

1 Amend 2 Cal. Code Regs. Section 18530.4 to read:

2 **§ 18530.4. Legal Defense Funds--State Candidates and Officers.**

3 (a) Application and Definitions.

4 (1) This regulation applies to the bank account permitted by Section 85304(a).

5 (2) For purposes of this regulation, the following definitions apply:

6 (A) "Legal defense funds" means money in the legal defense account.

7 (B) "Legal defense account" means the bank account established at a financial institution
8 located in the State of California pursuant to Section 85304(a).

9 (C) "Legal defense committee" means a committee formed pursuant to subdivision (b) of
10 this regulation.

11 (D) "Candidate" means a candidate for elective state office who raises legal defense
12 funds.

13 (E) "Officer" means an elected state officer who raises legal defense funds.

14 (b) Establishing the Legal Defense Account and Controlled Committee. A candidate or
15 officer shall deposit legal defense funds in and expend them from a bank account separate from
16 any other bank account held by the official, including a legal defense account established under
17 Section 85304.5. The candidate or officer shall establish a controlled committee for the legal
18 defense account by filing a statement of organization pursuant to Section 84101. The statement
19 of organization shall contain a description of the specific legal dispute or disputes for which the
20 account is established, and shall be amended pursuant to Section 84103, as a legal dispute is
21 either resolved or initiated. The words "Legal Defense Fund" and the candidate's or officer's
22 last name shall be included in the committee name.

23

1 (c) Required Recordkeeping and Audits. The candidate or officer, and the treasurer of
2 the legal defense committee, is subject to recordkeeping requirements specified in Section 84104
3 and shall keep separate detailed accounts, records, bills, and receipts, for each legal dispute
4 including documentation to support the basis and timing, as set forth in subdivision (g)(3), for
5 raising legal defense funds. The legal defense committee shall be subject to audits under Chapter
6 10 (commencing with Section 90000) of Title 9 of the Government Code. An audit under
7 Section 90001 of a candidate or officer, or any controlled committee of the candidate or officer,
8 shall include that candidate's or officer's legal defense committee maintained during the audit
9 period as described in Section 90002(c).

10 (d) Reporting Requirements. The legal defense committee shall file campaign statements
11 and reports pursuant to Chapters 4 (commencing with Section 84100) and 5 (commencing with
12 Section 85100) of Title 9 of the Government Code at the same times and in the same places as it
13 otherwise would be required to do for any other controlled committee formed by the candidate or
14 officer for election to state office.

15 (e) Contributions and Expenditures not Subject to Certain Provisions. A contribution to
16 and an expenditure from a legal defense account is not subject to the provisions of Sections
17 85200, 85201, or Article 4 (commencing with Section 85400) of Chapter 5 of Title 9 of the
18 Government Code.

19 (f) Status as a Local Candidate or Local Elected Officer. A candidate or officer may
20 establish a legal defense account under Section 85304 regardless of whether the individual is also
21 a local candidate or local elected officer.

22 (g) Limitations. For the purposes of Section 85304(a), the following limitations apply:
23

1 (1) Legal defense funds may only be raised in an amount reasonably calculated to pay,
2 and may only be expended for, attorney's fees and other related legal costs.

3 (A) "Attorney's fees and other related legal costs" includes only the following:

4 (i) Attorney's fees and other legal costs related to the defense of the candidate or officer.

5 (ii) Administrative costs directly related to compliance with the requirements of
6 subdivisions (b) and (d) and the recordkeeping requirements of subdivision (c) of this regulation.

7 (B) "Attorney's fees and other related legal costs" does not include for example expenses
8 for fundraising, media or political consulting fees, mass mailing or other advertising, or, except
9 as expressly authorized by subdivision (c) of Section 89513, a payment or reimbursement for a
10 fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to
11 any other committee controlled by the candidate or officer.

12 (2) A candidate or officer may only raise funds under this regulation for defense against a
13 civil or criminal proceeding, or for defense against a government agency's administrative
14 enforcement proceeding arising directly out of the conduct of an election campaign, the electoral
15 process, or the performance of the officer's governmental activities and duties. An
16 administrative enforcement proceeding includes a discretionary audit initiated under Section
17 90003, but not an audit initiated under Section 90001 until the candidate or officer reasonably
18 concludes that a government agency has commenced an investigation based upon the audit. A
19 candidate or officer may raise funds under this regulation and Section 85304 to defend against an
20 election contest conducted pursuant to Division 16 (commencing with Section 16000) of the
21 Elections Code, but may not raise or spend legal defense funds for attorney's fees and other legal
22 costs incurred in an election recount conducted pursuant to Chapter 9 (commencing with Section
23 15600) of Division 15 of the Elections Code.

1 (3) Legal defense funds may not be raised in connection with a proceeding until the
2 following has occurred:

3 (A) In a proceeding brought by a government agency, when the candidate or officer
4 reasonably concludes the agency has commenced an investigation or the agency formally
5 commences the proceeding, whichever is earlier.

6 (B) In a civil proceeding brought by a private person, after the person files the civil
7 action.

8 (h) Remaining Funds. Funds remaining in the legal defense account following payment
9 of all attorney's fees and other related legal costs for which the account and committee are
10 established shall be returned or disposed of as follows:

11 (1) If the total amount of remaining legal defense funds is more than \$5,000, the entire
12 sum shall be returned to legal defense account donors on a pro rata basis.

13 (2) Remaining legal defense funds that are not required to be returned under subdivision
14 (h)(1) shall be disposed of for any of the purposes set forth in subdivisions (b)(1) through (b)(5)
15 of Section 89519. Remaining legal defense funds may not be transferred, except as permitted
16 under subdivisions (b)(1) through (b)(5) of Section 89519, and disposition is subject to the
17 provisions of Sections 85301 through 85306 and Regulation 18536.

18 (i) Termination and Reopening of Committees. A legal defense account and legal
19 defense committee shall be terminated, and all attorney's fees and other related costs as well as
20 any remaining funds as described in subdivision (h) returned or disposed of, within 90 days of
21 the date the last legal dispute for which the account and committee are established has been
22 resolved. The Executive Director may for good cause, and consistent with the purposes of
23 Section 85304 and this regulation, extend the termination date or permit the candidate or officer

1 to reopen the account. The application to extend the termination date or to reopen the account
2 shall be in writing and shall include copies of all supporting documents including copies of
3 billing statements.

4 Note: Authority cited: Section 83112, Government Code. Reference: Sections 85301- 85306 and
5 89519, Government Code.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23