

AFTER THE ELECTION

Primarily Formed Ballot Measure Committees. A committee may terminate at any time, but a primarily formed ballot measure committee typically terminates soon after the election, unless the committee has debts and remains open to raise funds to pay the debts. A committee that remains open to pay its debts must continue to file semi-annual statements until it terminates.

If a committee chooses to remain open to support or oppose candidates or other measures, it must amend its Statement of Organization (Form 410) to reflect the change of committee type, if applicable, and to change the committee name since it is no longer primarily formed to support or oppose the previous ballot measure. If the committee remains primarily formed to support or oppose the qualification or passage of another ballot measure, it must file quarterly statements until the preelection period begins for that measure.

General Purpose Ballot Measure Committees. A committee may terminate at any time, but a general purpose ballot measure committee often remains active through several elections. The committee must continue to file campaign statements as long as it remains open.

A. Leftover Funds

Local Ballot Measure Committees. A local ballot measure committee with funds left over after the election may spend the funds in accordance with the Act's "use of funds" provisions discussed in Chapter 5. The general rule is that the expenditure of campaign funds must be reasonably related to a political, legislative, or governmental purpose. For example, a local school bond measure committee may use leftover funds to hold a "thank you" luncheon for supporters or to make a donation to the school district. A ballot measure committee formed to support county land use measures may donate leftover funds to another committee that supports its goals. For further assistance, contact the FPPC at advice@fppc.ca.gov.

Statewide Ballot Measure Committees. California Attorney General Opinion Number 91-504 (75 Ops.Cal.Atty.Gen. 29) concluded that with respect to leftover campaign funds held by a statewide ballot measure committee after an election, the committee may:

1. Return the funds to contributors on a pro rata basis;
2. Return the funds only to contributors of a specified minimum amount;
3. Donate the funds to a nonprofit organization or a nonprofit, tax-exempt corporation;
4. Contribute the funds to another ballot measure committee, to a candidate committee, or to a political party;
5. Use the funds for educational or lobbying efforts with respect to the subject of the ballot measure, if the committee is established for purposes in addition to supporting the ballot measure; or
6. Retain the funds for use in a future ballot measure campaign on the same or related subjects.

State Candidate Controlled Ballot Measure Committees. When a state candidate controlled ballot measure committee is preparing to terminate, within 60 days prior to the date of its termination, the leftover funds may be disbursed as follows:

- Donations to a bona fide charity, educational, civic, religious or similar nonprofit organization, so long as there are no financial ties to the candidate, his or her family members, or the treasurer.
- Contributions to a political party committee, including a county central committee, so long as the funds are not used for a contribution to a candidate or for a communication that supports or opposes a candidate.
- Returning all or part of a contribution to contributor.

Committees may seek advice from the FPPC to determine if the final expenditures of a committee are permitted.

B. Termination

There are specific requirements that must be met before a committee may terminate. It is important to remember that the committee may not terminate if it still has funds. A committee may terminate with debt, as long as at the time of termination the committee neither has the ability nor foresees the ability to pay the debt. There is no deadline by which a committee must terminate, but the committee must continue to file reports until it terminates.

A committee may terminate only if it:

- Has ceased receiving contributions or making expenditures;
- Has no remaining funds;
- Has filed all required campaign statements disclosing all reportable transactions, including the disposition of leftover funds; and
- Has eliminated all debts and loans, or has no intention or ability to discharge debts and loans.

Committees controlled by candidates for state elective office must disburse funds as described above. All committees are subject to certain expenditure restrictions which are outlined in Chapter 5.

How to Terminate

A committee must file a Form 410 and a final Form 460 or Form 450. On the Form 410, the “Termination” box must be checked. List the committee’s identification number and the date of termination; the date of termination is generally the date all funds have been expended.

Complete Section 1. The treasurer or assistant treasurer must sign the verification.

If it is a controlled committee, the controlling officeholder(s)/ candidate(s) or state ballot measure proponent(s) must also sign the verification.

Campaign disclosure Form 460 also must be filed showing that all funds have been expended and the committee has no cash on hand. Check the “Termination” box on the cover page.

Where to File

Form 410: All committees file the original Form 410 with the Secretary of State. A local committee must also file a copy with the local filing officer.

Form 460/450: State committees file with the Secretary of State and local committees file with the local filing officer. If a committee changed jurisdictions in the calendar year, reports are filed with both agencies.

Answering Your Questions

A. May our primarily formed ballot measure committee use campaign funds to host a victory party or to thank campaign workers?

Yes. This is a permissible use of leftover campaign funds.

B. May we terminate our committee even if we have outstanding debt owed to creditors?

Yes. The treasurer must declare that the committee does not have the ability to discharge debts, loans or other obligations.

C. Our committee wants to terminate. What may we do with the computer, cell phone and fax machine that were purchased?

Generally, the committee assets are treated in the same manner as monetary funds. A committee may sell the assets at fair market value. See discussion above on the proper use of funds.

D. Our committee is wrapping up its expenses and plans to terminate on or before December 31st. Will the committee have to pay next year's \$50 registration fee to the Secretary of State if the Forms 410/460 are not filed by December 31?

If a committee's termination date is on or before December 31st and the Form 410 Termination form is filed no later than January 10 of the following year, a \$50 registration fee will not be assessed. If the termination form is filed later, **the** Secretary of State has discretion on whether to assess the fee.

E. Our committee was primarily formed to support a measure which authorized the county to incrementally issue bonds for the purpose of improving the county libraries. The measure passed in November and we would like to terminate the committee. Is it permissible to donate the leftover funds to the county specifically to be used for library improvements?

Yes. Since the donation is related to the committee's purpose, this is permissible.

Authority

The following Government Code sections and Title 2 regulations provide authority for the information in this chapter. Also refer to 75 Ops.Cal.Atty.Gen. 29 (Opinion No. 91-504).

Government Code Sections

- 82015 Contribution.
- 84103 Statement of Organization; Amendment.
- 84200 Semi-Annual Statements.
- 84202.3 Campaign Statements; Ballot Measure Committees.
- 84214 Termination.

Title 2 Regulations

- 18215 Contribution.
- 18404 Termination of Candidate's and Committees' Filing Requirements.
- 18521.5 Ballot Measure Committees Controlled by Candidates for Elective State Office.