

**Notice**  
**Fair Political Practices Commission**  
**Interested Persons Meeting**  
**February 10, 2016, 10:30 a.m.**  
**428 J Street, 8th Floor Hearing Room**  
**Sacramento, CA 95814**

---

Fair Political Practices Commission staff will hold an Interested Persons meeting on February 10, 2016, at 10:30 a.m. to solicit public input regarding the regulatory proposal listed below. The Commission will consider the proposed amended regulation at the March 17, 2016 hearing.

**Amend Regulation 18239**

A lobbyist is any individual who receives \$2,000 or more in a calendar month or whose principal duties as an employee are *to communicate directly* or through his or her agents with any elective state official, agency official, or legislative official for the purpose of influencing legislative or administrative action. (Gov. Code Section 82039.) Regulation 18239 interprets the definition of “lobbyist” under the Political Reform Act and provides exceptions to the definition that apply to certain individuals in limited settings. Among these is the “ride along” exception in Regulation 18239(d)(3)(B) that provides an exception to what qualifies as “direct communication” and therefore what qualifies as lobbying. Staff proposes changes to Regulation 18239 that will state the ride along exception applies only if the person is an employee of a lobbyist employer, meets or speaks with a qualifying official in the company of a registered lobbyist hired by the employer, and participates as a subject matter expert. An employee in this context also includes a member of a bona fide trade association or membership organization.

A recent enforcement case brought to light that ambiguous language in the ride along exception has prompted individuals to argue a broader exception than intended under the regulation. This ambiguity has hindered the Enforcement Division’s ability to aggressively prosecute suspected violations of the Act in this area. After the Enforcement Division issued an advisory letter in the recent case, the Legal Division received an advice letter request questioning the parameters of the exception. Based on this background, the proposed changes are necessary to clarify the limited scope of the ride along exception and enable the Enforcement Division to successfully prosecute abuses.

While the current regulatory language could be read to apply to persons who are not employees of the entity that hired the lobbyist, or to persons who might be engaging in lobbying and excused from registration because they accompany a lobbyist, the regulation was never intended to apply so broadly. First, basic rules of statutory construction require that exceptions to general rules should be applied narrowly. Second, the exception was intended to allow a person who is employed by the entity that hires a lobbyist and is more knowledgeable about a topic than the lobbyist to attend a meeting to provide substantive information. The exception truly applies to a person who *accompanies*, but not one who

attends for the principal reason of direct communication (as defined). Finally, to allow the interpretation argued by the respondent in the recent enforcement case would render the definition of a “lobbyist” virtually meaningless as someone could avoid the classification, and more importantly the accompanying restrictions, by simply having a lobbyist “ride along” as he or she attempts to influence public officials.

Staff will propose amending Regulation 18239 and welcomes any comments regarding proposed language.

#### **ADDITIONAL INFORMATION.**

- Proposed language for Regulations 18239 is attached for review, and can also be found at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.
- You may participate in this interested persons meeting in person (at the Commission’s offices).
- You may also listen to and participate in this interested persons meeting by teleconference by calling: (877) 411-9748; access code 723284.
- Finally, the Commission staff invites written comments addressing these topics. Address comments regarding Regulation 18239 to Senior Commission Counsel Heather Rowan at (916) 322-5660.

For questions about this meeting, you may contact Cesar Cuevas at (916) 322-5660.