

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

§ 18360. Enforcement Complaints.

(a) Sworn complaint. The Enforcement Division considers each complaint it receives but only a sworn complaint entitles the complainant to the procedural rights provided for in subdivisions (b) through (e) of this regulation. In order to file a sworn complaint, the complainant must:

(1) File the Complaint with the Enforcement Division on a form made available by the Commission.

(2) Identify the person or persons who allegedly violated the Act and, if known, the specific provision or provisions of the Act allegedly violated.

(3) Describe with as much particularity as possible the facts constituting each alleged violation.

(4) State the facts that support the complainant's belief that a person has violated the Act and include any documents or other evidence supporting this conclusion.

(5) Include or describe with as much particularity as possible evidence or means of obtaining evidence in support of the complaint.

(6) Include names and addresses of potential witnesses, if known.

(7) Sign the complaint under penalty of perjury.

(b) Notice of sworn complaint. Within three business days of receipt of a sworn complaint, the Enforcement Division will provide each person who the complaint alleges violated the Act a copy of the complaint, and notice that the person may respond to the complaint. The Enforcement Division may withhold notice of a complaint or the identity of the

complainant if the Enforcement Division Chief determines that disclosing the information would jeopardize the investigation.

(c) Notice to complainant of intended action. Within 14 calendar days of receiving a sworn complaint, the Enforcement Division will notify the complainant in writing that it will do one or more of the following in response to the complaint:

(1) Open a case to further investigate the allegations in the complaint. This notice will include a statement that opening a case indicates the complaint alleges a potential violation of the Act, but the Enforcement Division has not necessarily determined that any violations actually occurred.

(2) Refer the complaint to another governmental agency.

(3) Take no action on the complaint because the Commission does not have jurisdiction to investigate based on the information provided.

(4) Take no action on the complaint because the allegations of the complaint, absent additional information, do not warrant further action for the reason stated.

(5) Take additional time to investigate the complaint to determine whether to open a case and provide an explanation for the delay. The Enforcement Division will provide the complainant with subsequent written notice of what action it will take in response to the complaint.

(d) Reconsideration of intended action. If the person who filed the sworn complaint disagrees with the response sent pursuant to paragraphs (c)(1)-(5), he or she may submit in writing, within 20 calendar days of receipt of the response, a request for reconsideration to the Executive Director of the Commission. The Executive Director may deny the request, or based on good cause, direct the Chief of the Enforcement Division to take specified action consistent

with the Act and its regulations. The Executive Director will provide the complainant written notice of his or her decision within 20 calendar days of receipt of the request.

(e) Notice to subjects of a sworn complaint. The Enforcement Division will send a copy of the notice to the complainant of intended action to any person the complaint at issue alleges violated the Act at the same time the notice is sent to a complainant, unless the Enforcement Division Chief determines that providing the person with notice of the complaint would jeopardize the investigation.

(f) Commission initiated investigation. All investigations that do not result from a sworn complaint are opened on the initiative of the Commission as provided for under Section 83115. The Enforcement Division will determine whether to open Commission initiated investigations.

(1) Letters of Inquiry. The Enforcement Division may contact subjects of a Commission initiated investigation to gather additional information to determine whether to open an Enforcement case and further investigate potential violations.

(2) Notice of investigation initiated by the Commission: The Enforcement Division will send notice, as well as a copy of any document submitted to the Enforcement Division, to any identified subjects of a Commission initiated investigation after a case is opened. The Enforcement Division may withhold any document, the identity of any person providing information, or the notice and existence of an investigation if the Enforcement Division Chief determines disclosing the information would jeopardize the investigation, or if the information is privileged, private or confidential. No notice will be sent to the provider of the information regarding whether a case has been opened.

(g) Media and public inquiries. The Commission will respond to requests for information about complaints and investigations as follows:

(1) Sworn Complaints. The Commission may confirm receiving a sworn complaint at any time but will not provide a copy of the complaint until five calendar days after a copy of the complaint is sent to all persons the complaint alleges violated the Act as provided in subdivision (b). The Commission is not required to wait five calendar days before providing a copy of the complaint if the Enforcement Division has decided to take no action on the complaint. Commission staff may not disclose any action the Enforcement Division intends to take on a sworn complaint, other than no action, until after notice to complainant of intended action is sent under subdivision (c).

(2) Commission initiated investigation. The Commission may confirm that the Enforcement Division sent a letter of inquiry and may provide a copy of the letter and any documents submitted to the Enforcement Division by the complaining member of the public five calendar days after sending the letter of inquiry. The Commission may confirm that it has opened a case on its own initiative and provide a copy of the notice sent to all identified subjects of the Commission initiated investigation five calendar days after sending notice to all identified subjects of the investigation as provided in subdivision (f)(2).

(3) Referrals. The Commission will confirm that it has received a referral from filing officers upon receipt and will provide a copy of the referral upon request.

(4) Protected Information. The Commission may withhold any document, the identity of any person providing information, or the existence of an investigation or complaint if the Enforcement Division Chief determines that disclosing the information would jeopardize the investigation, or the information is privileged, private or confidential.

(h) Notice of resolution. The Enforcement Division will send a notice of resolution to each complainant who filed a sworn complaint with the Commission and was notified that the Enforcement Division would investigate the allegations in the complaint.

Note: Authority cited: Section 83112, Government Code. Reference: Section 83115, Government Code.

HISTORY

1. New section filed 10-9-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 41).
2. Amendment filed 5-22-78; effective thirtieth day thereafter (Register 78, No. 21).
3. Amendment of subsection (g) filed 11-2-78; effective thirtieth day thereafter (Register 78, No. 44).
4. Amendment of section heading filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
5. Editorial correction of subsection (f) filed 10-29-82 (Register 82, No. 44).
6. Amendment of subsection (g) filed 9-24-2007; operative 10-24-2007. 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 2007, No. 39).
7. Amendment filed 6-11-2008; operative 6-11-2008. 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)
(Register 2008, No. 24).

8. New subsection (f)(2), subsection renumbering and amendment of newly designated subsections (f)(3)-(4) filed 7-6-2011; operative 8-5-2011. 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 2011, No. 27).

9. Amendment of subsections (f)(1), (f)(1)(E), (f)(3)-(4) and (h) filed 12-7-2011; operative 1-6-2012. 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 2011, No. 49).

10. Repealer and new section heading and section filed 12-15-2015; operative 1-14-2016. Submitted to OAL for filing and printing only 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 2015, No. 51).