



# FPPC GOVERNANCE POLICY

## Purpose

This document contains internal rules of governance initially adopted by the Commission on December 19, 2019\*. This policy states the duties and authority of the Commission, Chair, and Executive Director, and detail the agency's budget process. If a Commissioner has any question regarding the provisions of this policy, the Commissioner should seek advice from the General Counsel.

Legal Division

October 2020

\*[December 19, 2019 Commission Meeting Agenda](#); [Minutes](#)

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## I. Commission Governance

To ensure that the accountability and authority for governance and management of the Fair Political Practices Commission (FPPC) is clearly stated, the Commission has set forth this Governance Policy to specify the roles of the Commission, and its delegation of powers and duties to the Chair or the Executive Director.

All authority granted by statute to the Commission is retained, except as specifically delegated herein or by regulation. The Commission's statutory duty is to ensure that the Political Reform Act is impartially and effectively administered and implemented.

Reference: Sections [83108](#), [83111](#), and [83117](#).

## II. Authority of the Commission

- (a) The Commission proposes, adopts, codifies, and monitors policies for the FPPC. This includes, but is not limited to:
  - (1) Interpreting the Act, through regulations, opinions and such other means as the Commission deems appropriate and lawful.
  - (2) Enforcing the Act, by initiating or hearing administrative actions, authorizing civil actions, approving stipulations and such other means as the Commission deems appropriate and lawful.
  - (3) Authorizing or initiating actions taken to defend the Commission's interpretations of the Act in the courts.
  - (4) Reviewing, approving, and revising annual policy goals and objectives and evaluating efforts made to meet those goals and objectives.
  - (5) Approving or revising the annual FPPC budget pursuant to the budget process set forth in the provisions of this Governance Policy.
  - (6) Sponsoring legislation and adopting FPPC positions on efforts to amend the Political Reform Act.
  - (7) Authorizing issuance of forms and manuals used to comply with the Act.
- (b) The Commission ensures the proper management of the FPPC. This includes, but is not limited to:

- (1) Delegating execution of Commission policies and strategic objectives to the Chair and Executive Director and, through the Executive Director, re-delegation to the employees of the FPPC.
  - (2) Providing oversight of delegated responsibilities.
  - (3) Selecting, evaluating, and, if necessary, disciplining or dismissing the Executive Director.
  - (4) Reviewing, approving, and revising personnel or office policies.
  - (5) Appointing a Vice Chair to preside over Commission meetings in the Chair's absence.
  - (6) Ensuring the FPPC's compliance with all applicable laws governing the operations of the agency, and its employees/Commissioners, including but not limited to the Bagley-Keene Open Meeting Act, the Public Records Act, the Administrative Procedure Act, and State laws protecting employees from unlawful workplace practices, discrimination, etc.
  - (7) To assist the Commission in its oversight responsibilities, receive periodic reports from the Executive Director concerning the status of the FPPC's budget, financial control and reporting system, and the Commission's compliance with all laws governing the Agency.
- (c) The Commission ensures the proper conduct and governance of the Agency. The Commission strives to achieve a governing style that encourages effective operations, frank and collegial discussions among members of the Commission, the staff and the public, and fairness to persons whose compliance with the Act is called into question. To this end, each Commissioner, including the Chair, shall:
- (1) Comply with the statutory qualification requirements and all regulations and rules of internal governance adopted by the Commission for the purpose of governing Commissioner conduct, including but not limited to the Governance Policy and those policies included in the Commissioner Code of Conduct.
  - (2) Prepare for and attend Commission meetings and Committee meetings of which a Commissioner is a member.

