

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

**§ 18424.3. Behested Payment Reporting. Payments from Donor Advised Funds.**

(a) The “name of payor” reported in a behested payment report under Section 84224 for a payment from a sponsoring organization utilizing a donor advised fund must include the following information to the extent it is known by the elected officer or Public Utility Commission (“PUC”) member filing the report:

(1) The name of the sponsoring organization.

(2) The name of the donor advised fund. If the sponsoring organization withholds the name of the donor advised fund, the official shall report this name as “anonymous donor advised fund.”

(3) The name of the donor. Where a donor advised fund has more than one donor, the name of the donor, or donors, who exercised advisory privileges over the donor advised fund for the payment may be provided in lieu of naming each donor. Where a donor's advisor exercised discretion in the making of a behested payment, the official must provide the name of the donor's advisor for this payment, in addition to the donor. If the sponsoring organization withholds the donor information, the official shall report the name as “anonymous donor” and to the extent known, the donor's advisor.

(b) It is the duty of the elected officer or Public Utilities Commission member to identify and report the information required by subdivision (a) with as much specificity as the official knows or can determine by inquiring with the sponsoring organization. If the official learns the identity of the donor or donor advised fund with greater specificity after the report filing date, the

official has a duty to amend the behested payment report with the information within 10 days of the official receiving the additional information.

(c) The “single source” of the payment for purposes of determining the \$5,000 threshold triggering a behested payment report, and any subsequent reporting requirements is the following:

(1) Where an individual donor is identified under subdivision (a)(3), the donor is the “single source” of the payment.

(2) Where multiple donors are identified under subdivision (a)(3), each donor is a “single source” for an equal portion of the payment.

(3) Where a sponsoring organization withholds the name of the donor, the donor advised fund identified under subdivision (a)(2) is the “single source” of the payment. If the donor advised fund is an anonymous donor advised fund:

(A) To the extent the sponsoring organization provides, and the official discloses, sufficient information to attribute the payment to a specific anonymous donor advised fund, the anonymous donor advised fund is the single source.

(B) For all other anonymous donor advised fund payments, the official shall aggregate and report all behested payments from an anonymous donor advised fund of the same sponsoring organization and shall consider this as a “single source.”

(d) For purposes of this regulation:

(1) The “donor” is the person or persons who funded the donor advised fund and retains advisory privileges over the donor advised fund, including the ability to designate an advisor.

(2) A “donor advised fund” is as defined in section 4966(d)(2) of Title 26 of the United States Code.

(3) The “donor's advisor” is the person designated by the donor who exercised advisory privileges over the donor advised fund for this payment.

(4) A “sponsoring organization” is as defined in section 4966(d)(1) of Title 26 of the United States Code.

Note: Authority cited: Section 83112, Government Code. Reference: Section 84224, Government Code.

### **HISTORY**

1. New section filed 11-22-2021; operative 12-22-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2021, No. 48).