

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

§ 18308.1. Authority of the Commission.

(a) The Commission proposes, adopts, codifies, and monitors policies for the FPPC. This includes, but is not limited to:

(1) Approving or revising annual policy goals and objectives and evaluating efforts made to meet those goals and objectives.

(2) Approving or revising the annual FPPC budget.

(3) Interpreting the Act, through regulations, opinions and such other means as the Commission deems appropriate and lawful.

(4) Enforcing the Act, by initiating or hearing administrative actions, authorizing civil actions, approving stipulations and such other means as the Commission deems appropriate and lawful.

(5) Authorizing or initiating actions taken to defend the Commission's interpretations of the Act in the courts.

(6) Crafting and sponsoring legislation and adopting FPPC positions on efforts to amend the Political Reform Act.

(7) Adopting criteria to be followed by the Law & Policy Committee for recommending positions to the Commission on legislation fiscally impacting the operations of the FPPC.

(8) Adopting criteria to be followed by the Executive Director and the Budget & Personnel Committee, on the methods to be employed to keep the content of any draft budget or budget change proposal confidential:

(A) whenever the Committee conducts a review of a draft budget or budget change proposal that has been proposed by the Executive Director; or

(B) when reporting the Budget & Personnel Committee draft budget or budget change proposal recommendations to the Commission.

(9) Require a standing committee to give notice pursuant to the Bagley-Keene Act to hold a public hearing on any subject within the jurisdiction of the committee, where the Commission finds that it is in the public interest to do so.

(10) Adopting or revising a schema for the codification of the various rules, policies and resolutions of the Commission.

(11) Adopting or revising a policy and procedures manual.

(12) Authorizing issuance of forms and manuals used to comply with the Act.

(b) The Commission ensures the proper management of the FPPC. This includes, but is not limited to:

(1) Providing oversight of the actions of the Executive Director to manage the Agency.

(2) Selecting, evaluating, and, if necessary, disciplining or dismissing the Executive Director.

(3) Adopting or revising personnel or office policies.

(4) Adopting or revising a policy or regulation governing the review process for advice requests to be followed by the FPPC General Counsel, including criteria for determining when an advice request presents issues requiring a policy interpretation best made through a Commission Opinion or Regulation, or is too broad or not factually specific enough to render formal assistance.

(5) Adopting or revising a policy or regulation governing the:

(A) Proposing and prioritizing the various penalty options to be employed by the Chief of the Enforcement Division.

(B) Categorizing of and weighting the seriousness of the various types of violations of the Act.

(C) Setting enforcement priorities and procedures for the effective operation of the Enforcement Division.

(6) Delegating execution of established Commission policy and strategic objectives to the Executive Director, who is authorized to re-delegate specific duties to specified employees of the Agency upon written notice to the Commission.

(7) Ensuring the integrity of the financial control and reporting system, and the Commission's compliance with all laws governing the Agency.

(c) The Commission ensures the proper conduct and governance of the Agency. The Commission strives to achieve a governing style that encourages effective operations, frank and collegial discussions among members of the Commission, the staff and the public, and fairness to persons whose compliance with the Act is called into question. To this end, each commissioner shall:

(1) Comply with the statutory qualification requirements and the Statement of Incompatible Activities adopted by the Commission.

(2) When communicating by email, use only his or her official Commission email account for official business.

(3) Thoroughly prepare for and attend Commission meetings and committee meetings of which a Commissioner is a member.

(4) Between meetings, communicate with staff through the Executive Director or a Division Chief. Any Division Chief contacted by a Commissioner shall report to the Executive Director information or advice given that is not subject to attorney-client privilege. The Executive Director shall ensure that all Commissioners receive the benefit of information and advice provided to any individual Commissioner.

(5) Maintain the confidentiality of all confidential information acquired during the Commission's work.

(6) Consult with General Counsel about any relationship or interest that the Commissioner may be concerned creates a possible conflict of interest regarding the Commission's work.

(7) Set exemplary ethical standards that reflect positively on the Commission, while refraining from engaging in biased or partisan activities that may reflect poorly on the Commission.

(8) Appoint a Vice Chair to preside over Commission meetings in the Chair's absence.

(d) The Commission ensures enhanced oversight of Agency administration. In order to provide thorough oversight of its delegated duties and responsibilities, the Commission establishes the following two-member advisory standing committees; the Budget & Personnel Committee, and the Law & Policy Committee.

(1) The Chair nominates the committee members from among the other Commissioners, who in turn, modify or approve the makeup of each committee, provided however, that each committee makeup is in partisan balance and each Commissioner serves on only one committee. If the Chair declines or otherwise fails to nominate the committee members, the Commission may nominate the committee members.

(A) Each committee selects its own Chair.

(B) Each committee meets at the call of its Chair.

(C) Committee actions are by consensus recommendation to the Commission. If a consensus is not reached on an issue, each committee member may present an alternative recommendation to the Commission.

(D) In the event that a vacancy occurs on either advisory standing committee, the remaining member may present his or her recommendation to the Commission.

