

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

**§ 18360.2. Penalties in Streamline Cases.**

Streamline penalty stipulations are approved by the Chief of Enforcement and are reported to the Commission for discussion only before they are executed. The Chief of Enforcement will include those stipulations in the next Commission agenda, as a part of the Executive Staff Report. The Enforcement Division has the discretion to exclude violations that caused minimal public harm when the total penalty meets or exceeds the total amount raised or spent by the filer, the total penalty exceeds the amount that would be paid in a Mainline Stipulation, lack of experience or knowledge of the Act's requirements caused multiple violations with minimal public harm that were corrected upon contact, or the committee raised and spent less than \$10,000. After the close of the hearing, the Chief of Enforcement may execute all or any of the streamline penalty stipulations, at the Chief's discretion.

Penalties in streamline cases are not to exceed the prescribed maximum fine amount per violation found in Government Code Section 83116, subdivision (c). The Chief of Enforcement has the discretion to increase the penalties for Tier Two advertising violations resulting in public confusion, under Regulation 18360.3(d)(7)(B)(i)(b); and Tier Two violations involving the same candidate, committee, or principal officer who has paid a Tier One penalty to the Commission or received a Warning Letter from the Commission for the same type of violation occurring within the last five years, based on the resulting public harm.

(a) Late Statement of Economic Interests.

(1) Tier One Penalty Amount. The streamline penalty for failing to timely file a Statement of Economic Interests under Tier One is calculated as follows:

(A) \$200 per late statement if filed in response to the Enforcement Division's first contact with the filer.

(B) \$400 per late statement if filed prior to issuance of a probable cause report by the Enforcement Division.

(C) \$600 per late statement if filed prior to issuance of an accusation by the Enforcement Division.

(D) \$800 per late statement if filed prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The streamline penalty for failing to timely file a Statement of Economic Interests under Tier Two is calculated as follows:

(A) \$600 per late statement if filed in response to the Enforcement Division's first contact with the filer.

(B) \$800 per late statement if filed prior to issuance of a probable cause report by the Enforcement Division.

(C) \$1,000 per late statement if filed prior to issuance of an accusation by the Enforcement Division.

(D) \$1,200 per late statement if filed prior to adoption of default decision and order by the Commission.

(b) Unreported Economic Interest(s).

(1) Tier One Penalty Amount. The penalty for failing to timely report an economic interest on a Statement of Economic Interests under Tier One is calculated as follows:

(A) \$100 per economic interest not disclosed per statement that did not include timely disclosure of an economic interest if filed in response to the Enforcement Division's first contact with the filer.

(B) \$200 per economic interest not disclosed per statement that did not include timely disclosure of an economic interest if filed prior to issuance of a probable cause report by the Enforcement Division.

(C) \$300 per economic interest not disclosed per statement that did not include timely disclosure of an economic interest if filed prior to issuance of an accusation by the Enforcement Division.

(D) \$400 per economic interest not disclosed per statement that did not include timely disclosure of an economic interest if filed prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The penalty for failing to timely report an economic interest on a Statement of Economic Interests under Tier Two is calculated as follows:

(A) \$1,000 per economic interest not disclosed per statement that did not include timely disclosure of an economic interest if filed in response to the Enforcement Division's first contact with the filer.

(B) \$1,200 per economic interest not disclosed per statement that did not include timely disclosure of an economic interest if filed prior to issuance of a probable cause report by the Enforcement Division.

(C) \$1,400 per economic interest not disclosed per statement that did not include timely disclosure of an economic interest if filed prior to issuance of an accusation by the Enforcement Division.

(D) \$1,600 per economic interest not disclosed per statement that did not include timely disclosure of an economic interest if filed prior to adoption of a default decision and order by the Commission.

(c) Late Campaign Statement or Report.

