



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Remke, Commissioners Audero, Hatch, and Hayward

From: Zachary W. Norton, Senior Commission Counsel

Subject: Proposed Amendments to Regulation 18531.5 (Recall Elections), Campaign Manual 4 and Recall Fact Sheet

Date: November 6, 2017

Requested Action

Adopt the proposed amendments to Regulation 18531.5¹, the Recall Fact Sheet and Campaign Manual 4, which clarify the application of contribution limits with respect to a committee controlled by a state candidate subject to a recall.

Background

Section 85305 prohibits a candidate for elective state office or committee controlled by that candidate from making any contribution to any other candidate for elective state office in excess of the contribution limits set forth in subdivision (a) of Section 85301. Section 85315 allows an elected state officer to accept campaign contributions to oppose the qualification of a recall measure, and if qualification is successful, the recall election, without regard to the campaign contributions limits...”

At its July 27, 2017 hearing, the Commission deliberated over issues raised with respect to the interplay between Sections 85305 and 85315, and whether the prohibition in Section 85305 applied to state candidates that are the subject of a recall. The Commission decided to issue an opinion finding that Sections 85305 and 85315 require that there be no limit on contributions from state candidates to a recall committee controlled by another state candidate to oppose the recall of that state candidate. The Commission adopted the new opinion, *In re Rios* Opinion, No. O-17-001, at its August 17, 2017 hearing.²

At its October meeting, consistent with this opinion, the Commission adopted amendments to Regulation 18535 to make clear that the contribution limits in Section 85305 does not apply to state candidates who are the subject of a recall. The proposed amendments to Regulation 18531.5 and changes to the Recall Fact Sheet and Campaign Manual 4 would also help clarify this point.

¹ The regulations of the FPPC are contained in sections 18110- through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source. The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code.

² At the October 19, 2017 meeting, the Commission voted to amend the opinion. The amended opinion was published on October 30, 2017.

Discussion and Summary of Proposed Actions

Staff is proposing a minor amendment to Regulation 18531.5 to help clarify the *In re Rios* Opinion by providing that in addition to contributions accepted by the target of a recall, the limits do not apply to contributions “made to” the targeted officer. This proposal was triggered by public comments following the adoption of the *In re Rios* Opinion. Since noticing Regulation 18351.5 for adoption, no further public comments have been received.

In addition to Regulation 18351.5, staff is also proposing amendments to the updated Recall Fact Sheet and Campaign Disclosure Manual 4 for adoption. Again, these are minor revisions to reflect changes resulting from the *In Re Rios* Opinion. On page 5.11 of Campaign Manual 4, language stating that limits apply to contributions made by state candidates and officeholders to a state candidate controlled committee opposing a recall is being deleted. Similar language in the Recall Fact Sheet is also being deleted.

In another matter unrelated to the *In Re Rios* Opinion, the language on page 3.10 of Campaign Manual 4 was updated as a result of advice provided in the [Piercy Advice Letter, No. A-16-174](#), which states that committees will comply with the record keeping provisions of the Act when they retain documentation of contributions received over the Internet including the last four digits of the contributor’s bank card number. The physical address of the Commission, contained in Appendix 2, has also been updated to our recent move to our present Q Street location. No other changes to the manual have been made at this time. The changes are highlighted.

Attachments:

1- Amendment to Regulation 18531.5

2- Updated Recall Fact Sheet

3- Updated Campaign Manual 4