or entity that makes a contribution on behalf of another person. For example, an employee who is reimbursed for a contribution by their employer is not the true source of the funds, but the intermediary of the employer's contribution.

A committee receiving a contribution of \$100 or more from an intermediary must report the true source and the intermediary. The campaign statement will identify both the intermediary's and the true source's name and address, and, if applicable, the occupation and employer.

Additionally, for contributions of \$100 or more from an intermediary that is a limited liability company (LLC) that has qualified as an independent expenditure committee or major donor, include the name of the LLC and the full legal name of the LLC's responsible officer as defined in Regulation 18402.2. If the contributor is an LLC that has qualified as a recipient committee, include the name of the committee and its principal officer as defined in Section 82047.6. For an LLC that has not qualified as a committee, include the name of the LLC and the full legal name of the individual primarily responsible for approving the contribution. If more than one individual shares in the primary responsibility of approving a contribution, at least one such individual must be identified.

Failure to disclose the true source of a contribution is considered one of the most serious violations of the Political Reform Act.

Ex 4.10 - Berry and Vienna each made a \$100 contribution from their personal funds to support Tina Baker for city council, with the understanding that they would be reimbursed by their employer. Berry and Vienna must tell the committee that they are acting as intermediaries on behalf of their employer. The committee must itemize the \$200 contribution from the employer and also disclose Berry and Vienna as intermediaries.

Ex 4.11 - A business collects ten contributions of \$200 each earmarked for a candidate's campaign. The business deposits the contributions and provides the campaign committee one check from the business rather than providing ten individual checks. The committee reports the business as an intermediary and the individuals as the contributors.

Candidates and committees are required to check and, if necessary, correct any information regarding the true source of a contribution that a person of reasonable prudence would question based on all of the surrounding circumstances. If there is reason to question the source of a contribution (e.g., there is reason to believe the information contained on the contribution check does not contain the name of the person who is actually making the contribution), the donor should be asked if they are acting as an intermediary for the true source of the contribution.

This manual cannot address all scenarios that may need to be questioned, but it is prudent to question unusually large contributions from sources unfamiliar with the candidate or their agents; a series of contributions from a single employer; and, significant contributions from a nonprofit organization or multipurpose organization that is not registered as a political committee on the Secretary of State's website.

F. Reporting Various Types of Contributions

Electronic Receipt of Contributions: Contributions may be received by credit card, wire transfer, via the Internet, cell phone text message, telephone, debit account transaction, or similar electronic payment options. All of the reporting and recordkeeping requirements apply to these contributions. Some tips are:

- For contributions of \$25 or more, the committee treasurer should make sure that a copy of the credit card voucher or other documentation is sent to the committee as soon as practicable after the contributions are made.
- The entire amount charged to the contributor is reported as a contribution.

- Fees associated with this type of fundraising or deducted by the vendor before the contributions are sent to the committee are reported as expenditures. The fees are not deducted from the amount of each contribution reported.
- Contributions made by text message are received on the date the mobile device company receives the funds from the contributor, not the date the text was sent.

Ex 4.12 - Your committee holds a golf fundraiser and charges \$200 per person. After the event, you determine that it cost your committee \$50 per person to pay the caterer, hall rental, entertainment, invitations, etc. The invitations state that half of the ticket cost will be donated to a charity and half will be contributed to your committee. Report on Schedule A of the Form 460 a \$100 contribution from each of the ticket purchasers, as well as the contributor's name, address, occupation, and employer. Do not subtract the per person costs from each ticket sold. The expenses will be reported on Schedule E of the Form 460.

Cryptocurrency

The amount of a cryptocurrency contribution is the fair market value of the cryptocurrency at the time the payment processor obtains possession of the contribution. A cryptocurrency contribution is received on the date the payment processor, an agent of the committee, obtains possession of the cryptocurrency that constitutes the contribution. Some tips on reporting cryptocurrency contributions include:

- The entire amount of the cryptocurrency contribution is reported as a nonmonetary contribution. The processing fee charged by the payment processor is not deducted from the amount reported.
- The processing fee is reportable as an expenditure of the committee at the time the fee is deducted or charged.
- The entire amount of the cryptocurrency contribution is reportable as a "Miscellaneous Increase to Cash."