(1) Tier One Penalty Amount. The penalty for failing to timely file a campaign statement or report under Tier One is calculated as follows:

(A) \$200 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed in response to the Enforcement Division's first contact with the filer (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(B) \$400 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to issuance of a probable cause report by the Enforcement Division (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(C) \$600 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to issuance of an accusation by the Enforcement Division (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(D) \$800 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to adoption of a default decision and order by the Commission (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(2) Tier Two Penalty Amount. The penalty for failing to timely file a campaign statement or report under Tier Two is calculated as follows:

(A) \$400 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed in response to the Enforcement Division's first contact with the filer (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(B) \$800 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to issuance of a probable cause report by the Enforcement Division (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(C) \$1,200 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to issuance of an accusation by the Enforcement Division (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(D) \$1,600 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to adoption of a default decision and order by the Commission (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(d) Unreported Contributions or Expenditures.

(1) Tier One Penalty Amount. The penalty for failing to timely report is calculated under Tier One as follows:

(A) \$100 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed in response to the Enforcement Division's first contact with the filer

(unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(B) \$200 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to issuance of a probable cause report by the Enforcement Division (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(C) \$300 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to issuance of an accusation by the Enforcement Division (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(D) \$400 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to adoption of a default decision and order by the Commission (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(2) Tier Two Penalty Amount. The penalty for failing to timely report is calculated under Tier Two as follows:

(A) \$600 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed in response to the Enforcement Division's first contact with the filer (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(B) \$800 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to issuance of a probable cause report by the Enforcement

Divisions (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(C) \$1,000 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to issuance of an accusation by the Enforcement Division (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased 3%).

(D) \$1,200 plus 1% of contributions received or expenditures made, whichever is greater, per late statement if filed prior to adoption of a default decision and order by the Commission (unless statement or report was due before the relevant election, but filed later than seven days before the election, then the 1% is increased to 3%).

(e) Late Lobbying Reports.

(1) Tier One Penalty Amount. The penalty for failing to timely file a report is calculated under Tier One as follows:

(A) \$200 plus 1% of all payments received or payments made for lobbying activity, whichever is greater, if the report is filed in response to the Enforcement Division's first contact with the filer.

(B) \$400 plus 1% of all payments received or payments made for lobbying activity, whichever is greater, if the report is filed prior to issuance of a probable cause report by the Enforcement Division.

(C) \$600 plus 1% of all payments received or payments made for lobbying activity, which is greater, if the report is filed prior to issuance of an accusation by the Enforcement Division.

(D) \$800 plus 1% of all payments received or payments made for lobbying activity, whichever is greater, if the report is filed prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The penalty for failing to timely file a report is calculated under Tier Two as follows:

(A) \$600 plus 1% of all payments received or payments made for lobbying activity, whichever is greater, if the report is filed in response to the Enforcement Division's first contact with the filer.

(B) \$800 plus 1% of all payments received or payments made for lobbying activity, which is greater, if the report is filed prior to issuance of a probable cause report by the Enforcement Division.

(C) \$1,000 plus 1% of all payments received or payments made for lobbying activity, which is greater, if the report is filed prior to issuance of an accusation by the Enforcement Division.

(D) \$1,200 plus 1% of all payments received or payments made for lobbying activity, whichever is greater, if the report is filed prior to adoption of a default decision and order by the Commission.

(f) Unreported Lobbying Activity.

(1) Tier One Penalty Amount. The penalty for failing to timely report lobbying activity is calculated under Tier One as follows:

(A) \$100 plus 1% of all payments received or payments made for lobbying activity, whichever is greater, if the report is filed in response to the Enforcement Division's first contact with the filer.

(B) \$200 plus 1% of all payments received or payments made for lobbying activity, whichever is greater, if the report is filed prior to issuance of a probable cause report by the Enforcement Division.

(C) \$300 plus 1% of all payments received or payments made for lobbying activity, whichever is greater, if the report is filed prior to issuance of an accusation by the Enforcement Division.

(D) \$400 plus 1% of all payments received or payments made for lobbying activity, whichever is greater, if the report is filed prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The penalty for failing to timely report lobbying activity is calculated under Tier Two as follows:

(A) \$400 plus 1% of all payments received or payments made for lobbying activity, whichever is greater, if the report is filed in response to the Enforcement Division's first contact with the filer.

(B) \$800 plus 1% of all payments received or payments made for lobbying activity, which is greater, if the report is filed prior to issuance of a probable cause report by the Enforcement Division.

