

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

§ 18740. Legally Prohibited Disclosure: Statement of Economic Interests.

(a) An official or candidate is not required to disclose the name of a person under Section 87207 if disclosure would violate California or Federal law. A person's name may be withheld in accordance with the following procedure:

(1) The official or candidate must file with his or her Statement of Economic Interests an explanation for nondisclosure. The explanation must state for each undisclosed person the legal basis and sufficient facts to support nondisclosure.

(2) With respect to each undisclosed person, the official or candidate must state in writing signed under penalty of perjury of the laws of the State of California that he or she has not and will not make, participate in making, or in any way attempt to use an official position to influence a governmental decision in violation of Section 87100. In the event the official or candidate is faced with a potential conflict of interest involving an undisclosed person, the official or candidate should disclose the potential conflict to their agency's legal counsel and must recuse themselves from participating in the matter.

(b) The General Counsel of the Commission will determine whether the nondisclosure is warranted under California or Federal law. The General Counsel may request further information from the official or candidate.

(1) If the General Counsel determines there is insufficient legal or factual justification for nondisclosure, the General Counsel will notify the official or candidate in writing and order disclosure. Within 14 days after issuance of an order, the official or candidate must comply with the order or appeal the determination, in writing, to the Commission.

(2) If the General Counsel determines that nondisclosure is justified under California or Federal law, the General Counsel will notify the Chair of the Commission. The Chair may: (A) approve the determination and direct the General Counsel to issue a final order of nondisclosure; or (B) request review of the General Counsel's determination by the full Commission and place the matter on the agenda for the next available Commission meeting.

(c) If the matter is reviewed by the Commission, the official or candidate will be notified and allowed to present written or oral testimony. If the Commission determines that nondisclosure is warranted, no further action need be taken. If the Commission orders disclosures, the official or candidate must comply within 14 days of the order.

(d) The Executive Director may, for good cause, extend the time periods established in this regulation.

Note: Authority cited: Section 83112, Government Code. Reference: Section 87207(b), Government Code.

HISTORY

1. New section filed 7-28-76; effective thirtieth day thereafter (Register 76, No. 31).
2. Amendment of subsections (c)-(f) filed 11-2-78; effective thirtieth day thereafter (Register 78, No. 44).
3. Amendment filed 4-28-82; effective thirtieth day thereafter (Register 82, No. 18).
4. Amendment of first paragraph, subsection (e) and Note filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
5. Amendment filed 10-26-2004; operative 11-25-2004 (Register 2004, No. 44).
6. Amendment of section heading and repealer and new section filed 2-2-2015;

operative 3-4-2015 pursuant to title 2, section 18312(e)(1) of the California Code of Regulations.
Submitted to OAL for filing and printing 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. 6).