- (3) Between meetings, make requests for information from staff through the Executive Director, the Chair, or a Division Chief who shall ensure that all Commissioners receive the benefit of information and non-confidential advice provided to any individual Commissioner, provided, however, that between meetings, Commissioners who serve as advisory committee chairs may make requests for information and provide direction to Division Chiefs concerning matters under consideration by the Commissioner's committee.
- (4) Maintain the confidentiality of all confidential information acquired during the Commission's work.
- (5) Disclose to the General Counsel any relationship or interest that the Commissioner believes is likely to create an appearance of bias or impropriety in connection with the Commission's work. A Commissioner may consult with and receive confidential advice from the General Counsel regarding the same. Confidential advice from the General Counsel to a Commissioner concerning potential conflicts of interest is not subject to third-party disclosure absent prior consent of the Commissioner who received the advice. To the extent a Commissioner determines that an interest creates an appearance of bias or impropriety requiring public disclosure and/or recusal, the Commissioner shall disclose the same to the Chair and Executive Director prior to making the public disclosure and/or recusal.
- (6) Apprise the Chair and Executive Director of all significant activities pertinent to the work of the Commission.
- (7) At all times meet high ethical standards that exceed legal minimums, including refraining from activities that suggest partisanship or other bias by the Commission or individual Commissioners.
- (d) The Commission may create 2-person advisory committees to assist in the performance of the Commission's functions. Advisory committees shall consist of the Chair and one other Commissioner. No Commissioner, other than the Chair, may serve on more than one committee at a time. Committees shall be created and terminated through formal action of the Commission. Committee meetings shall be publicly noticed at least five business days before the meeting and shall be open to the public in the same manner as regular Commission meetings.

- (1) Members of each advisory committee shall be nominated by the Chair and approved by the Commission. If the Chair declines or otherwise fails to nominate the committee members, the Commission may nominate the committee members.
  - (A) Each advisory committee selects its own Chair.
  - (B) Each advisory committee shall meet at the call of the Committee Chair when necessary to transact business within the Committee's jurisdiction.
  - (C) Advisory committee actions are by consensus recommendation to the Commission. If a consensus is not reached on an issue, each committee member may present an alternative recommendation to the Commission.
  - (D) In the event that a vacancy occurs on an advisory committee, the remaining member may present his or her recommendation to the Commission.
- (2) Each advisory committee will be responsible for:
  - (A) Reviewing and recommending to the full Commission policies, goals, regulations and other action items that are pertinent to its subject matter jurisdiction.
  - (B) Reporting regularly on its activities and anticipated activities and presenting its recommendations with any supporting documentation to the full Commission to promote transparency and ensure that all Commission members and the public are adequately informed.
  - (C) Excluding other Commissioners from appearing at its meeting, or communicating with any member of another advisory committee about a subject matter within the jurisdiction of the committee. However, a committee chair may, in consultation with General Counsel, allow other Commissioners to appear at an advisory committee meeting, whenever the committee deems it appropriate to do so, provided that the meeting is open to the public and conducted in accordance with the Bagley-Keene Act.
- (3) Each Committee operates to assist the Commission in evaluating and considering the adoption of key policies, goals, regulations and other action items, and is not intended to direct the daily operations of management of the Commission.

- (4) Unless provided otherwise, a committee does not have delegated authority to act on behalf of the Commission, and may not take any action that requires Commission approval.
- (5) The Budget & Staffing Committee's responsibilities include but are not limited to:
  - (A) Reviewing and recommending the annual FPPC budget to the Commission.
  - (B) Ensuring that Commissioners have adequate information concerning, and an opportunity to comment on, the proposed FPPC annual budget.
  - (C) Reviewing and advising the Commission on requested unbudgeted expenditures by the Executive Director in excess of \$1,000.
  - (D) Reviewing and recommending to the Commission, policies and procedures that will ensure the integrity of the financial control and reporting system.
  - (E) Periodically receiving information about the Commission's staffing needs and preparing recommendations to the Commission regarding the same.
  - (F) Recommending to the Commission the selection, evaluation, and, if necessary, discipline or dismissal of the Executive Director.
  - (G) Recommending to the Commission the adoption or revision of personnel or office policies, including but not limited to policies concerning the procedures to be followed by the Executive Director in the selection, evaluation, discipline or dismissal of staff.
- (6) The Law and Policy Committee's responsibilities include but are not limited to:
  - (A) Reviewing legislation that proposes significant substantive, as opposed to merely technical, changes to the Act and providing information and recommending formal positions to the Commission regarding the same.
  - (B) Reviewing changes to the Act and recommending potential regulatory action by the Commission as necessary to implement such changes.
  - (C) Periodically reviewing Commission regulations for potential revisions that would improve transparency, efficiency, compliance with, and enforcement of the Act and recommend such changes when appropriate to the Commission for consideration.