(C) \$1,000 plus 1% of all payments received or payments made for lobbying activity, which is greater, if the report is filed prior to issuance of an accusation by the Enforcement Division.

(D) \$1,200 plus 1% of all payments received or payments made for lobbying activity, which is greater, if the report is filed prior to adoption of a default decision and order by the Commission.

(g) Cash Contributions or Expenditures of \$100 or More.

(1) Tier One Penalty Amount. The streamline penalty for receiving a contribution or making an expenditure of \$100 or more in cash under Tier One is calculated as follows:

(A) An amount equal to 25% of the amount of the contribution or expenditure if settled in response to the Enforcement Division's first contact with the person.

(B) An amount equal to 50% of the amount of the contribution or expenditure if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) An amount equal to 100% of the amount of the contribution or expenditure if settled prior to issuance of an accusation by the Enforcement Division.

(D) An amount equal to two times the amount of the contribution or expenditure if settled prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The streamline penalty for receiving a contribution or making an expenditure of \$100 or more in cash under Tier Two is calculated as follows:

(A) An amount equal to 50% of the amount of the contribution or expenditure if settled in response to the Enforcement Division's first contact with the person.

(B) An amount equal to 75% of the amount of the contribution or expenditure if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) An amount equal to 100% of the amount of the contribution or expenditure if settled prior to issuance of an accusation by the Enforcement Division.

(D) An amount equal to two times the amount of the contribution or expenditure if settled prior to adoption of a default decision and order by the Commission.

(h) Campaign Bank Account.

(1) Tier One Penalty Amount. The streamline penalty for failing to deposit a contribution into a campaign bank account, or failing to make a campaign expenditure from the campaign bank account is calculated under Tier One as follows:

(A) \$100 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled in response to the Enforcement Division's first contact with the person.

(B) \$200 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$300 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$400 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The streamline penalty for failing to deposit a contribution into a campaign bank account, or failing to make a campaign expenditure from the campaign bank account is calculated under Tier Two as follows:

(A) \$400 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled in response to the Enforcement Division's first contact with the person.

(B) \$600 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$800 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,000 plus 1% of the amount not processed through the campaign bank account per statement period during which a violation occurred if settled prior to adoption of a default decision and order by the Commission.

(i) Committee Naming.

(1) Tier One Penalty Amount. The streamline penalty under Tier One for failing to name the committee properly is calculated as follows:

(A) \$400 per reporting period if settled in response to the Enforcement Division's first contact with the person.

(B) \$600 per reporting period if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$800 per reporting period if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,000 per reporting period if settled prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The streamline penalty for failing to name the committee properly is calculated under Tier Two as follows:

(A) \$800 if settled in response to the Enforcement Division's first contact with the person.

(B) \$1,000 if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$1,200 if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,400 if settled prior to adoption of a default decision and order by the Commission.

(j) Advertising and Mass Mailing Disclosures.

(1) Tier One Penalty Amount. The streamline penalty for failing to include all required advertisement or mass mailing requirements under Tier One is calculated as follows:

(A) \$100 plus 1% of each advertisement buy if settled in response to the Enforcement Division's first contact with the person.

(B) \$200 plus 1% of each advertisement buy if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$300 plus 1% of each advertisement buy if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$400 plus 1% of each advertisement buy if settled prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The streamline penalty for failing to include all required advertisement or mass mailing requirements under Tier Two is calculated as follows:

(A) \$400 plus 1% of each advertisement buy if settled in response to the Enforcement Division's first contact with the person.

(B) \$600 plus 1% of each advertisement buy if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$800 plus 1% of each advertisement buy if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,000 plus 1% of each advertisement buy if settled prior to adoption of a default decision and order by the Commission.

(k) Recordkeeping.

(1) Tier One Penalty Amount. The streamline penalty for failing to maintain adequate records under Tier One is calculated as follows:

(A) \$200 per reporting period if settled in response to the Enforcement Division's first contact with the person.

(B) \$400 per reporting period if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$600 per reporting period if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$800 per reporting period if settled prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The streamline penalty for failing to maintain adequate records under Tier Two is calculated as follows:

(A) \$600 per reporting period if settled in response to the Enforcement Division's first contact with the person.

