

1 Amend 2 Cal. Code Regs., Section 18217 to read:

2 **§ 18217. Nonprofit Organization as Controlled Committee.**

3 (a) A nonprofit organization, as defined in subdivision (f), shall be considered a
4 controlled committee, if both of the following apply:

5 (1) A candidate, ~~his or her~~ the candidate's agent, or any committee ~~he or she~~ the
6 candidate controls, exercises significant influence over the actions and decisions of the
7 organization, or acts jointly with the organization in connection with the making of expenditures.

8 (2) The organization qualifies as a committee under Section 82013(a), and the
9 organization is operated for political purposes. For purposes of this regulation, an organization is
10 "operated for political purposes" if either of the following applies:

11 (A) The organization receives or expends funds for the purpose of influencing or
12 attempting to influence the action of the voters for or against the nomination or election of a
13 candidate or the qualification or passage of any measure.

14 (B) The organization makes contributions to candidates or their controlled committees.

15 (b) For purposes of subdivision (a)(1), a nonprofit organization which is tax-exempt
16 under section 501 of the Internal Revenue Code, and which is not an organization described in
17 section 527 of the Internal Revenue Code, is presumed not to be significantly influenced by a
18 candidate, ~~his or her~~ the candidate's agent, or any committee ~~he or she~~ the candidate controls, if
19 the organization complies with all of the factors set forth below:

20 (1) The candidate is not substantially involved in the day-to-day operations of the
21 organization, and the organization is controlled by a board of directors with 3 or more members,
22 two-thirds of whom are not:

23 (A) Candidates;

1 (B) Agents, campaign staff, employees, or persons otherwise under the control of a
2 candidate; or

3 (C) Brothers, sisters, parents, children, spouses, brothers-in-law, sisters-in-law, sons-in-
4 law, daughters-in-law, mothers-in-law or fathers-in-law of a board member who is a candidate.

5 (2) The name of the organization does not include the name of the candidate. For
6 purposes of this subdivision (b)(2) the term “name of the candidate” means the candidate's first
7 and last name or some other unambiguous reference to the candidate.

8 (c) For purposes of subdivision (a)(2), a nonprofit organization which is tax-exempt
9 under section 501 of the Internal Revenue Code, and which is not an organization described in
10 section 527 of the Internal Revenue Code, is presumed not to be operated for political purposes if
11 the organization complies with all of the factors set forth below:

12 (1) The organization does not make contributions to candidates.

13 (2) The name of the organization does not include the name of the candidate. For
14 purposes of this subdivision (c)(2) the term “name of the candidate” means the candidate's first
15 and last name or some other unambiguous reference to the candidate.

16 (3) The organization does not spend funds in excess of the amount permitted under
17 section 501(h) of the Internal Revenue Code to influence or attempt to influence legislative
18 action.

19 (4) The organization does not spend funds to influence or attempt to influence the
20 qualification or passage of any measure in an amount sufficient to qualify the organization as a
21 committee under section 82013 of the Government Code.

1 (5) This subdivision (c) shall not be construed to prevent the organization from forming a
2 separate and independent political committee which is not controlled by any person described in
3 subdivision (b)(1)(A)-(C).

4 (d) The presumptions set forth in subdivisions (b) and (c) can be rebutted by clear and
5 convincing evidence that, notwithstanding compliance with all of the factors set forth in
6 subdivisions (b) and (c), the organization is controlled by a candidate and operated for political
7 purposes.

8 (e) A person who makes a donation to a nonprofit organization which is tax-exempt
9 under section 501 of the Internal Revenue Code, and which is not an organization described in
10 section 527 of the Internal Revenue Code, in reliance upon the organization's tax-exempt status,
11 is not making a contribution unless the person knows or has reason to know that the organization
12 is operated for political purposes.

13 (f) For purposes of this regulation, “nonprofit organization” means an organization which
14 is characterized as an exempt organization under section 501 of the Internal Revenue Code, but
15 which is not an organization formed or existing primarily for political purposes.

16 Note: Authority cited: Section 83112, Government Code. Reference: Section 82016,
17 Government Code.