

DEFINITION OF TERMS

TERM	DEFINITION
Party	Party means any person who is the subject of an adjudicatory proceeding pending before the Board. (18 CCR § 7004)
Participant	Participant means any person who is not a party but who actively supports or opposes a particular decision in an adjudicatory proceeding pending before the Board and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code. A person actively supports or opposes a particular decision if he or she lobbies in person the members or employees of the Board, testifies in person before the Board, or otherwise acts to influence the members of the Board. (18 CCR § 7006)
Agent	Agent means any person who represents a party to or participant in an adjudicatory proceeding pending before the Board. If a person acting as an agent is also acting as an employee or member of a law, accounting, consulting or other firm, or a similar entity or corporation, both the entity or corporation and the person are agents. (18 CCR § 7005)
Close Corporation	For purposes of Government Code Section 15626, "close corporation" means a corporation in which any natural person, or any natural person who together with his or her spouse, owns or controls at least 50 percent of the voting stock of a corporation. (18 CCR § 7004 (b).)
Contribution	Contribution has the same meaning prescribed in Government Code Section 82015 and 2 California Code of Regulations, Section 18215. Generally, a "contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purpose. For the full definition of contribution, see the attached copies of Section 82015 and Regulation 18215.

Government Code section 82015

(a) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

(b)(1) A payment made at the behest of a committee as defined in subdivision (a) of Section 82013 is a contribution to the committee unless full and adequate consideration is received from the committee for making the payment.

(2) A payment made at the behest of a candidate is a contribution to the candidate unless the criteria in either subparagraph (A) or (B) are satisfied:

(A) Full and adequate consideration is received from the candidate.

(B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The following types of payments are presumed to be for purposes unrelated to a candidate's candidacy for elective office:

(i) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.

(ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(iii) A payment not covered by clause (i), made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution. However, payments of this type that are made at the behest of a candidate who is an elected officer shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars (\$5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the elected officer with the elected officer's agency and shall be a public record subject to inspection and copying pursuant to the provisions of subdivision (a) of Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five thousand dollars (\$5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source must be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state agencies shall forward a copy of these reports to the Fair Political Practices Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements.

(C) For purposes of subparagraph (B), a payment is made for purposes related to a candidate's candidacy for elective office if all or a portion of the payment is used for election-related activities. For purposes of this subparagraph, "election-related activities" shall include, but are not limited to, the following:

(i) Communications that contain express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(ii) Communications that contain reference to the candidate's candidacy for elective office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications for elective office.

(iii) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.

(iv) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in clauses (i), (ii), or (iii), above.

(v) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.

(vi) Preparing campaign budgets.

(vii) Preparing campaign finance disclosure statements.

(viii) Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.

(D) A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.

(c) The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate's own money or property used on behalf of his or her candidacy other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.

(d) The term "contribution" further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.

(e) The term "contribution" does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.

(f) The term "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

(g) Notwithstanding the foregoing definition of "contribution," the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

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

18215. Contribution.

(a) A contribution is any payment made for political purposes for which full and adequate consideration is not made to the donor. A payment is made for political purposes if it is:

(1) For the purpose of influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or

(2) Received by or made at the behest of the following or any agent thereof:

(A) A candidate;

(B) A controlled committee;

(C) An official committee of a political party, including a state central committee, county central committee, assembly district committee or any subcommittee of such committee; or

(D) An organization formed or existing primarily for political purposes, including, but not limited to, a political action committee established by any membership organization, labor union or corporation.

(b) The term "contribution" includes:

(1) Any payment made to a person or organization other than a candidate or committee, when, at the time of making the payment, the donor knows or has reason to know that the payment, or funds with which the payment will be commingled, will be used to make contributions or expenditures. If the donor knows or has reason to know that only part of the payment will be used to make contributions or expenditures, the payment shall be apportioned on a reasonable basis in order to determine the amount of the contribution.

There shall be a presumption that the donor does not have reason to know that all or part of the payment will be used to make expenditures or contributions, unless the person or organization has made expenditures or contributions of at least one thousand dollars (\$1,000) in the aggregate during the calendar year in which the payment occurs, or any of the immediately preceding four calendar years.

(2) A candidate's own money or property used on behalf of his or her candidacy.

(3) Any goods or services received by or behested by a candidate or committee at no charge or at a discount from the fair market value, unless the discount is given in the regular course of business to members of the public.

