

1 Repeal 2 Cal. Code Regs., Section 18329:

2 **~~§ 18329. Formal Written Advice and Informal Assistance~~**

3 ~~(a) The Commission will assist persons in complying with the Political Reform Act. The~~
4 ~~Commission will make every reasonable effort to provide formal written advice pursuant to~~
5 ~~Government Code Section 83114(b) or informal assistance without unnecessary delay and in~~
6 ~~sufficient time to facilitate compliance with the Act.~~

7 ~~(b) Formal Written Advice.~~

8 ~~(1) Formal written advice may be requested in writing pursuant to Government Code~~
9 ~~Section 83114(b) by any person whose duties under the Act are in question or by that person's~~
10 ~~authorized representative.~~

11 ~~(2) Requests for formal written advice will not be acted upon unless the following~~
12 ~~requirements are met:~~

13 ~~(A) The name, title or position, and mailing address of the person whose duties are in~~
14 ~~question are provided. In addition, if the request is submitted by an authorized representative, it~~
15 ~~shall contain a specific statement that such authorization has been made.~~

16 ~~(B) All the facts material to the consideration of the question or questions presented have~~
17 ~~been provided in a clear and concise manner.~~

18 ~~(3) The time period specified in Government Code Section 83114(b) does not commence~~
19 ~~until the requirements of subsection (2) have been satisfied.~~

20 ~~(4) If a formal written advice request does not meet the requirements in subsection (2) the~~
21 ~~requestor shall promptly be notified of that fact in writing. (5) When a request for formal written~~
22 ~~advice is received which complies with the requirements in subsection (2) the request shall~~
23 ~~promptly be acknowledged in writing. In addition, the acknowledgement shall provide the~~

1 requestor with the name of the staff person to whom the request has been assigned, the staff
2 person's office phone number, and the date on which the period specified in Government Code
3 Section 83114(b) expires. If the request is from an authorized representative, a copy of the
4 foregoing acknowledgement shall also be sent to the person on whose behalf the advice is being
5 requested. If the request is received directly from a member of an agency a copy of the request
6 and the acknowledgement may also be sent to the agency's counsel and/or the head or clerk of
7 the agency.

8 (6) ~~With the exception of advice that a person need not disclose specific private economic~~
9 ~~interests, copies of the advice request and the formal written advice shall be public records.~~
10 ~~Summaries of the advice provided may be published from time to time in the Commission's~~
11 ~~Bulletin newsletter.~~

12 (7) ~~Formal written advice provided pursuant to Government Code Section 83114(b) does~~
13 ~~not constitute an Opinion of the Commission issued pursuant to Government Code Section~~
14 ~~83114(a) nor a declaration of policy by the Commission. Formal written advice is the application~~
15 ~~of the law to a particular set of facts provided by the requestor. While this advice may provide~~
16 ~~guidance to others, the immunity provided by Government Code Section 83114(b) is limited to~~
17 ~~the requestor and to the specific facts contained in the formal written advice.~~

18 (8) ~~Subsection (a) notwithstanding, the Commission may decline to give formal written~~
19 ~~advice. The requestor shall be notified if the request for formal written advice is declined.~~

20 ~~Formal written advice may be declined in any of the following circumstances:~~

21 (A) ~~The requestor is seeking advice relating to past conduct.~~

22 (B) ~~The requestor is seeking advice about another person's duties under the Act and has~~
23 ~~not been authorized to do so by that person.~~

1 ~~(C) It appears that the material facts provided in the request may be inaccurate,~~
2 ~~incomplete, or in dispute.~~

3 ~~(D) The request does not present a question under the Political Reform Act, or is purely~~
4 ~~hypothetical.~~

5 ~~(E) The request presents issues requiring a policy interpretation best made through a~~
6 ~~Commission Opinion under Government Code Section 83114(a) or by adoption of a regulation~~
7 ~~pursuant to Government Code Section 83112.~~

8 ~~(F) A response rendering formal written advice would be inappropriate or otherwise not~~
9 ~~in the public interest.~~

10 ~~(9) A request for formal written advice under Government Code Section 83114(b) and~~
11 ~~this regulation may be treated as a request for an Opinion under Government Code Section~~
12 ~~83114(a), or as a request for informal assistance under subsection (c).~~

13 ~~(c) Informal Assistance.~~

14 ~~(1) Informal assistance may be requested by any person whose duties under the Act are in~~
15 ~~question or by that person's authorized representative. In addition, informal assistance may be~~
16 ~~requested by any person with a duty to advise other persons relating to their duties or actions~~
17 ~~under the Act. Informal assistance may also be requested by any agency whose members or~~
18 ~~employees are subject to the provisions of the Act.~~

19 ~~(2) Informal assistance may be requested or rendered orally or in writing.~~

20 ~~(3) Informal assistance rendered pursuant to this regulation does not provide the requestor~~
21 ~~with the immunity set forth in either Government Code Section 83114(a) or (b).~~

1 ~~(4) The Commission may decline to provide informal assistance or may limit such~~
2 ~~assistance to the explanation, in general terms, of the requirements of the Act in any of the~~
3 ~~following circumstances:~~

4 ~~(A) Assistance or advice is being sought regarding past conduct, unless the advice or~~
5 ~~assistance sought is related to possible amendment of previous reports filed by the person~~
6 ~~requesting the advice.~~

7 ~~(B) The requestor is seeking advice anonymously.~~

8 ~~(C) Assistance or advice is being sought regarding the duties of another person and the~~
9 ~~requestor does not appear to be authorized to make the request as the person's representative, or~~
10 ~~does not provide the identity of the person on whose behalf the assistance is being sought.~~

11 ~~(D) The question presented is purely hypothetical.~~

12 ~~(E) The question presented is too complex or is otherwise inappropriate for resolution by~~
13 ~~informal assistance and should be resolved by formal written advice or an Opinion.~~

14 ~~(F) The facts presented are insufficient or too vague to render specific informal assistance~~
15 ~~or do not appear to present a question under the Act.~~

16 ~~(G) Rendering informal assistance would be inappropriate or otherwise not in the public~~
17 ~~interest.~~

18 ~~Note: Authority cited: Section 83112, Government Code. Reference: Section 83114(b),~~
19 ~~Government Code.~~