(2) Each committee will be responsible for:

(A) Reviewing and recommending to the full Commission those policies, goals, regulations and other action items that are pertinent to its subject matter jurisdiction. Any recommendation to adopt, amend or rescind policies, rules or regulations that govern procedures of the Commission must be accomplished in accordance with the Administrative Procedure Act.

(B) Annually reviewing matters that were recommended and adopted by the Commission during the prior year to evaluate whether these matters represented an effective and efficient method of achieving the Commission's goals.

(C) Reporting regularly on its discussions and deliberations of significant issues and present its recommendations with any supporting documentation to the full Commission to promote transparency and ensure that all Commission members and the public are adequately informed.

(D) Excluding the Chair and other Commissioners from appearing at a committee meeting, or communicating with any member of a committee about a subject matter within the jurisdiction of the committee. However, a committee chair may, in consultation with General Counsel, allow the Chair and other Commissioners to appear at a committee meeting, whenever

the committee deems it appropriate to do so, provided that the meeting is open to the public and conducted in accordance with the Bagley-Keene Act.

(E) Whenever possible, providing the means to allow the public to monitor committee deliberations, unless the subject matter is otherwise required to remain confidential, by publishing a two-day public notice of a call-in telephone number, to allow callers to listen to committee proceedings.

(3) Each committee operates to assist the Commission in adopting key policies, goals, regulations and other action items, and is not intended to direct the daily operations of management of the Commission

(4) Unless provided otherwise, a committee does not have delegated authority to act on behalf of the Commission, and may not take any action that requires Commission approval.

(5) The Budget & Personnel Committee's responsibilities include but are not limited to:

(A) Reviewing and recommending the annual FPPC budget to the Commission.

(B) Recommending criteria for adoption by the Commission pursuant to Regulation 18308.1(a)(8) governing the preparation and submittal by the Executive Director, of an initial budget proposal, and any budget change proposals, to the Commission.

(C) Recommending criteria for adoption by the Commission pursuant to Regulation 18308.1(a)(8) governing the preparation and submittal by the Executive Director of recommendations to the Commission at each stage of the budgetary process, including prior to the Agency's proposal to the Department of Finance (DOF), the DOF proposal to the Governor, and the Governor's proposed annual budget to the Legislature.

(D) Recommending guidelines to the Commission, governing the authorizing of unbudgeted expenditures by the Executive Director.

(E) Reviewing and recommending to the Commission, policies and procedures that will ensure the integrity of the financial control and reporting system.

(F) Recommending criteria to the Commission, to be followed by the Law & Policy Committee, for recommending positions on legislation fiscally impacting the operations of the FPPC.

(G) Recommending criteria to the Commission, to be followed by the Executive Director and the Budget & Personnel Committee, on the methods to be employed to keep confidential, the content of any draft budget or budget change proposal:

(i) whenever the Committee conducts a review of a draft budget or budget change proposal, which has been proposed by the Executive Director; or

(ii) when reporting the Budget & Personnel Committee draft budget or budget change proposal recommendations to the Commission.

(H) Recommending to the Commission the selection, evaluation, and, if necessary, discipline or dismissal of the Executive Director.

(I) Having considered any employee input received, recommending to the Commission the adoption or revision of personnel or office policies proposed by the Executive Director.

(J) Recommending to the Commission policies and procedures for the Executive Director to recommend the selection, submit annual evaluations and, when necessary, recommend the discipline or dismissal of the Division Chiefs, Legislative Director, and Communications Director.

(K) Recommending to the Commission, policies and procedures for the Executive Director to hire, promote and, when necessary, discipline or dismiss other staff.

(6) The Law & Policy Committee's responsibilities include but are not limited to:

(A) Recommending annual policy goals and reporting on efforts made to meet those goals and objectives to the Commission.

(B) Reviewing the recommendations of the Legislative Director and making its recommendation to the Commission, for positions on any effort to amend the Political Reform Act.

(C) Recommending to the Commission policies and procedures that will assure compliance with all laws governing the Agency.

(D) Recommending to the Commission the adoption or revision of a schema for the codification of the various rules, policies and resolutions of the Commission.

(E) Recommending the adoption or revision of a policy and procedures manual.

(F) In consultation with the General Counsel, recommending to the Commission the adoption or revision of a policy or regulation governing the review process for advice requests to be followed by the Legal Division, including criteria for determining when an advice request presents issues requiring a policy interpretation best made through a Commission Opinion or Regulation, or is too broad or not factually specific enough to render formal assistance.

(G) In consultation with the Chief of the Enforcement Division, recommending to the Commission the adoption or revision of a policy or regulation, which governs the:

(i) Proposal and prioritization of the use of the various penalty options to be employed by the Chief of the Enforcement Division.

(ii) Categorization of and weighting the seriousness of the various types of violations of the Act.

(iii) Recommendations to the Commission the enforcement priorities and procedures for the effective operation of the Enforcement Division.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 83108, 83111 and 83117, Government Code.

HISTORY

1. New section filed 7-3-2018; operative 8-2-2018 pursuant to former Government Code section 11422(b) (repealed by Stats. 1979, ch. 567, § 2). 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 2018, No. 27).
2. Amendment of subsections (a)(9), (d)(2)(D) and (d)(5)(B)-(C) filed 7-22-2019; operative 8-21-2019 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 2019, No. 30).