

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

§ 18361.11. Default Proceedings.

(a) Notice of Default

(1) Where a respondent has failed to timely file a notice of defense pursuant to Section 11506, and the Enforcement Division pursues a default judgment from the Commission pursuant to Section 11520, the Enforcement Division shall send notice, a copy of the proposed Default Decision and Order, and a copy of the proposed Exhibit in Support of a Default Decision and Order, by first class mail, to the respondents against whom the default judgment has been entered at least 15 calendar days before the Commission hearing at which the default is scheduled to be heard.

(2) Notice shall be considered served from the date the default notice is postmarked.

(b) Briefing Procedure

(1) The Enforcement Division shall provide to the Commission a proposed Default Decision and Order, along with a proposed Exhibit in Support of a Default Decision and Order no later than 10 calendar days before the Commission hearing at which the default is scheduled to be heard.

(2) The respondent may provide a response brief, along with any supporting materials, no later than five calendar days before the Commission hearing at which the default is scheduled to be heard. The response brief shall be served on the Commission Assistant, who shall provide a copy to the Enforcement Division.

(c) Default Hearing Procedure

(1) The Commission, in its discretion, may choose whether or not to consider any argument, evidence or material of any kind from respondents that is not provided more than five calendar days before the Commission hearing at which the default is scheduled to be heard.

(2) The Commission has full discretion to consider and take action based on any evidence without notice to the respondents, consistent with Section 11520.

(d) Motion to Vacate Default Judgments

(1) If a default judgment is entered into against a respondent, the Enforcement Division shall serve, by first class mail, notice of the default judgment, signed Default Decision and Order, an Exhibit in Support of a Default Decision and Order and a copy of this regulation to the respondent.

(2) Within seven calendar days after service on the respondent of a decision based on the respondent's default, the respondent may serve, by first class mail or in person, a written motion requesting that the decision be vacated and stating the grounds relied on. The Commission in its discretion may vacate the decision and grant a hearing on a showing of good cause consistent with Section 11520.

(3) The Motion to Vacate a Default Judgment shall be the only administrative remedy available to a respondent after entry of a default judgment.

Note: Authority cited: Section 83112, Government Code. Reference: Section 83116, Government Code.

HISTORY

1. New section 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).