



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, 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 must be received at the Commission offices no later than **5:00 p.m.** on **June 11, 2019**

BACKGROUND/OVERVIEW:

Governing Statute: Section 83114(b) charges the Commission with the duty to provide written advice upon request, in a timely manner, to any person with duties under the Act. Where the requestor acts in reliance on the advice provided, or acts in the absence of timely Commission advice, it is (1) a complete defense to an enforcement proceeding by the Commission, and (2) evidence of good faith conduct in any other civil or criminal proceeding. Commission staff provides formal written advice and informal assistance to persons subject to the Act to facilitate compliance with the requirements of the Act pursuant to Section 83114(b). Advice or assistance provided by Commission staff does not establish legal precedent and is not binding on any party, except to the extent formal written advice provides the requestor with immunity within the parameters set forth in Section 83114(b). Written advice is not an Opinion of the Commission under Section 83114(a).

Existing Regulation: To facilitate receiving timely compliance assistance, Regulation 18329 sets forth the procedures related to formal written advice, an informal assistance process, as well as corresponding procedures for acknowledging, responding to, or declining to respond to, the request. The regulation was last amended in 1985.

REGULATORY ACTION:

Repeal and Adopt 2 Cal. Code Regs. Section 18329: Formal Written Advice and Informal Assistance

The Commission may consider all provisions of current Regulation 18329 and to repeal and adopt new language concerning, but not limited to, the procedures for requesting, responding, declining, and reconsidering formal written advice and informal assistance. At a minimum, Commission staff anticipates proposing the following:

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 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.

- Non-substantive changes in language for organization and readability.
- Updated language reflecting current Commission practices and its governance structure regarding formal written advice and informal assistance.
- New language addressing timelines for a requestor to provide additional material facts upon request.
- New language establishing the process for a requestor to withdraw a request, request a reconsideration, or to appeal formal written advice.
- New language for Commission staff procedures in declining requests that implicate a pending Enforcement action.
- New language for Commission staff procedures in declining requests that present a policy issue better addressed through a Commission Opinion, regulatory action or legislation; and for declining requests that are hypothetical.
- New language detailing the Commission's oversight role in the advice process related to requiring reports, taking action on formal written advice, and changes to immunity status as a result of Commission action.

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 local entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on any local 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: The purpose of this regulation is to implement, interpret, and make specific Government Code Section 83114.

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