Ex 4.13 - Your candidate-controlled committee contracts with a payment processor, which charges a 2% processing fee, to accept cryptocurrency on its behalf for the upcoming election. The payment processor accepts a contribution in bitcoin valued at \$1,000 on October 15. The committee would report the receipt of the \$1,000 cryptocurrency in the following ways on the Form 460:

- Schedule C: The committee would report the receipt of the \$1,000 as a non-monetary contribution. The committee would disclose the date received as October 15 and report all the required contributor information. For the description of goods or services, include “cryptocurrency contribution”.
- Schedule E: The committee would report the processing fee of \$20 as an expenditure.
- Schedule I: The committee would report the \$1,000 contribution as a miscellaneous increase to cash, along with the name and address of the contributor. For description of receipt, include “cryptocurrency contribution”.

Please note that if a cryptocurrency contribution is received and valued at \$1,000 or more from a single source in the 90 days prior to or on the date of an election, the committee may incur additional filing obligations such as the Form 497.

Earmarked Contributions

A contribution to a committee that is earmarked for a contribution to any other particular committee, ballot measure, or candidate is required to be disclosed as outlined below.

A contribution is earmarked if it is made under any of the following circumstances:

- The committee or candidate receiving the contribution solicited the contribution for the purpose of making a contribution to another specifically identified committee, ballot measure, or candidate, requested the contributor to expressly consent to such use, and the contributor consents to such use.

- The contribution was made subject to a condition or agreement with the contributor that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.
- After the contribution was made, the contributor and the committee or candidate receiving the contribution reached a subsequent agreement that all or a portion of the contribution would be used to make a contribution to another specifically identified committee, ballot measure, or candidate.

However, there is an exception for dues, assessments, fees, and similar payments made to a membership organization or its sponsored committee in an amount less than five hundred dollars (\$500) per calendar year from a single source for the purpose of making contributions or expenditures. Such funds are not considered to be earmarked by each individual contributor, instead the membership organization is to be reported as the source for these funds.

The committee making an earmarked contribution shall provide the committee receiving the earmarked contribution with the name and address and, if applicable, the occupation and employer of the contributor who earmarked their funds and the amount of the earmarked contribution at the time it makes the contribution. If the committee making the contribution received earmarked contributions that exceed the amount contributed, or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which contributors to identify, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

Ex 4.14 - A restaurant donates a dinner for four worth \$200 to your committee. At your committee's auction, Gloria Sanchez bids \$300 and wins the dinner for four. Itemize \$200 as a nonmonetary contribution from the restaurant on Schedule C of the Form 460. Itemize Gloria Sanchez on Schedule I of the Form 460 (\$200 miscellaneous increase to cash) and on Schedule A of the Form 460 as a contributor of \$100 (the amount over the fair market value).

Fundraisers: The full amount (face value) of a fundraiser ticket is a reportable contribution, unless it is a joint committee/charity fundraiser advertised with specific attribution. The costs of the event are not subtracted when determining the amount of the contribution.

Auctions and Garage Sales: When items are donated for auction or sale at a fundraiser, the donated item is a nonmonetary contribution. (See below for determining the value.) When someone buys an item, the payment is considered a "Miscellaneous Increase to Cash" and is reported as such. If any person or entity pays \$100 or more, the payment is itemized.

When someone pays more for an item than it is worth, the amount that is equal to the fair market value is reported as a miscellaneous increase to cash and the amount over the fair market value is reported as a monetary contribution. Each is itemized at \$100.

Bar Receipts: Funds received by selling drinks at a fundraiser at fair market value are reported as miscellaneous increases to cash, not contributions.

Raffle Tickets: Receipts from the sale of raffle tickets at a fundraiser are reported as contributions. Items donated for raffle prizes are reported as nonmonetary contributions. (Note that Penal Code section 319 imposes some restrictions on raffles. Contact your county's district attorney for further information.)