(B) \$800 per reporting period if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$1,000 per reporting period if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,200 per reporting period if settled prior to adoption of a default decision and order by the Commission.

(l) Gift Limit.

(1) Tier One Penalty Amount. The penalty for a gift limit violation is calculated under Tier One as follows:

(A) \$200 per gift received over the limit if settled in response to the Enforcement Division's first contact with the person.

(B) \$400 per gift received over the limit if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$600 per gift received over the limit if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$800 per gift received over the limit if settled prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The penalty for a gift limit violation is calculated under Tier Two as follows:

(A) \$600 per gift received over the limit if settled in response to the Enforcement Division's first contact with the person.

(B) \$800 per gift received over the limit if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$1,000 per gift received over the limit if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,200 per gift received over the limit if settled prior to adoption of a default decision and order by the Commission.

(m) Slate Mailer Organization Filing Issues.

(1) Penalty Amount. The streamline penalty for failing to properly file slate mailer organization statements is calculated as follows:

(A) \$400 per reporting period if settled in response to the Enforcement Division's first contact with the person.

(B) \$600 per reporting period if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$800 per reporting period if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,000 per reporting period if settled prior to adoption of a default decision and order by the Commission.

(n) Proper Recusal for a Conflict of Interest.

(1) Penalty Amount. The streamline penalty for failing to properly recuse for a conflict of interest is calculated as follows:

(A) \$400 per incident if settled in response to the Enforcement Division's first contact with the person.

(B) \$600 per incident if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$800 per incident if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,000 per incident if settled prior to adoption of a default decision and order by the Commission.

(o) Major Donor Notifications.

(1) Penalty Amount. The streamline penalty for failing to properly notify a potential major donor is calculated as follows:

(A) \$200 per reporting period if settled in response to the Enforcement Division's first contact with the person.

(B) \$400 per reporting period if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$600 per reporting period if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$800 per reporting period if settled prior to adoption of a default decision and order by the Commission.

(p) Major Donor Filers.

(1) Tier One Penalty Amount. The streamline penalty for failing to properly file campaign statements and reports as a major donor committee under Tier One is calculated as follows:

(A) \$400 per statement or report if settled in response to the Enforcement Division's first contact with the person.

(B) \$600 per statement or report if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$800 per statement or report if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,000 per statement or report if settled prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The streamline penalty for failing to properly file campaign statements and reports as a major donor committee under Tier Two is calculated as follows:

(A) \$800 per statement or report if settled in response to the Enforcement Division's first contact with the person.

(B) \$1,000 per statement or report if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$1,200 per statement or report if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,400 per statement or report if settled prior to adoption of a default decision and order by the Commission.

(q) Behested Payment Reports.

(1) Tier One Penalty Amount. The streamline penalty for failing to properly file behested payment reports under Tier One is calculated as follows:

(A) \$200 per statement or report if settled in response to the Enforcement Division's first contact with the person.

(B) \$400 per statement or report if settled prior to issuance of a probable cause report by the Enforcement Division.

(C) \$600 per statement or report if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$800 per statement or report if settled prior to adoption of a default decision and order by the Commission.

(2) Tier Two Penalty Amount. The streamline penalty for failing to properly file behested payment reports under Tier Two is calculated as follows:

(A) \$600 per statement or report if settled in response to the Enforcement Division's first contact with the person.

(B) \$800 per statement or report if settled prior to issuance of probable cause report by the Enforcement Division.

(C) \$1,000 per statement or report if settled prior to issuance of an accusation by the Enforcement Division.

(D) \$1,200 per statement or report if settled prior to adoption of a default decision and order by the Commission.

Note: Authority cited: Section 83112, Government Code. Reference: Section 83116, Government Code.

### **HISTORY**

1. New section filed 2-25-2019; operative 3-27-2019 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 2019, No. 9).

2. Amendment filed 2-22-2021; operative 3-24-2021 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 2021, No. 9).

3. Amendment of first paragraph filed 5-12-2021; operative 6-11-2021 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 2021, No. 20).