



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **June 13, 2024**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3050, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **June 11, 2024**.

BACKGROUND/OVERVIEW:

Commission staff has identified a need to clarify the application of the new advertisement disclosure requirements under Section 84513, added by SB 678, which provides that if a committee pays a person to post content on an internet website, web application, or digital application to support or oppose a candidate for elective office or a ballot measure, the person shall include a disclaimer with that content stating that the committee paid the person in connection with the post. The primary purpose of new Section 84513 is to require disclosures on campaign advertisements paid for by a committee to be posted by a third person, such as social media “influencers,” instead of the committee posting content itself or paying a traditional vendor to do so. This was the intent conveyed in the SB 678 Senate Floor Bill Analyses.²

The provisions of Section 84513 further state that its disclosure requirements do not apply where the electronic media disclosures of Section 84504.3 apply or to content posted on the committee’s own website, profile, or landing page by a person compensated by the committee to post such content, or to ballot measure advertisements falling under Section 84511(c) requiring a spokesperson disclosure.

REGULATORY ACTION:

Adopt 2 Cal. Code Regs. Section 18450.10 – Advertisements Paid by a Third-Party Influencer

The Commission may consider adopting Regulation 18450.10, which states that the electronic media advertisement disclosures under Section 84504.3 do not apply to advertisements

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18998 through 18104 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Senate Rules Committee, Office of Senate Floor Analyses, *SB 678 Senate Floor Analyses*, Jul. 05, 2023, https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202320240SB678.

paid for by a committee where the committee pays a third party “influencer” to post content on an “internet website, web application, digital application.” The proposed draft Regulation 18450.10 language provides that a third-party is considered an “influencer” for purposes of Section 84513 if the person whom the committee paid posts content supporting or opposing a candidate for elective office or a ballot measure where it appears as if they are the speaker delivering their own opinion rather than that of the candidate or committee, including on a social media page or account that is not the candidate or committee’s own page or account.

Further, the proposed Regulation 18450.10 language states that Section 84513 does not apply to Section 84511 ballot measure advertisements that require a spokesperson disclosure. Lastly, the draft language includes a subdivision that states a “website, web application, or digital application” includes content posted on the internet platforms, such as social media accounts and blogs, to prevent confusion on whether these platforms are covered by Section 84513.

Amend 2 Cal. Code Regs. Section 18450.9 – Website Advertisements and Social Media Advertisements

The proposed amendments to existing Regulation 18450.9 include repealing subdivision (b) because it is now unnecessary.

With recent updates to Section 84504.3, effective January 1, 2023, disclosures are now required directly on committee-paid advertisements or the committee’s page posting the advertisements. Previously, the statute required disclosure only on the committee’s landing page and not on any other pages where the advertisements were posted, without requiring a link back to the committee’s landing page. Regulation 18450.9(b) was enacted to cure that discrepancy and require a link to missing disclosures.

However, Regulation 18450.9(b) is no longer necessary because such disclosures are now required where the advertisements appear via Section 84504.3, and new Section 84513 also covers disclaimers on third-party advertisements. Keeping existing Regulation 18450.9(b) is now only an additional/duplicative requirement, and the problem it solved no longer exists.

SCOPE: The Commission may adopt the language noticed herein or choose new language to implement its decisions concerning the issues identified above or any related issues.

FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on any federal funding or program.

AUTHORITY: Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE: The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 84504.3 and 84513.

CONTACT: Any inquiries should be made to Katelyn L. Baeta-Orick, Fair Political Practices Commission, 1102 Q St., Suite 3050, Sacramento, CA 95811; telephone (279)237-5921. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.