Joint Checking Accounts: Individuals (including spouses) may make separate contributions from a joint checking account. For reporting purposes, the full amount of the contribution is reported as coming from the individual who signs the check. If two or more individuals sign the check, the contribution is divided equally between or among the signers, unless there is an accompanying document signed by each individual whose name is printed on the check that clearly indicates a different apportionment.

Ex 4.15 - Linda and Jerry Nelson have a joint checking account. From this account, Linda signed a \$100 check payable to Friends of Joshua Truman. The committee identifies Linda Nelson as the contributor of the full \$100.

A check drawn on a joint checking account that is signed by an individual not listed on the check (e.g., an accountant) must be accompanied by a document signed by at least one of the individuals listed on the check stating to whom the check is to be attributed.

Business Accounts: Generally, if a check is drawn on the account of a business entity, the contributor is the business entity, not the person who signs the check.

Ex 4.16 - Barbara Taylor was defeated in a June election. In order to use the leftover funds for a future election, Barbara must transfer the remaining funds to a new account within 90 days of the postelection reporting period. If the funds are not transferred by that date, they are considered “surplus funds” and may not be used for a future election.

Minor Children: A contribution made by a child under the age of 18 is presumed to be a contribution from their parent or guardian.

Text Contributions: For a contribution received by a text message, the contributor is the person who is subscribed to the cell phone number that texted the contribution.

Transfers from a Prior Campaign: Candidates who have more than one campaign bank account and controlled committee may transfer funds from one account/committee to another so long as the funds are not “surplus funds.”

Leftover funds become surplus upon the 90th day after leaving an elective office, or the 90th day following the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last. See Chapter 8 for information about how to report transferred funds.

Chapter 11 includes a discussion about the rules for using leftover campaign funds for a future election.

QUICK TIP: There are restrictions on transfers of funds to run for state office. See FPPC’s Information Manual for State Candidates (Manual 1) for further information. In addition, candidates and committees should check with the local elections office to determine if there are local contribution limits or other restrictions pursuant to a local campaign ordinance.

Contributions from the Candidate: A payment from a joint checking account that bears the name of the candidate and spouse is considered a contribution from the candidate. This is true even if the spouse signs the check.

A contribution received from a spouse’s legally separate funds and signed by the spouse is considered to be made by the spouse and is subject to possible contribution limits and other applicable provisions of the Act.

A candidate's business, other than a sole proprietorship, is considered a separate legal entity. Therefore, contributions from the business are not considered to be the candidate's personal funds and may be subject to local contribution limits. Generally, contributions from a candidate's sole proprietorship to the candidate are not considered to be from a separate entity and are therefore not subject to contribution limits, if any. Note: Contributions to another candidate or committee from the candidate and their sole proprietorship are aggregated for purposes of contribution limits. (See *Burch* Advice Letter, No. A-14-032.)

Contributions from Other Candidates: Candidates and committees may receive contributions, subject to contribution limits, if any, from other candidates or officeholders.

Undesignated Contributions: Candidates who are soliciting contributions for more than one office and receive a contribution that has not been designated for a specific office may deposit the contribution in any of their campaign bank accounts. An undesignated monetary contribution must be reported on the campaign statement for the reporting period in which it is received, and must be deposited in the campaign bank account for the controlled committee to which it is being allocated within 30 days of receipt.

Undesignated nonmonetary contributions must be allocated to a particular committee within 30 days of receipt or by the reporting deadline for the reporting period in which the contribution is received, whichever is earlier.

G. Valuing Nonmonetary Contributions

This section provides assistance in determining how to value nonmonetary contributions so that they may be reported accurately. The varieties of nonmonetary contributions are vast, so it is not possible to present all possibilities. Contact the FPPC for assistance.

Ex 4.17 - The owner of an electronics store donates an iPad valued at \$550 to your committee for sale at an upcoming auction. Although the cost to the owner is less than \$550, the nonmonetary contribution is reported at the fair market value amount of \$550 (the amount it would cost a member of the public to purchase the iPad).

