

July 6, 2022

Chair Richard C. Miadich
Commissioner E. Dotson Wilson
Commissioner Abby Wood
Commissioner Catharine Baker

California Fair Political Practices Commission
1102 Q Street, Suite 3000
Sacramento, CA 95811

RE: Support Amendments to Regulation 18360

Dear Chair Miadich and Members of the Commission:

I am writing on behalf of the California News Publishers Association (CNPA) to express CNPA's support of the amendments to Regulation 18360, which would: (1) shorten the timeframe between providing notice and making certain information and records available to the public, from a period of five-days to a period of two-days; (2) clarify that aside from certain records and general information, or which stage of the administrative process a case is in, in the Commission will not provide commentary regarding pending Enforcement matters; and (3) reorganize subdivision (d) to make its provisions clearer to the public and regulated community.

CNPA regularly supports access to public agencies and public information in a timely manner. As written, Regulation 18360 only allows public agencies to justify withholding public records. Section 6255 states, "by demonstrating that the record in question is exempt under express provisions of [CPRA] or that the facts of the particular case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." The amendments proposed hope to strike the balance of the need for transparency with the need to protect the integrity of a case.

Shortened Period Between Providing Notice and Releasing Information to the Public

The Commission's website contains a "Media FAQs" page that explains: "The FPPC is protecting the due process rights of those complained against. It is only fair for those involved to have a chance to see the complaint firsthand before hearing it in the media. Others may release complaints or information to the media and it's their right to do so. But as an enforcement agency, our regulation and policy are to endure due process, maintain fairness and allow for the investigatory process to be thorough and unbiased." The amendments to Regulation 18360 apply the same reasoning.

Currently, Regulation 18360 includes a five-day delay before the Commission may provide any information, like the confirmation of the existence of a complaint, a copy of a referral, a document accompanying a complaint or referral, or a document reviewed by the Enforcement Division in making a determination to open a case. This period of five-days was useful as a “buffer” period, however, today, since most complaints, or other types of notices are provided to the subjects via email, rather than physical mail, the five-day time frame is unnecessary.

We support that the regulation be amended to a two-day delay between notification and release of information. This would maintain fairness while giving the Commission the ability to respond to the public more immediately and transparently. This shortened delay period would help protect the Commission’s credibility by preventing scenarios where certain information or materials have already been made public.

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For these reasons, CNPA supports the amendments to Regulation 18360 and respectfully urges your “Aye” vote.