

## **Enforcement Policy Goals**

**Policy Objective:** To improve the timely resolution of enforcement matters. Over the last several years, the Political Reform Act has been amended in ways that increase the complexity of its requirements for committees and candidates. This has contributed to an increase in the amount of time it takes to investigate and prosecute violations of the Act. It has been observed by the Commission – and others – that enforcement matters now frequently take several years to come to resolution, oftentimes not until after a respondent has been reelected to the office they held at the time a complaint was filed or out of office entirely.

**Proposed Policy/Regulation:** It is the goal of the Enforcement Division to complete investigations and prosecutions of alleged violations of the Act quickly and efficiently. In general, the Enforcement Division should endeavor to complete an investigation and, when warranted, prosecution of a violation within two years of the case being opened, except where circumstances clearly indicate a reason for a longer period of time.

To assist the Enforcement Division in achieving these goals, the Enforcement Chief shall, in consultation with the Chair and Executive Director, establish and maintain a system for the efficient allocation and completion of Enforcement Division workload. The system shall be set forth in writing and periodically reviewed by the Enforcement Chief for the purpose of determining whether refinements are needed based on Division performance.

Copies of the written policies that comprise the system for the allocation and completion of Enforcement workload will be made available to any member of the Commission upon request.

The system shall, at a minimum, provide for:

- a. Fair and efficient allocation of work among Enforcement Division staff, that, among other things, provides for:
  - i. the most complicated legal and factually issues being assigned to senior staff, and less complicated matters assigned to less experienced staff members; and
  - ii. the reassignment of matters to more appropriate staff members if they are determined to involve violations that are more or less complicated than what was believed at the time of initial assignment to staff.
- b. Prioritization of workload. The Commission acknowledges that all cases cannot be worked simultaneously so prioritization should include consideration of the age of the case, the statute of limitations applicable, the priorities of the Commission, as well as participation and contact from the Respondent to resolve the case.
- c. Specific target deadlines for completion of tasks at each stage of an Enforcement matter, including, but not limited to:
  - i. Evaluation of complaints/referrals and recommendations for disposition by Intake;
  - ii. Assignment of staff for investigation of opened cases;
  - iii. Preparation and completion of investigative plans by assigned staff;
  - iv. Issuance of informal and formal requests for information and witness interviews;
  - v. Review of evidence gathered during investigations;
  - vi. Preparation of draft investigative summary reports by Special Investigators;
  - vii. Review and approval of investigative summaries by Supervising Special Investigator;

- viii. Evaluation of investigative summary by Commission Counsel;
  - ix. Drafting closure memos;
  - x. Drafting requests for settlement authority;
  - xi. Review of closure memoranda and requests for settlement authority by the Chief or their designee;
  - xii. Drafting/transmitting closure documents (i.e., advisory, warning, or closure letters);
  - xiii. Drafting/transmitting settlement offers;
  - xiv. Ending settlement discussions and proceeding with PC proceedings (i.e., Respondent has 30 days to respond to FPPC offer; FPPC has 30 days to consider counteroffer by Respondent; Respondent has 30 days to consider FPPC response to counteroffer; negotiations end at 90 days and FPPC proceeds to PC unless Chief determines that good cause exists to permit another 30 days of settlement negotiations);
  - xv. FPPC's production of records to Respondent following Respondent's request for records under FPPC Reg 18361.4 (d)(3);
  - xvi. Prepare closure letter if PC denied;
  - xvii. Drafting and service of accusation if PC found;
  - xviii. If notice of defense is filed, placement of notice of hearing on FPPC meeting agenda and submission of request to OAL to schedule administrative hearing;
  - xix. If no notice of defense is filed,
    - 1. preparation of notice of default and placement on FPPC meeting agenda
    - 2. transmission of demand for payment
    - 3. issuance of closure letter if default paid
    - 4. filing of request for clerk's judgment in superior court if default not paid
    - 5. transmission of default collections paperwork to Administrative division after receipt of clerk's judgment.
- d. Written standards for use by intake staff in evaluating whether to open or close a matter at the intake stage, including but not limited to, when intake staff should request additional information from a complainant or respondent and when intake staff should request assistance on questions of legal interpretation from FPPC attorneys.
- e. Tracking of statutes of limitations applicable to potential violations of the Act under investigation by the Enforcement Division to ensure that Enforcement staff complete their work in accordance with the applicable statute of limitations and minimize the need to seek negotiated tolling agreements. The Enforcement Chief shall publicly report to the Commission on each instance in which the Enforcement Division is unable to pursue a violation of the Act in a matter opened by the Enforcement Division as a result of the statute of limitation running, including an explanation of the circumstances that caused the statute of limitations to run.
- f. Tracking of Enforcement Division compliance with the deadlines and procedures for workload allocation and completion. When feasible, an electronic system should be designed and implemented in a manner that, at a minimum, accepts data entry by staff in real time as tasks are completed and allows the Chief and their designees to generate automated tracking reports such that performance under the policy can be evaluated by