Fair Market Value: When a nonmonetary contribution is received, the fair market value of the goods or services (the amount it would cost a member of the public to purchase the goods or services) must be reported. If the committee does not know the fair market value of a nonmonetary contribution (e.g., an original piece of artwork), the committee may send an email or a letter requesting that the contributor provide the value of the contribution in writing. The contributor is legally required to provide an amount if the value of the contribution is \$100 or more.

Ex 4.18 - Your committee treasurer knows the owner of a printing shop and the owner provides your committee a 50 percent discount on the printing of a brochure that normally would cost \$1,200. Your committee must report a nonmonetary contribution of \$600 from the printing shop.

Employee Time: If an employer donates the use of an employee to work on campaign activities for one or more campaigns, the amount the individual is paid is reportable as a nonmonetary contribution from the employer if the employee spends more than 10 percent of their compensated time in a calendar month working on campaign activity. To determine the contribution amount, the gross compensation is allocated to the time spent on campaign activity. Compensation

includes wages paid and any benefits in lieu of wages, such as stock options or an annuity purchase. Compensation does not include routine benefits, such as the employer's payments to a health care or retirement plan.

Ex 4.19 - An accounting firm provides your committee with the services of an accountant. The accountant spends 25 percent of their time working for the campaign. This percentage of their gross compensation is \$2,000. The amount of the nonmonetary contribution reported from the accounting firm is \$2,000.

Discounts: If the committee receives a discount on goods or services it purchases and the discount is not offered to the public in the regular course of business, the discount is a nonmonetary contribution that must be reported.

Private Air Transportation: A person who provides a candidate with a flight in a private airplane is making a nonmonetary contribution. The value is determined by using either the commercial rate to the destination, if available, or the charter rate divided by the number of passengers on the flight.

Email Lists: If a list of email addresses is donated, the fair market value must be reported as a nonmonetary contribution.

Corporate Stock: The contribution of corporate stock must be reported and valued as listed on the stock exchange on the date of receipt. When the stock is sold, the total proceeds of the sale are reported on Schedule I as a miscellaneous increase to cash. If the purchaser is unknown, report the brokerage firm as the source with a notation that the payment represents the sale of stock. Broker's fees must be reported on Schedule E.

H. Valuing Mailings, Telephone Banks, Polls

Generally, the fair market value of a communication is reported as a contribution when it expressly advocates support of or opposition to a candidate and was made at the behest of (or in coordination with) the affected candidate or primarily formed committee.

Ex 4.20 - The Express Paper Company agrees to produce a mailing for your committee. The value of the nonmonetary contribution is the amount it would have cost your committee if it had paid fair market value for the mailing, which is likely more than what the actual costs were to the company.

Multiple Candidates/Measures: If a communication expresses support of or opposition to more than one candidate or ballot measure, the fair market value attributable to each may be calculated by prorating the costs among the featured candidates and ballot measures. The prorated value is based on the amount of space allotted to each candidate or measure supported or opposed in the mailer.

The value of a mailer that supports or opposes candidates and measures being voted on in different jurisdictions may be prorated based on the number of mailers sent to each candidate or ballot measure's jurisdiction.

Ex 4.21 - A Chamber of Commerce produces and mails a one-page flyer urging voters to vote for supervisor candidate Smith and vote against two ballot measures. Half of the flyer is devoted to supporting candidate Smith and the other half equally opposes the two measures. The Chamber coordinates the mailing with candidate Smith. The total cost of producing and mailing the flyer was \$10,000. Candidate Smith must report a nonmonetary contribution of \$5,000 from the Chamber.

Political and Non-Political Material: The cost of a communication containing both express advocacy in support of or opposition to a candidate, as well as non-political material, may be prorated. Costs directly associated with the political message are reportable by the candidate, including, for example, compensation paid to employees who spend more than 10 percent of their compensated time in a calendar month producing or mailing the political materials, and the pro rata cost of paper, envelopes, and postage. The allocation may be based on the comparative number of pages or the comparative amount of weight between the political and non-political materials.

