

Notice
Fair Political Practices Commission
Interested Persons Meeting
Proposal to Amend Regulation 18239
June 21, 2016, 10 a.m.
428 J Street, 8th Floor Hearing Room
Sacramento, CA 95814

The Fair Political Practices Commission staff will hold an Interested Persons meeting on June 21, 2016 at 10 a.m. to solicit public input regarding the regulatory proposal listed below. The proposal will be considered for adoption at the July 21, 2016 Commission meeting.

Amend Regulation 18239. Definition of Lobbyist

BACKGROUND/OVERVIEW:

Section 82039 defines “lobbyist” under the Act as either of the following: (1) Any individual who receives two thousand dollars (\$2,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, 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, or (2) A placement agent, as defined in Section 82047.3.

Regulation 18239 further clarifies the definition of lobbyist. It defines “compensation” to a lobbyist under Regulation 18239(d)(1)(B)(2) as any economic consideration, other than reimbursement for reasonable travel expenses i.e., expenses for transportation plus a reasonable sum for food and lodging.

The FPPC encounters ongoing issues with individuals who are not registered lobbyists, but who appear to meet the basic statutory and regulatory thresholds for lobbyist registration and reporting. Upon inquiry or investigation, these individuals often are unable to provide records or other evidence that adequately tracks the amount of compensated time for direct communications with qualifying officials versus other services they may have provided, leaving their status as a lobbyist uncertain. In order to ensure compliance with, and enforcement of, the lobbying provisions of the Act, staff proposes the following amendments to Regulation 18239.

Proposed amendments to Regulation 18239 would specify situations giving rise to a rebuttable presumption that certain payments made to an individual are for direct communication with a qualifying official for the purpose of influencing legislative or administrative action.

As drafted, the presumption is triggered only if the following criteria are met: (1) the individual receives or becomes entitled to receive compensation from a person for services including direct communication, (2) the compensation is \$2,000 or more, and (3) the compensation is for services in a calendar month.

The presumption may be rebutted by evidence that may include testimony, records, bills, and receipts establishing the allocation of the individual's compensation for all goods and services provided.

ADDITIONAL INFORMATION

- Proposed language for Regulation 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, Commission staff invites written comments addressing these topics. Address comments regarding Regulation 18239 to Senior Commission Counsel Emelyn Rodriguez at (916) 322-5660.

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