- (D) Recommending to the Commission internal policies and procedures that, among other things, will assure compliance with all laws governing the Agency.
- (E) Recommending to the Commission the adoption or revision of procedures to archive and make publicly available the various rules, policies and resolutions of the Commission.

Reference: Sections [83108](#), [83111](#), and [83117](#). (Subdivision (c)(7) adopted October 15, 2020.)

### III. Authority of the Chair

The chair, appointed by the Governor, is a voting member of, and the presiding officer of the Commission. The Chair:

- (a) Provides leadership and guidance to the Commission and staff regarding all aspects of FPPC policy.
- (b) Acts on behalf of, and in the name of, the Commission between meetings of the Commission, including certifying actions taken by the Commission.
- (c) Speaks for and represents the Commission in communications with the public, the press, and government institutions.
- (d) Provides daily oversight of the management of the FPPC.
- (e) On a regular basis solicits input from the Commissioners concerning Commission priorities and activities and reports to the Commissioners on actions taken on behalf of the Commission.
- (f) With input from Commissioners and staff, the Chair submits a tentative Commission agenda to the other Commissioners for their review and approval as to an item description or placement, but not as to the merits of any item, prioritizing and scheduling agenda items in conformance with Commission established policy, however any item proposed for a Commission agenda by two or more Commissioners shall be placed on that agenda in the form requested.
- (g) The Chair includes a final agenda item each month for Commissioner comments, in order to provide an opportunity for Commissioners to publicly raise concerns among themselves in a public meeting.

- (h) Ensures that the information provided to the Commission is comprehensive, timely, impartial and not unduly burdensome.
- (i) Except as otherwise required by any provision of Article 9 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code to the contrary, the Chair conducts Commission meetings with reference to Robert's Rules of Order and other rules adopted by the Commission.

Reference: Sections [83108](#), [83111](#), and [83117](#).

#### IV. Authority of the Executive Director

The Commission delegates to the Executive Director primary responsibility for the operations and management of the Agency under the day-to-day supervision of the Chair in conformance with Commission policy. The Executive Director is responsible for ensuring that the Chair and Commissioners are fully informed regarding the operations and management of the Agency. The Executive Director:

- (a) Acts as the chief of staff of the FPPC.
  - (1) Selects, regularly evaluates, and when necessary, disciplines or dismisses executive staff in accordance with Commission policies and procedures.
  - (2) With input from the Division Chiefs, hires, evaluates, promotes, and when necessary, disciplines or dismisses other staff in accordance with Commission policies and procedures.
  - (3) Regularly reports to Budget and Staffing Committee and the Commission on activities in connection with the hiring, evaluation, promotion, discipline, and dismissal of executive staff and other staff.
  - (4) In consultation with the Budget and Staffing Committee, prepares and submits to the Commission all office policies and procedures applicable to staff not in conflict with any statute, regulation, or applicable state employee collective bargaining contract. Such policies include, but are not limited to:
    - (A) Work hours/flexible schedules/telecommuting of staff;
    - (B) Handling of communications within and outside the agency, including text messages, email and public records act policies;
    - (C) Policies affecting all employees, such as dress code;

