



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Remke, Commissioners Audero, Casher, Wasserman, and Wynne

From: Hyla P. Wagner, General Counsel
Valentina Joyce, Commission Counsel

Subject: Regulation 18944.1 – Gifts: Agency Provided Tickets or Passes

Date: December 4, 2015

Background

The Political Reform Act (the Act)¹ requires the disclosure of certain gifts received by a candidate or public official, prohibits the candidate or official from accepting gifts of \$460 or more and prohibits a public official from making, participating in making or using his or her position to influence the outcome of a decision involving the donor of a gift valued at \$460 or more. “Gift” is defined in Section 82028 as “any payment that confers a personal benefit on the recipient to the extent that consideration of equal or greater value is not received.”

Ordinarily tickets and passes an agency provides to agency officials for entertainment, amusement or recreational events are regarded as gifts. Regulation 18944.1 creates an exception from the definition of “gift” for tickets or passes that an agency provides to certain of its officials so long as the agency complies with specified requirements. In particular:

- The use of the ticket must further a governmental or public purpose;
- The agency must adopt a distribution policy that contains provisions set forth in the regulation;
- The agency must complete a form for each distribution that must be maintained as a public record and subject to inspection and copying; and
- The form for each distribution must be forwarded to the FPPC for posting.

¹ The Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code. The regulations of the Fair Political Practices Commission (FPPC) are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source.

The Proposed Amendment

The proposed amendments have two main goals: 1) increase compliance by setting a 30-day deadline for the agency to report and post any ticket distribution – currently there is no deadline; and 2) provide greater transparency on ticket distributions by requiring the agency to post its policy and the reports disclosing distributions directly on its website – this posting requirement would be in addition to having the FPPC’s website link to each agency’s webpage with this information.

1. Increasing Compliance with a 30-day Deadline to Report and Post

Currently, there is no set deadline as to when an agency must provide the required ticket distribution information. The lack of a reporting deadline creates inconsistencies between agencies, allows for untimely reporting and hinders the Enforcement Division’s ability to enforce compliance. The amendment proposes a 30-day deadline to report and post.

2. Increasing Transparency by Requiring Agencies to Post Policies and Forms

Agencies use the Commission’s approved form (Form 802) to detail each event and the public purpose of each ticket distribution under Regulation 18944.1. Starting in January 2012, FPPC staff began posting these forms with a ticket value of \$100 or more to our website. Staff posts the forms for almost 150 local agencies. In 2014, of the 1,100 forms posted to the FPPC website nearly 83%, or 913 of them, were also posted on the agency’s website.

Despite the fact that the vast majority of agencies post the forms directly on their own websites, the regulation currently requires the FPPC - not the agency - to post. Since January 2012, over 5,000 forms have been processed by FPPC staff with an estimated time of approximately 18 hours spent *each week*, not including IT staff time.

Thus, the proposal would shift the primary posting responsibility to the agency where the reports are generated and the FPPC would post a link to the agency’s webpage with this information. This change is intended to benefit members of the public by placing the reports on the website they are most likely to search, while ensuring that public access to the information is not inadvertently diminished by having a link to the information on the FPPC’s website.

Staff Recommendation

Staff recommends the Commission adopt the proposed amendments to Regulation 18944.1.

Attachments:

- 1) Proposed Regulation 18944.1 (Amendment)