(c) Notwithstanding any other provision of this section, the term "contribution" does not include:

(1) An expenditure made at the behest of a candidate in connection with a communication directed to voters or potential voters as part of voter registration activities or activities encouraging or assisting persons to vote, if the expenditure does not constitute express advocacy.

(2) Volunteer personal services or payments made by a person for his own travel expenses, if such payments are made voluntarily without any understanding or agreement that he or she will be repaid.

(3) A payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office, if the total cost of the meeting or fundraising event is \$500 or less, exclusive of the fair rental value of the premises.

(4) A payment made at the behest of a candidate, which is for a communication by the candidate or any other person, that meets all of the following:

(i) Does not contain express advocacy;

(ii) Does not make reference to the candidate's candidacy for elective office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications for office; and

(iii) Does not solicit contributions to the candidate or to third persons for use in support of the candidate or in opposition to the candidate's opponent.

(5) A payment made by a candidate or committee for another candidate to attend the paying candidate's or committee's fundraiser.

(6) A payment made by a candidate for a communication publicizing his or her endorsement by another candidate, provided that the communication does not expressly advocate the nomination or election of the endorsing candidate or the defeat of an opponent of the endorsing candidate.

(7) A payment made by a ballot measure committee for a communication in which the ballot measure supported or opposed by the committee is endorsed or opposed by a candidate, and the communication does not expressly advocate the nomination or election of the endorsing candidate or the defeat of an opponent of the endorsing candidate.

(8) A payment by:

(i) A regularly published newspaper, magazine or other periodical of general circulation which routinely carries news, articles, and commentary of general interest for the cost of publishing a news story, commentary or editorial; or

(ii) A federally regulated broadcast outlet for the cost of broadcasting a news story, commentary, or editorial.

(9) A payment by an organization for its regularly published newsletter or periodical, if the circulation is limited to the organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication. This exception applies only to the costs regularly incurred in publication and distribution. Any additional costs incurred are contributions, including, but not limited to, expanded circulation; substantial alterations in size, style, or format; or a change in publication schedule, such as a special edition.

(10) A payment for a debate or other forum sponsored by a nonpartisan organization in which at least two candidates appearing on the ballot for the same elective office were invited to participate.

(11) A payment for a debate or other forum in which the proponent of a ballot measure and at least one opponent, or their respective representatives, were invited to participate in equal numbers.

(12) A payment for a debate or other forum sponsored by a political party or affiliated committee in which a majority of the candidates for that party's nomination were invited to participate.

(13) A payment made by a bona fide service, social, business, trade, union or professional organization or group for reasonable overhead expenses associated with the

organization's regularly scheduled meeting at which a candidate or an individual representing either side of a ballot measure speaks, if the organization pays no additional costs in connection with the speaker's attendance.

(14) A payment received by, directed by, or made at the behest of a candidate for personal purposes. [NOTE: Such payments may constitute gifts, income, or honoraria, and as such may be limited or prohibited, under other provisions of the Act. See also Title 2, California Code of Regulations, Section 18941.1 regarding payments for food.]

(15) A payment made by a candidate for a communication in support of or opposition to a ballot measure, if the communication features the endorsing candidate or clearly identifies him or her as the sponsor of the communication. [NOTE: this exception does not include a monetary contribution from a candidate or his or her controlled committee to a ballot measure committee.]

(16) A payment by a sponsoring organization for the establishment and administration of a sponsored committee, provided such payments are reported. Any monetary payment made under this subdivision to the sponsored committee shall be made by separate instrument. A "sponsoring organization" may be any person (see Gov't Code 82047) except a candidate or other individual (see Gov't Code 82048.7). "Establishment and administration" means the cost of office space, phones, salaries, utilities, supplies, legal and accounting fees, and other expenses incurred in setting up and running a sponsored committee.

(d) A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.

Note: Authority: Section 83112, Gov. Code

Reference: Section 82015 and 85312, Gov. Code

History

- (1) New section filed 4-30-76; effective thirtieth day thereafter.
- (2) Amendment of subsection (e) filed 1-9-81; effective thirtieth day thereafter.
- (3) Amendment filed 2-17-82; effective thirtieth day thereafter.
- (4) Amendment filed 7-12-84; effective thirtieth day thereafter.
- (5) Amendment filed 11-26-90; effective thirtieth day thereafter.
- (6) Amendment filed 11-7-95; effective upon filing.
- (7) Amendment filed as an emergency 1-29-97; effective upon filing.
- (8) Permanent regulation filed 6-26-97; effective upon filing.