

1 Amend 2 Cal. Code Regs. Section 18530.4:

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 last  
22 name shall be included in the committee name.

1 (c) Required Recordkeeping and Audits. The candidate or officer, and the treasurer of the  
2 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 Section  
7 90001 of a candidate or officer, or any controlled committee of the candidate or officer, shall  
8 include that candidate's or officer's legal defense committee maintained during the audit period  
9 as described in ~~Regulation 18996~~ Section 90002(a)(1).

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:

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 administrative  
16 enforcement proceeding includes a discretionary audit initiated under Section 90003, but not an  
17 audit initiated under Section 90001 until the candidate or officer reasonably concludes that a  
18 government agency has commenced an investigation based upon the audit. A candidate or officer  
19 may raise funds under this regulation and Section 85304 to defend against an election contest  
20 conducted pursuant to Division 16 (commencing with Section 16000) of the Elections Code, but  
21 may not raise or spend legal defense funds for attorney's fees and other legal costs incurred in an  
22 election recount conducted pursuant to Chapter 9 (commencing with Section 15600) of Division  
23 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 defense  
19 committee shall be terminated, and all attorney's fees and other related costs as well as any  
20 remaining funds as described in subdivision (h) returned or disposed of, within 90 days of the  
21 date the last legal dispute for which the account and committee are established has been resolved.  
22 The Executive Director may for good cause, and consistent with the purposes of Section 85304  
23 and this regulation, extend the termination date or permit the candidate or officer to reopen the

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

4 Note: Authority cited: Section 83112, Government Code. Reference: Sections 85301-85306, ~~and~~  
5 89519, and 90002, Government Code.