Bulk Rate Permits: Use of an organization's bulk rate permit is a nonmonetary contribution from the organization. If the committee pays the actual postage costs incurred under the bulk rate permit, the fair market value of the contribution is either:

- The price the organization paid for the bulk mailing permit; or
- The difference in postage costs between the bulk mailing rate and that of regular mail.

QUICK TIP: If the organization pays for the costs of the mailing using its bulk rate permit and the committee does not have such a permit, the amount it would have cost to pay for the mailing using regular mail or the cost of the bulk rate mailing plus the cost of a permit should be reported as a nonmonetary contribution.

Phone Banks: Businesses and other entities will sometimes allow a committee to use their phones to call prospective voters during non-business hours. The fair market value of the use of the phones is calculated to determine the amount reported as a nonmonetary contribution, even if only local calls are made. One method to determine the fair market value is to contact organizations that provide phone banks as a business. Note: Disclosures are required on certain paid telephone calls. (See Chapter 7.)

Polls and Surveys: A person or entity that provides data from a public opinion poll or survey to a candidate or committee is making a nonmonetary contribution if the candidate or committee requests the data or the data are used for political purposes. Standards used by the Federal Election Commission (11 CFR 106.4) may be used for valuing polling or survey data. The formula is based on the age of the data. The chart below illustrates the fair market value of data based on the number of days that pass from the date the entity originally received the data to the date the data were provided to the candidate or committee.

Ex 4.22 - A local business association commissioned a public opinion poll to determine voters' attitudes about candidates running for Supervisor and candidates running for City Council. The association provided the poll results to a candidate for Supervisor and certain City Council candidates. Since only a limited number of questions pertained to City Council issues, the candidates for Supervisor who received the poll results may prorate the poll costs to determine the nonmonetary contribution amount they must report.

Age of Data	Value
0 - 15 days	Full Value
16 - 60 days	50%
61 - 180 days	5%
More than 180 days	No Value

When only a portion of a survey is provided to or for the benefit of a candidate or committee, the nonmonetary contribution is the prorated portion of the total value of the survey.

I. Notification to Contributors of \$5,000 or More

Committees that receive one or more contributions totaling \$5,000 or more in a calendar year from an individual or entity that made the contribution(s) from personal, business, corporate, or general funds must send the contributor written notice that they may have a filing obligation.

Generally, the notice must be mailed, faxed or emailed to the contributor **within two weeks** of receiving contributions totaling \$5,000 or more. But, if a contribution of \$10,000 or more is received in the 90 days prior to or on the date of the election, the notice must be mailed, faxed or emailed to the contributor **within one week**. A copy of each notice or a record of all notices showing the date sent and the name and address of the person receiving the notice must be retained.

The notice does not need to be sent again for subsequent contributions received from the same contributor in the same calendar year. In addition, the notice is not required to be sent if the source of the contribution is a candidate, officeholder, or an existing committee because they already are required to file campaign statements.

The notice may be tailored as long as it contains language substantially similar to the language below:

Major Donors

If your contribution(s) to this committee and to other California state or local committees total(s) \$10,000 or more in a calendar year, California law requires you to file a Major Donor Committee Campaign Statement (Form 461). The deadline and location for filing this statement will depend upon the timing and type of contribution(s) you have made. For additional information, visit www.fppc.ca.gov and review the available campaign materials.

Multipurpose Organizations Including Nonprofits

If your organization is a multipurpose group, it may qualify as a major donor committee required to file Form 461 or as a recipient committee required to file the Form 460 disclosing donors. Refer to Government Code Section 84222 and FPPC Regulation 18422 to determine your filing requirements. For additional information, visit www.fppc.ca.gov and review the available campaign materials.

