



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)<sup>1</sup> 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 **December 19, 2019**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **December 17, 2019**.

### BACKGROUND/OVERVIEW:

***Governing Statutes.*** The Act's conflict of interest provisions ensure that public officials perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. Section 87100 prohibits an official from using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. Under Section 87103, an official has a financial interest in a decision within the meaning of Section 87100 if it is "reasonably foreseeable" that the decision will have a "material financial effect" on the official's personal finances or those of immediate family.

***Existing Regulation.*** Regulation 18702.5(a) provides that a "personal financial effect" means a governmental decision's reasonably foreseeable financial effect on a public official's personal finances or those of immediate family. That subdivision also sets forth the materiality standard applicable to such an effect, and provides the effect is material if the official or his or her immediate family "will receive a measurable financial benefit or loss from the decision."

Regulation 18702.5(b) provides that a "personal financial effect" does not include certain specified financial effects of governmental decisions on an official's personal finances or those of immediate family. Regulation 18702.5(c) provides that if the decision at issue affects the official's financial interest in a business or real property, materiality is determined pursuant to Regulation 18702.1, applicable to a decision's effect on an official's business interest, or Regulation 18702.2, applicable to a decision's effect on an official's real property interest, respectively.

### REGULATORY ACTION:

Repeal and Adopt 2 Cal. Code Regs. Section 18702.5 – Materiality Standard: Financial Interests in a Personal Financial Effect.

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<sup>1</sup> 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 18110 through 18997 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.

***Repeal and Adoption of Regulation 18702.5.*** The Commission may consider all provisions of existing Regulation 18702.5, the repeal of existing Regulation 18702.5, and the adoption of a proposed new Regulation 18702.5. At a minimum, Commission staff anticipates proposing the following:

- The update of Regulation 18702.5’s materiality standard applicable to a personal financial effect for improved clarity and guidance to make that standard an objective, bright-line standard, met when a decision would have a personal financial effect worth \$500 or more rather than when “the official or the official’s immediate family member will receive a measurable financial benefit or loss from the decision.”
- The recasting of Regulation 18702.5(b)’s exceptions for improved clarity and guidance, so that they are exceptions to when personal financial effect is material rather than when such an effect is a personal financial effect.
- The express reestablishment of an exception to subdivision (a)’s materiality standard for a decision which affects only the salary, per diem, or reimbursement for expenses the official or an immediate family member receives from a federal, state, or local government agency, except in specified circumstances.
- The reframing of Regulation 18702.5(c), which provides that materiality is determined pursuant to Regulation 18702.1 when the decision at issue affects the official’s business interest, or pursuant to Regulation 18702.2 when the decision affects the official’s real property interest, for improved clarity and guidance.

**SCOPE:**

The Commission may adopt the language noticed herein, or it may 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 the federal funding of any state entity 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:** Sections 87100, 87102.5, 87102.6, 87102.8, and 87103.

CONTACT: Any inquiries should be made to Matthew F. Christy, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.