



**California Political Attorneys Association**

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**VIA ELECTRONIC MAIL:** [CommAsst@fppc.ca.gov](mailto:CommAsst@fppc.ca.gov)

Chair Miadich and Commissioners Baker, Wilson & Wood  
California Fair Political Practices Commission  
1102 Q Street, Suite 3000  
Sacramento, CA 95811

**Re: Comment Letter on Proposed Levine Act Regulations**

Dear Chair Miadich and Commissioners:

The California Political Attorneys Association (CPAA) writes to offer brief initial comments on the Regulations implementing SB 1439, ahead of the pre-notice discussion to be held at this Thursday's Commission meeting. We intend to engage further on the details of the Regulations in the coming weeks and will provide more comments at a later time, specifically as part of next month's Interested Persons Meeting on this topic.

First, we appreciate the Commission's direction contained in the amendments to Regulation 18438.7 as to when an officer has "reason to know" a participant has a financial interest in a decision. As much specificity as the Commission can provide in this context is helpful, and while some of the factors listed in subsection (b) are subjective, we appreciate the overall effort with this Regulation and look forward to the work ahead in polishing its language. On a similar note, the language of Regulation 18438.3 on what constitutes an "agent" is helpful on clarifying which individuals or entities would actually trigger recusal and disclosure obligations.

The Regulations do not address what constitutes a "license, permit, or other entitlement for use" under Section 84308(a)(5); more specifically, what falls under the exception for labor or personal employment contracts. The Commission has previously issued advice that this exception covers contracts between a governmental agency and its various rank and file employees or management employees. (*Rothschild* Advice Letter, FPPC File No. A-94-231; *Hickling* Advice Letter, FPPC File No. A-87-215.) However, more regulatory guidance as to what is, and what is not, a "license, permit, or other entitlement for use" for purposes of Section 84308, and what is covered by the exception, would be appreciated.

We'd also like to see issues surrounding solicitation and fundraising of contributions addressed in the Regulations. In the text of Section 84308, the restriction on "soliciting" or "directing" a contribution of more than \$250 applies to an officer of an agency – not to a party, participant, or agent. However, previous Commission advice states that if a party or an agent "directs" a contribution, it would aggregate with, for example, another party as part of one bid proposal or a subcontractor of the party. (*Skelton* Advice Letter, File No. I-13-145.) A party is not prohibited from "directing" a contribution under the language of the statute. Therefore, we'd ask that the Regulations consider and provide guidance on this distinction, specifying that both direction and control are required for aggregation.

Thank you for your consideration of these initial comments. Overall, we desire to have the Regulations be as specific as possible so all parties involved are aware of what their obligations are with respect to Section 84308. We look forward to engaging in further discussions with Commission members and staff.

Respectfully submitted,

A handwritten signature in blue ink that reads "Kathie Jenkins". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

KC Jenkins  
Bell, McAndrews & Hiltachk, LLP  
Chair, Regulatory Committee, CPAA