24-Hour/10-Day Reports

Major donors, nonprofits, and other multipurpose organizations that trigger reporting obligations must also file a 24-Hour/10-Day Contribution Report (Form 497) if they:

Make contributions totaling \$1,000 or more to a single candidate, any of the candidate's controlled committees, or to a committee primarily formed to support or oppose a candidate or ballot measure during the 90 days prior to the election, or on the date of the election, in which the candidate or ballot measure is being voted on; or

Make contributions totaling \$1,000 or more to state or county political party committees during the 90 days prior to a state election, or on the date of the election, including state special elections.

QUICK TIP: Once contributions of \$10,000 or more are made, the major donor may be required to immediately file Form 497 (24-Hour/10-Day Contribution Report). Committees should provide donors the link to the appropriate FPPC filing schedule.

Electronic Filing

State committees that make contributions of \$25,000 or more must file electronically with the Secretary of State. State committees that are required to file the Form 497 (24-Hour/10-Day Contribution Report) must file this form electronically even if the \$25,000 threshold has not yet been met. For more information on the electronic filing requirements, contact the Secretary of State's office at (916) 653-6224. Local committees should contact the local jurisdiction to determine if there are electronic filing requirements.

Late Filing Penalties and Fines

Failure to file campaign statements may result in late filing penalties of \$10/day (state committees may be fined \$20/day if they must file electronically and on paper) and fines of up to \$5,000 per violation.

FPPC Assistance

For assistance with your filing obligations, contact the Fair Political Practices Commission toll-free at (866) ASK-FPPC, send an email to advice@fppc.ca.gov, or refer to their website: www.fppc.ca.gov.

J. Returning Contributions

There are several provisions in the Act and FPPC regulations that regulate the return of contributions. The general rule is that a committee may return all or part of a contribution to the contributor so long as the return is reasonably related to a political, legislative, or governmental purpose.

General Rules: If a contribution is deposited, cashed or negotiated, it must be disclosed on the next campaign statement, even if it is subsequently returned. If a contribution is not deposited, cashed, or negotiated, it is not required to be reported under the following circumstances:

- **Outside the 90-Day Election Period:** A contribution is not required to be reported (by the donor or the committee receiving the funds) if it is not deposited, cashed, or negotiated and it is returned to the contributor before the closing date of the campaign statement on which it would otherwise be reported.
- **During the 90-Day Election Period:** A contribution of \$1,000 or more received during the 90 days before an election, including the date of the election, is not required to be reported (by the donor or the committee receiving the funds) if it is not deposited, cashed, or negotiated and it is returned to the contributor within 24 hours of receipt.

Missing Contributor Information: A contribution of \$100 or more must be returned within 60 days of receipt if the committee has not obtained the contributor's name, address, and, in the case of a contributor who is an individual, their occupation and employer. If the committee returns the contribution for lack of information, and the check is not cashed by the contributor within 90 days, the committee must, within the next 30 days, forward the amount to the general fund of the local jurisdiction.

Answering Your Questions

- A. Our committee is holding a \$200 per person dinner fundraiser. The actual cost of the event to our committee will be \$75 per person. When someone pays \$200 to attend the dinner, do we subtract the \$75 cost to our committee and report receiving a \$125 contribution?**

No. Report the full amount paid for the fundraiser ticket (\$200) as the contribution. The costs to the committee will be reported on Schedule E (Expenditures) of the Form 460.

- B. When we send out a fundraising letter, are we required to put our committee identification number on the invitation?**

There is no requirement to include the committee identification number, but it is highly recommended. Many campaigns do so because others need the information for their own reporting forms.

- C. We would like to hold a raffle at our next fundraiser. Are there any restrictions on raffles?**

The Political Reform Act does not restrict raffles; however, Penal Code 319 does prohibit certain raffles. The Penal Code is interpreted and enforced by each county's district attorney. Contact the local district attorney where the raffle will be held for further information. Of course, be sure all of the reporting and recordkeeping requirements are met.

- D. If my nextdoor neighbor spends \$1,000 on an event to help raise funds for two different candidates and the event is held in their home, have they made a contribution to each committee?**

Yes. The total cost of a home fundraiser must be \$500 or less or the event will qualify as a nonmonetary contribution. This is true no matter how many committees benefit from the event.

