

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

§ 18329. Formal Written Advice and Informal Assistance.

(a) The Commission will assist persons in complying with the Political Reform Act. The Commission will make every reasonable effort to provide formal written advice pursuant to Government Code Section 83114(b) or informal assistance without unnecessary delay and in sufficient time to facilitate compliance with the Act.

(b) Formal Written Advice.

(1) Formal written advice may be requested in writing pursuant to Government Code Section 83114(b) by any person whose duties under the Act are in question or by that person's authorized representative.

(2) Requests for formal written advice will not be acted upon unless the following requirements are met:

(A) The name, title or position, and mailing address of the person whose duties are in question are provided. In addition, if the request is submitted by an authorized representative, it shall contain a specific statement that such authorization has been made.

(B) All the facts material to the consideration of the question or questions presented have been provided in a clear and concise manner.

(3) The time period specified in Government Code Section 83114(b) does not commence until the requirements of subsection (2) have been satisfied.

(4) If a formal written advice request does not meet the requirements in subsection (2) the requestor shall promptly be notified of that fact in writing and shall be provided with a copy of this regulation.

(5) When a request for formal written advice is received which complies with the requirements in subsection (2) the request shall promptly be acknowledged in writing. In addition, the acknowledgement shall provide the requestor with the name of the staff person to whom the request has been assigned, the staff person's office phone number, and the date on which the period specified in Government Code Section 83114(b) expires. If the request is from an authorized representative, a copy of the foregoing acknowledgement shall also be sent to the person on whose behalf the advice is being requested. If the request is received directly from a member of an agency a copy of the request and the acknowledgement may also be sent to the agency's counsel and/or the head or clerk of the agency.

(6) With the exception of advice that a person need not disclose specific private economic interests, copies of the advice request and the formal written advice shall be public records. Summaries of the advice provided may be published from time to time in the Commission's Bulletin newsletter.

(7) Formal written advice provided pursuant to Government Code Section 83114(b) does not constitute an Opinion of the Commission issued pursuant to Government Code Section 83114(a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code Section 83114(b) is limited to the requestor and to the specific facts contained in the formal written advice.

(8) Subsection (a) notwithstanding, the Commission may decline to give formal written advice. The requestor shall be notified if the request for formal written advice is declined.

Formal written advice may be declined in any of the following circumstances:

(A) The requestor is seeking advice relating to past conduct.

(B) The requestor is seeking advice about another person's duties under the Act and has not been authorized to do so by that person.

(C) It appears that the material facts provided in the request may be inaccurate, incomplete, or in dispute.

(D) The request does not present a question under the Political Reform Act, or is purely hypothetical.

(E) The request presents issues requiring a policy interpretation best made through a Commission Opinion under Government Code Section 83114(a) or by adoption of a regulation pursuant to Government Code Section 83112.

(F) A response rendering formal written advice would be inappropriate or otherwise not in the public interest.

(9) A request for formal written advice under Government Code Section 83114(b) and this regulation may be treated as a request for an Opinion under Government Code Section 83114(a), or as a request for informal assistance under subsection (c).

(c) Informal Assistance.

(1) Informal assistance may be requested by any person whose duties under the Act are in question or by that person's authorized representative. In addition, informal assistance may be requested by any person with a duty to advise other persons relating to their duties or actions under the Act. Informal assistance may also be requested by any agency whose members or employees are subject to the provisions of the Act.

(2) Informal assistance may be requested or rendered orally or in writing.

(3) Informal assistance rendered pursuant to this regulation does not provide the requestor with the immunity set forth in either Government Code Section 83114(a) or (b).

(4) The Commission may decline to provide informal assistance or may limit such assistance to the explanation, in general terms, of the requirements of the Act in any of the following circumstances:

(A) Assistance or advice is being sought regarding past conduct, unless the advice or assistance sought is related to possible amendment of previous reports filed by the person requesting the advice.

(B) The requestor is seeking advice anonymously.

(C) Assistance or advice is being sought regarding the duties of another person and the requestor does not appear to be authorized to make the request as the person's representative, or does not provide the identity of the person on whose behalf the assistance is being sought.

(D) The question presented is purely hypothetical.

(E) The question presented is too complex or is otherwise inappropriate for resolution by informal assistance and should be resolved by formal written advice or an Opinion.

(F) The facts presented are insufficient or too vague to render specific informal assistance or do not appear to present a question under the Act.

(G) Rendering informal assistance would be inappropriate or otherwise not in the public interest.

Note: Authority cited: Section 83112, Government Code. Reference: Section 83114(b), Government Code.

HISTORY

1. New section filed 5-10-76 as an emergency; effective upon filing (Register 76, No. 20).
2. Certificate of Compliance filed 7-28-76 (Register 76, No. 31).
3. Repealer and new section filed 3-31-77; effective thirtieth day thereafter (Register 77, No. 14).

4. Amendment of subsections (c)-(g) filed 11-2-78; effective thirtieth day thereafter (Register 78, No. 44).
5. Amendment of section heading filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
6. Amendment of subsection (g) filed 7-14-83; effective thirtieth day thereafter (Register 83, No. 29).
7. Repealer and new section filed 7-16-85; effective thirtieth day thereafter (Register 85, No. 29).