



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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**To:** Chair Germond, Commissioners Cardenas, Hatch, and Hayward

**From:** Dave Bainbridge, General Counsel  
Ryan O'Connor, Commission Counsel

**Subject:** Adoption of Regulation 18998 and Amendment to Regulation 18994

**Date:** March 11, 2019

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### **Requested Action**

Proposed Regulation 18998 is presented for adoption, and proposed Regulation 18994 is presented for amendment. Regulation 18998 will codify staff's long-standing practice of performing mandatory audits consistent with the guidelines, standards, scope, and reporting requirements employed by the Franchise Tax Board. The regulation will also codify the guidelines and standards for discretionary investigations and audits performed by Commission staff pursuant to Section 90003, as well as pre-election audits performed by Commission staff pursuant to Section 90008. The proposed amendment to Regulation 18994 corrects a typographical error.

The Commission's Law and Policy Committee reviewed these regulations prior to their presentation to the Commission and recommended their approval. The proposed regulations were presented for discussion at the February 21, 2019 Commission meeting. The Commission had no substantive comment, and there was no public comment.

### **Background**

The Franchise Tax Board performs audits of campaigns mandated by Section 90001 of the Political Reform Act.<sup>1</sup> Commission staff audits the Controller's office and the Board of Equalization pursuant to Section 90006, due to potential conflicts of interest for the Franchise Tax Board. The Act also authorizes Commission staff and the Franchise Tax Board to perform discretionary audits and investigations under Section 90003, and prelection audits under Section 90008.

Section 90007 requires the Commission to adopt guidelines and standards for audits performed by the Franchise Tax Board. These guidelines and standards must accomplish specific purposes enumerated in Section 90007, and must consider relevant standards and guidelines of the American Institute of Certified Public Accountants. In response to the requirements of Section 90007, the Commission adopted Regulations 18994-18996 governing audits performed by the Franchise Tax Board pursuant to Section 90001.

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014. All further statutory references are to the Government Code. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations.

However, Regulations 18994-18996 do not explicitly apply to Commission staff when performing mandatory audits in lieu of the Franchise Tax Board pursuant to Section 90006, although Commission staff apply those guidelines, standards, scope and reporting requirements when conducting mandatory audits. Further, currently no regulations apply to discretionary investigations and audits performed pursuant to Section 90003, or pre-election audits performed pursuant to Section 90008.

### **Discussion and Summary of Proposed Actions**

Proposed Regulation 18998 is intended to codify Commission staff's long-standing auditing practice when conducting audits pursuant to Section 90006. That is, Commission staff follow the same auditing standards, guidelines, scope, and reporting requirements contained in Regulations 18994-18996 applied by the Franchise Tax Board when conducting audits under Section 90001. The proposed regulation is also intended to lay-out the standards for discretionary investigations and audits conducted by Commission staff pursuant to Sections 90003, and pre-election audits conducted by Commission staff pursuant to Section 90008.

Specifically, subdivision (a) of Regulation 18998 addresses mandatory auditing by the Commission under Section 90006. These are audits in the traditional sense of the term, meaning the auditors perform a systematic review of campaign financial records during an election cycle for candidates of the office being audited, and prepare a report detailing the findings of each audit.

In response to suggestions from Commission staff, the current proposed version of Regulation 18998, subdivision (a) was revised after the Commission meeting in February 2019. The revisions, contained in the last sentence of subdivision (a), clarify that Commission staff in preparing audit reports comply with the same requirements as those placed on the Franchise Tax Board.

Subdivision (b) of Regulation 18998 enumerates the standards for discretionary investigations and audits conducted pursuant to Section 90003, and pre-election audits conducted pursuant to Section 90008. In contrast to the mandatory audits, these matters are tailored investigations with a narrower scope conducted for the purpose of investigating specific potential violations of the Act. Examples include investigations into campaign money laundering, and personal use of campaign funds.

Regulation 18994 concerns audits and investigations conducted by the Franchise Tax Board. The proposed amendment to Regulation 18994 does not change the standards, guidelines, and scope for conducting audits by the Franchise Tax Board. The proposed amendment is merely intended to correct a previous clerical error.

#### **Attachments:**

**Proposed Regulation 18994**

**Proposed Regulation 18998**