

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18360. Complaints Filed with the Commission.

The Enforcement Division of the Commission receives complaints and referrals from a variety of sources and pursues matters proactively.

(a) Requirements for filing a complaint or referral.

(1) A complaint or referral must:

(A) Be filed with the Enforcement Division via the Electronic Complaint System available on the Commission's website.

(B) Identify the person(s) who allegedly violated the Act (if known) and the specific provision(s) of the Act allegedly violated.

(C) Describe with as much particularity as possible the facts constituting each alleged violation.

(D) State the facts that support the complainant's belief that a person has violated the Act and include any documents or other evidence supporting this conclusion.

(E) Include or describe with as much particularity as possible evidence or means of obtaining evidence in support of the complaint.

(F) Include the name and current contact information of any potential witness (if known).

(2) A sworn complaint must be electronically signed and submitted under penalty of perjury.

(3) A referral must include:

(A) Current contact information for the person or entity referred.

(B) Current contact information for the agency with which the person or entity files.

(C) Information regarding any attempt the referring entity made to obtain compliance, including copies of at least two written notices.

(b) Procedural rights for a sworn complaint. The following procedures only apply to a sworn complaint filed under penalty of perjury:

(1) Notice. Within three business days of receipt of a sworn complaint, the Enforcement Division will provide each person who the complaint alleges violated the Act a copy of the complaint and notice that the person may respond to the complaint. This is not required if the complaint is rejected within the three-day period. The Enforcement Division may withhold notice of a complaint or the identity of the complainant if the Enforcement Division Chief determines that disclosing the information would jeopardize the investigation, or if the complaint is rejected within the three business days.

(2) Notice to complainant of intended action. Within 14 calendar days of receiving a sworn complaint, the Enforcement Division will notify the complainant in writing that it will do one or more of the following in response to the complaint: open a case, refer the matter to another agency, take no action, take additional time to make a determination, or take any action the Enforcement Chief deems appropriate. Subsequent notice will be provided if more time is required.

(3) Reconsideration of intended action. If the person who filed the sworn complaint disagrees with the Enforcement Division's intended action, other than needing additional time to consider, the person may submit in writing, within 20 calendar days of receipt of the response, a request for reconsideration to the Executive Director of the Commission. The Executive Director may deny the request, or based on good cause, direct the Enforcement Division Chief to take specified action consistent with the Act and its regulations. The Executive Director will provide

the complainant written notice of the decision within 20 calendar days of receipt of the request. However, if the complainant provides new information or allegations in the request for reconsideration, this will be considered a new complaint and not a request for reconsideration.

(4) Notice to subjects of a sworn complaint. The Enforcement Division will send a copy of the notice of intended action to any person the complaint at issue alleges violated the Act at the same time it is sent to the complainant, unless the Enforcement Division Chief determines that providing the person with notice of the complaint would jeopardize the investigation.

(5) Notice of resolution. The Enforcement Division will send a notice of resolution to each complainant who filed a sworn complaint with the Commission and was notified that the Enforcement Division would investigate the allegations in the complaint.

(c) Commission initiated case. All matters that do not result from a sworn complaint, including proactive investigations, referrals, nonsworn and anonymous complaints, are opened on the Commission's initiative under Section 83115. The Enforcement Division will determine whether to open Commission initiated investigations.

(1) Notice of Commission initiated case. The Enforcement Division will send notice, as well as a copy of any document submitted to the Enforcement Division, to any identified subjects of a Commission initiated case when opening a case based upon that information.

(2) The Enforcement Division may withhold any document, the identity of any person providing information, or the notice and existence of a matter if the Enforcement Division Chief determines disclosing the information would jeopardize the case, or if the information is privileged, private or confidential.

(3) No notice is required to be sent to the provider of the information regarding whether a case has been opened or its resolution. For filing officer referrals, the Enforcement Division may notify the filing officer regarding the outcome of the referral.

(d) Public Information. The Commission will post on its website and respond to requests for information about all matters as follows:

(1) Notice. The Commission may confirm receipt and provide a copy of any document received from a complainant or referring agency five calendar days after a copy of the complaint or referral has been sent to all persons the complaint or referral alleges violated the Act. The Commission may provide a copy of the complaint or referral before five calendar days have passed if the Enforcement Division has decided to take no action on the complaint or referral. If a case is opened without the filing of a complaint or referral, the Commission may confirm a case has been opened and provide a copy of any documents reviewed by the Enforcement Division in making a determination to open a case five calendar days after a copy of the information, or a notification that a case has been opened, has been sent to all persons alleged to have violated the Act.

(2) Intended Action. Commission staff may not disclose any action the Enforcement Division intends to take on a complaint or referral, other than no action, until after the notice to complainant of intended action is sent and the five days have passed. The Commission may confirm that it has opened a case on its own initiative and provide a copy of the notice sent to all identified subjects of the investigation five calendar days after sending notice to all identified subjects of the investigation.

(3) Protected Information. The Commission may withhold any document, the identity of any person providing information, or the existence of an complaint or case if the Enforcement

Division Chief determines that disclosing the information would jeopardize the matter, or the information is privileged, private or confidential.

(e) Complaints Rejected without Notice to Respondents. Duplicate complaints or referrals submitted by the same complainant or filing officer may be rejected without notice. A nonsworn or anonymous complaint that the Chief of Enforcement determines fails to allege facts that could result in a violation of the Act may be rejected without notice. A complaint or referral rejected pursuant to this subdivision will not be posted on the Commission website.

Note: Authority cited: Section 83112, Government Code. Reference: Section 83115, Government Code.

HISTORY

1. New section filed 10-9-75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 41).
2. Amendment filed 5-22-78; effective thirtieth day thereafter (Register 78, No. 21).
3. Amendment of subsection (g) filed 11-2-78; effective thirtieth day thereafter (Register 78, No. 44).
4. Amendment of section heading filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).
5. Editorial correction of subsection (f) filed 10-29-82 (Register 82, No. 44).
6. Amendment of subsection (g) filed 9-24-2007; operative 10-24-2007. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking

requirements and not subject to procedural or substantive review by OAL) (Register 2007, No. 39).

7. Amendment filed 6-11-2008; operative 6-11-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2008, No. 24).

8. New subsection (f)(2), subsection renumbering and amendment of newly designated subsections (f)(3)-(4) filed 7-6-2011; operative 8-5-2011. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2011, No. 27).

9. Amendment of subsections (f)(1), (f)(1)(E), (f)(3)-(4) and (h) filed 12-7-2011; operative 1-6-2012. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2011, No. 49).

10. Repealer and new section heading and section filed 12-15-2015; operative 1-14-2016. Submitted to OAL for filing and printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974

Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 51).

11. Repealer and new section filed 11-16-2020; operative 1-1-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2020, No. 47).