objective metrics for individual staff members, groups of staff members (e.g., investigators, attorneys, PRCs, etc.) as well as the division as a whole in order to evaluate the timelines for update and feasibility.

- g. Periodic management meetings, led by the Chief, to review data tracking information and determine what remedial measures, if any, are needed to ensure/improve compliance with workload allocation and completion processes. Such meetings should occur as often as needed to ensure compliance, but in no event less than once a month.
- h. Periodic reports by the Chief to the Chair and Executive Director on the Enforcement Division's performance under the workload allocation and completion processes, including discussion of any remedial steps taken by the Chief or Enforcement management staff since the last update. The Chief will provide updated reports to the Chair and Executive Director at least monthly, and more frequently if requested.
- i. Biannual reports by the Chief to the Commission, usually in June and January, detailing the Enforcement Division's performance under the workload allocation and completion processes. In addition to any other information requested by the Commission, Chair or Executive Director, the reports by the Chief to the Commission will include detailed information about the Enforcement Division's performance during the reporting period compared to the Enforcement Division's performance during the same period from each of the preceding four years, including but not limited to:
  - i. a comparison of the total number of complaints/referrals received, cases/investigations opened, cases/investigations closed, cases referred to other agencies;
  - ii. a comparison of the average monthly rate of cases/investigations opened, cases/investigations closed, for each class of Enforcement staff (e.g., attorneys, investigators, PRCs, etc.); and
  - iii. a detailed explanation for any differences in Enforcement Division performance during the reporting period compared with the prior years' data.

This update will be in addition to any other informational reports the Commission may direct the Chief to provide concerning the performance of the Enforcement Division.

- j. Implementation of other policies and procedures identified by the Chair, the Commission, Executive Director, Chief, or designees of the Chief that will assist the Enforcement Division in achieving the goals of prioritizing Enforcement resources on complex and high-public harm violations while reducing the overall time Enforcement takes to resolve violations, particularly minor and inadvertent violations of the Act.

## Sasha Linker

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**From:** George Aradi  
**Sent:** Tuesday, November 08, 2022 9:11 AM  
**To:** CommAsst  
**Subject:** "Enforcement Policy Goals" Commission meeting 11/8/2022

Good Morning Committee Members-

George Aradi, Special Investigator, FPPC (since January 2014).

I was only notified of today's meeting yesterday, so please forgive me for not providing a more thorough review of the proposals by the Commission.

I have been a law enforcement officer since 1975. Without a doubt, the quest to bring cases to their logical conclusion is most difficult at the FPPC for several reasons:

- 1) Case load- I have 62 cases and the other 8 Investigators have about the same,
- 2) Attorney's have even more cases,
- 3) Complexity and ever changing laws and regulations the FPPC enforces.

Last year our leadership initiated a push to close older cases and established a timeframe to generally bring cases to their conclusion. This push, we have been told by management, yielded favorable results. It is my view that the current proposals are rather granular and can:

- 1) Lead to disproportionate focus on a "numbers game",
- 2) Give rise to staff anxiety; especially, the "Specific target deadlines" reflected in the proposal,
- 3) Result in misinterpretation of production data (missed deadlines) that can adversely reflect on staff performance.

The current performance evaluation protocols are mostly adequate except for the yearly evaluation by supervisors. I believe evaluations would be more effective if they were conducted quarterly and in-person, which can:

- 1) Render investigative, case resolution and time-management guidance to the Investigators and attorneys,
- 2) Identify obstacles to case resolution--- whether they are caused by a heavy case load, case complexity, inordinate or unprecedented legal challenges, or poor performance. Poor performance can mostly be readily identified by a supervisor by reviewing Salesforce records as well as during the quarterly in-person evaluations.

I am also curious whether the Commission had coordinated the new proposals with the respective unions representing the Enforcement Division.

In my view, this topic boils down to whether efficiency and production goals to can be achieved by increasing staff or through, what appears to be, a complex matrix of prescribed deadlines.

