

California FPPC Amends Federal PAC and Top-10 Donor Disclosure Requirements

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The California Fair Political Practices Commission (FPPC) recently amended its regulations to clarify the disclosure requirements for contributors to federal political action committees (PACs) that are active in California elections. The change was aimed at closing a potential “loophole” under which organizational donors may have been able to avoid disclosing their own donors if they gave to a federal PAC that then made political contributions or expenditures in California. At the same time, the FPPC also amended its regulations requiring certain ballot measure and independent expenditure committees to disclose their ten largest donors.

Federal and out-of-state PACs, trade and professional organizations, and other 501(c) non-profits are known as “multipurpose organizations” under California’s campaign finance laws. Multipurpose organizations are required to register and report as “recipient committees” in California when they make political contributions or expenditures in connection with California state or local elections exceeding various dollar thresholds.

With the exception of Federal PACs, all multipurpose organizations that qualify as recipient committees must disclose on their recipient committee reports certain large donors whose contributions were used to fund the organizations’ California political activity according to a last in, first out (LIFO) accounting method. Because federal PACs already are required to itemize on their federal reports all of their donors who have given more than \$200 per year, the FPPC’s regulations have exempted federal PACs filing recipient committee reports in California from the donor itemization requirement.

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A multipurpose organization that qualifies as a recipient committee also is required to notify its donors that they may be required to register and file campaign finance reports in California if their funds have been used to pay for the multipurpose organization's California political activity, as determined by the LIFO accounting method. Under certain circumstances, an entity may have to disclose its own donors if the entity gave money to a multipurpose organization that made political contributions or expenditures in California. In other words, a multipurpose organization's political activity in California may trigger multiple layers of donor disclosure.

Since the implementation of this multi-layered donor disclosure requirement in 2014, it had not been entirely clear whether a federal PAC engaged in California political activity also would have to notify certain of its donors that they may have campaign finance registration and reporting obligations in California, since the federal PAC is otherwise exempt from identifying those donors on its recipient committee reports. Similarly, it has been less than clear whether the federal PAC's donors would, in fact, have their own California registration and reporting requirements.

Under the FPPC's amended regulations, a federal PAC making political contributions and expenditures in California will remain exempt from having to itemize donors on its California recipient committee report. However, the amended regulations now explicitly require the federal PAC to send notifications to certain of its donors and also clarify that those donors may, in fact, be required to register and report in California as well.

Relatedly, the FPPC also amended its donor disclosure regulations applicable to political committees primarily formed to support or oppose state ballot measures or to make independent expenditures for or against state candidates. Since 2014, such committees have been required to provide the FPPC with a list of their 10 largest donors if the committees have raised \$1 million or more for an election. Under the amended regulations, if any of the committee's 10 largest donors are "recipient committees," the two largest donors who have given \$50,000 or more to each of those recipient committees also must be included on the top-10 donor list.