E. If I hold a fundraiser in my home for my candidacy, and the total cost is \$500 or less, would the home/office fundraiser exception apply, meaning nothing would need to be reported on the Form 460?

No. A candidate must deposit any personal funds that will be used to promote their election into the campaign bank account. Therefore, any expenditures made for the fundraiser must be reported on your Form 460.

F. May a nonprofit organization hold a joint fundraiser with a political committee?

Yes. However, any costs incurred by the nonprofit organization which are not reimbursed by the political committee would be considered to be a nonmonetary contribution from the nonprofit to the political committee. The nonprofit organization should contact the IRS for any possible restrictions based upon the organization's tax status.

G. Is volunteer work provided by some people considered a nonmonetary contribution because of the volunteer's profession, such as free legal advice provided by a lawyer or bookkeeping done by a CPA?

No. Volunteer personal services, regardless of the profession of the individual, are not reportable so long as the individual providing the services is not paid by a third party.

H. Three candidates wish to conduct individual polls. A polling firm has offered a reduced rate because all three polls can be combined using one very large sample. Are the candidates receiving contributions from the polling firm because of the discounted fee, and are the candidates making contributions to each other?

To the extent each candidate pays only their share of the cost of the poll, the candidates are not making contributions to each other. Additionally, if the polling firm provides the discount as part of its standard business policy of providing discounts in similar situations and does not provide the discount for political purposes, the candidates will not receive a contribution from the polling firm.

I. A committee receives a contribution from a joint checking account signed by one of the individuals. The contribution exceeds local limits. If the committee later receives a document stating that the contribution is from both individuals, may the contribution be reported that way?

No. A document must accompany the contribution at the time the contribution is received in order for the contribution to be reported from both individuals. This is true for contributions made by check or electronic means.

J. If a potential donor takes me out to dinner to discuss my school board campaign and pays for my meal, do I report the meal as a nonmonetary contribution?

No. Because there is a personal benefit to you, the payment for the meal would be considered a gift to you, not a contribution.

Authority

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

Government Code Sections

82004.5	Behested Payment.
82015	Contribution.
82015.5	Contribution; Aggregation.
82018	Cumulative Amount.
82025	Expenditure.
82025.5	Fair Market Value.
82036	Late Contribution.
82041.3	Made at the Behest of.
82047	Person.
82047.6	Principal Officer.
84105	Notification of Contributors.
84211	Contents of Campaign Statement.
84216	Loans.
84300	Cash and In-Kind Contributions; Cash Expenditures.
84302	Contributions by Intermediary or Agent.
84306	Contributions Received by Agents of Candidates and Committees.
85308	Family Contributions.
85312	Communications to Members of an Organization.
85700	Donor Information Requirements; Return of Contributions.
85704	Prohibition on Earmarking.

Title 2 Regulations

- 18215 Contribution.
- 18215.2 Uncompensated Internet Activity by Individuals that is not a Contribution or Expenditure.
- 18216 Enforceable Promise to Make a Payment.
- 18402.2 Limited Liability Companies, Responsible Officer.
- 18421.1 Disclosure of the Making and Receipt of Contributions.
- 18421.2 Cryptocurrency Contributions.
- 18421.3 Reporting of Contributions and Expenditures Collected by Contract Vendors or Collecting Agents.
- 18421.10 Reporting Contributions from Limited Liability Companies.
- 18421.31 Text Message Contributions.
- 18423 Payments for Personal Services as Contributions and Expenditures.
- 18427.1 Notification to Contributors of Filing Obligations.
- 18428 Reporting of Contributions and Independent Expenditures Required to be Aggregated.
- 18430 Committee Controlled by More Than One Candidate.
- 18432.5 Intermediary and Earmarked Funds Disclosure.
- 18523 Nondesignated Contributions or Loans.
- 18531.7 Payments for Communications – Section 85312.
- 18533 Contributions from Joint Checking Accounts.