Sincerely,



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### 3. Enforcement Policy Goals.

Staff: Richard Miadich, FPPC Chair. Over the last several years, the Political Reform Act has been amended in ways that increase the complexity of its requirements for committees and candidates. This has contributed to an increase in the amount of time it takes to investigate and prosecute violations of the Act. To improve the timely resolution of enforcement matters, policy guidelines are being proposed for consideration and adoption by the Commission.

#### Enforcement Policy Goals

1. **FPPC Enf Staff Member** says:

November 8, 2022 at 9:51 am

Our current system puts an immense amount of pressure on staff to complete tasks assigned. As other commenters have stated, we are understaffed, our case loads are unrealistic, and complaints vary anywhere from incorrect advertisement font size to full financial review/audit of committee records, sometimes for years worth of activity. Staff deals with voluminous records regularly that often comes to us in an unorganized and nonsensical manner which requires weeks, if not months, of accounting to untangle. I think policy changes are necessary, but not imposing stricter standards or timelines on Enforcement. California is the third largest state in the country and the FPPC has a skeleton crew to manage all state and local complaints/investigations. It is disheartening to give everything you have to your job and be told that you are still not doing enough. I am afraid that the passionate and talented people I work with will leave the agency if the wrong approach is taken.

0. **FPPC Enf Staff Member** says:

November 8, 2022 at 9:43 am

Completing cases in a timely manner is important, but this proposed guide does not take into consideration factors staff faces on a daily basis. Enforcing this policy would require an increase of staff to give anything close to desired results. For perspective, the Sacramento County Public Defender's Office and DA Office averages 20-30 investigators and that doesn't include attorney or intake staff. Sacramento County ranks #8 in population, around 1.5 million, while LA County ranks #1 at 9 million. For the entire state, 58 counties and 482 municipalities that we overview, there's 10 investigators, 10 attorneys, and 6 intake staff to sort through thousands of cases a year. Often the difficulty of the case isn't revealed until documents are obtained, and new staff is faced with a sharp learning curve because of it. The PRA becoming more complex means our cases have become more complex and cannot be completed with the guidelines on this proposed agenda at our current staff numbers.

-1. **N/A** says:

November 8, 2022 at 9:34 am

As a member of the enforcement team for over four years, I can attest to the hard work this division puts in at all levels to ensure we are enforcing the Act to its fullest degree. However, this process takes time, and from an investigation standpoint, it is not a cookie-cutter, one-fits-all process to which an arbitrary timeline can be broadly applied. I am not in favor of compromising our investigations to fit within any timeline beyond that of the applicable Statute of Limitations. This is not how we should aim to resolve cases, and I believe it does the public a disservice in the end. To truly improve the timeline to resolve cases, we must address the case load currently held by our investigators and attorneys. This is the root whatever timeliness concerns the Commission may have, and I believe any kind of arbitrary deadline beyond that of the applicable statute date is only going to hurt the public interest.

-2. **FPPC ENF Staff Member** says:

November 8, 2022 at 9:23 am

To improve the timely resolution of enforcement matters, more staff needs to be hired. Attorneys and Investigators are drowning in cases. Each person's caseload is out of control. Other state agencies have no less than 25 investigators working cases, we have 10 investigators. Our caseloads range from 52 – 90 cases per person. Those numbers are not conducive in getting enforcement matters resolved timely. Our caseloads keep on growing due to AdWatch, and pre-election cases. In addition, you can't simply look at a case to determine its complexity until you are in a full investigation. A case deemed "easy" that is given to newer staff to complete, can turn messy in a blink of an eye. Bottom line, if new staff is not hired, the quality of our investigations will be diminished by trying to meet a restrictive timeline.

-3. **FPPC ENF Staff Member** says:

November 8, 2022 at 8:34 am

This new proposed ENF Policy Goals does not appear to take into account the existing backlog of cases, or priority matters such as AdWatch, and pre-election cases. I would hate to see the quality of an investigation, and subsequent prosecution of a case, compromised by trying to meet a specific deadline. The hard truth is that there are just too many cases and too few staff members. Instead of trying to impart timelines, perhaps we should look at the staffing levels and how additional intake staff, investigators and attorneys could have a huge impact on the time it takes for a case to move from intake to prosecution and/or closure. It feels that this incessant tweaking and making adjustments to ENF protocols is suggestive of poor performance by the Enforcement Division and leads to poor morale. There appears to be so little focus on all the good that the ENF staff has done over the years and the impact our hard work has had in fostering the public's trust in our political system.