- (D) Creation and maintenance of duty statements for all staff positions;
  - (E) Training and development of staff;
  - (F) Handling of special assignments and staff projects; productivity and time-keeping systems; and
  - (G) Evaluation of staff policies and reports as directed by the Commission.
- (5) Receives and coordinates requests from commissioners regarding staff work and, in consultation with the Chair and Division Chiefs, prioritizes such requests consistent with Commission policies and goals.
  - (6) Subject to the limitations of Commission established policy and under the day-to-day direction of the Chair, the Executive Director may act on behalf of and in the name of the Commission between meetings of the Commission, including certifying actions taken by the Commission. The Executive Director may not establish or revise policies, promulgate or amend rules or regulations, issue or revise Commission opinions, or approve or revise positions on legislation pursuant to this subdivision.
  - (7) The Executive Director reports in writing each month to the Commission on actions taken on behalf of the Commission for its review and approval.
  - (8) Pursuant to Commission established policy and under the day-to-day oversight of the Chair, the Executive Director ensures that the information provided to the Commission is comprehensive, timely, impartial and not unduly burdensome.
  - (9) Under the day-to-day oversight of the Chair, and subject to established Commission policy, the Executive Director oversees the implementation of the short-term and long-term goals and priorities of the Commission and reports to the Commission in writing on achievement of its goals and priorities.
  - (10) Pursuant to Commission established policy and under the day-to-day oversight of the Chair, the Executive Director exercises oversight over Commission staff with respect to their official duties to communicate with the public, the press, and government institutions to ensure that those communications are forthright, accurate, and do not disparage any Commissioner or staff member.

- (b) The Executive Director acts as the chief budgetary and administrative officer of the Agency.
- (1) In consultation with the Chair, Chief of Administration, Division Heads, and the Budget and Staffing Committee, the Executive Director prepares and submits an annual budget proposal, and any budget change proposals, to the Commission, in accordance with Commission policies and procedures.
- (2) The Executive Director, in consultation with the Budget and Staffing Committee, reports monthly in writing to the Commission on the status of Commission finances and administrative actions.
- (3) The Executive Director, in consultation with the Budget and Staffing Committee, prepares, and submits budget change proposals, requests for deficit funding and other budgetary documents to the Department of Finance.
- (4) The Executive Director, in consultation with the Budget and Staffing Committee, approves all fiscal analyses prepared at the request of the Legislature, Legislative Analyst or Department of Finance.
- (5) The Executive Director retains final approval for all budgeted expenditures.
- (6) In accordance with Commission approved guidelines, the Executive Director authorizes unbudgeted expenditures, when deemed appropriate, up to \$25,000.
- (7) Reviews and approves contracts in accordance with Commission policies and procedures.
- (8) Reviews and approves Commissioner compensation and reimbursement requests in accordance with the policy on compensation and reimbursement of Commissioners.
- (c) The Executive Director acts in the name of the Commission with respect to the following statutory duties:
  - (1) Conducts probable cause hearings
  - (2) Reviews and approves conflict of interest codes other than the code of the Commission;
  - (3) Reviews, approves, and signs subpoenas;

(4) Executes oaths and affirmations.

Reference: Sections [83108](#), [83111](#), and [83117](#).

## V. Budget Adoption and Budget Change Process

(a) The Executive Director, in consultation with the Chief of Administration and Budget and Staffing Committee, shall prepare a draft annual budget for the Commission's review and approval.

(b) Prior to the preparation of the draft annual budget, the Executive Director shall solicit input from Commissioners concerning potential budget-related matters or proposals for the purpose of considering the same during the budget preparation process.

(c) The Commission shall consider the draft annual budget at not less than two regular Commission meetings before approving the same.

(d) Each Commissioner may, at a regular meeting at which the draft budget is presented, request additional budget-related information to assist in the consideration of the draft budget proposal.

(e) The Executive Director, in consultation with the Chief of Administration and the Budget and Staffing Committee shall prepare and submit to the Commission recommendations at each stage of the budget process, including prior to the Commission's proposal to the Department of Finance (DOF), the DOF proposal to the Governor, and the Governor's proposed annual budget to the Legislature.

(f) Budget change proposals of \$125,000 or more must be approved by formal action of the Commission and must be reviewed by the Budget and Staffing Committee before presentation to the Commission.

Reference: Sections [83108](#), [83111](#), and [83117](#).