

1 Amend 2 Cal. Code Regs. Section 18360 as follows:

2 **§ 18360. Complaints Filed with the Commission.**

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

5 (a) Requirements for filing a complaint or referral.

6 (1) A complaint or referral must.

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

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

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

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

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

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

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

20 (3) A referral must include:

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

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

23 (C) Information regarding any attempt the referring entity made to obtain compliance,
24 including copies of at least two written notices and the email address, mailing address, or

1 telephone number at which the referred person or entity was contacted.

2 (D) For campaign non-filer referrals, also include:

3 (i) A copy of the most recently filed campaign statement, if any, including all relevant
4 schedules.

5 (ii) Committee name and identification number and, in the case of a candidate- controlled
6 committee, the candidate's name.

7 (iii) Office sought or held, if applicable.

8 (iv) The name of the committee's treasurer.

9 (v) Current contact information for the committee, candidate if applicable, and the
10 committee's treasurer.

11 (vi) Filing methods available to the filer at their agency, such as paper or electronic filing.

12 (E) For statement of economic interests non-filer referrals, also include:

13 (i) A copy of the most recently filed statement of economic interest, if any.

14 (ii) A copy of the agency's conflict of interest code, in the case of Section 87300 filers.

15 (iii) Personal contact information such as a personal email address, home mailing address,
16 or personal telephone number if the filer has left office or is no longer employed by the agency.

17 (iv) Indication whether the filer is still in office or employed by the agency. If the filer is
18 on leave, also provide that information along with expected return date, if known.

19 (4) Before making a referral to the Enforcement Division, the filing officer shall attempt
20 to contact the filer by telephone at least once.

21 (5) If a filing officer subsequently receives a filing from a referred candidate, committee,
22 or statement of economic interests filer, the filing officer must notify the Enforcement Division
23 within 7 days of receipt of the filing.

24 (b) Procedural rights for a sworn complaint. The following procedures only apply to a

1 sworn complaint filed under penalty of perjury:

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

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

15 (3) Reconsideration of intended action. If the person who filed the sworn complaint
16 disagrees with the Enforcement Division's intended action, other than needing additional time to
17 consider, the person may submit in writing, within 20 calendar days of receipt of the response, a
18 request for reconsideration to the Executive Director of the Commission. The Executive Director
19 may deny the request, or based on good cause, direct the Enforcement Division Chief to take
20 specified action consistent with the Act and its regulations. The Executive Director will provide
21 the complainant written notice of the decision within 20 calendar days of receipt of the request.
22 However, if the complainant provides new information or allegations in the request for
23 reconsideration, this will be considered a new complaint and not a request for reconsideration.

24 (4) Notice to subjects of a sworn complaint. The Enforcement Division will send a copy

1 of the notice of intended action to any person the complaint at issue alleges violated the Act at
2 the same time it is sent to the complainant, unless the Enforcement Division Chief determines
3 that providing the person with notice of the complaint would jeopardize the investigation.

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

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

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

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

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

21 (d) Public Information. The Commission will post on its website and respond to requests
22 from the public for records and information about all Enforcement matters as follows:

23 ~~(1) Notice. The Commission may confirm receipt and provide a copy of any document~~
24 ~~received from a complainant or referring agency five calendar days after a copy of the complaint~~

1 or referral has been sent to all persons the complaint or referral alleges violated the Act. The
2 Commission may provide a copy of the complaint or referral before five calendar days have
3 passed if the Enforcement Division has decided to take no action on the complaint or referral. If a
4 case is opened without the filing of a complaint or referral, the Commission may confirm a case
5 has been opened and provide a copy of any documents reviewed by the Enforcement Division in
6 making a determination to open a case five calendar days after a copy of the information, or a
7 notification that a case has been opened, has been sent to all persons alleged to have violated the
8 Act.

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

15 (1) When the Commission receives a complaint or referral alleging a person violated the
16 Act, or if a case is opened on the Commission's own initiative, the Commission may provide the
17 following information and records two days after sending via email notice of the alleged
18 violation to the person alleged to have violated the Act or five days after sending such notice via
19 physical mail:

20 (A) Confirmation of receiving a complaint or referral;

21 (B) Copies of the respective complaint, referral, information, notification, or letter of
22 inquiry;

23 (C) Copies of any document received from a complainant or referring agency; and

24 (D) Copies of any documents reviewed by the Enforcement Division in making a

1 determination to open a case.

2 (2) The Commission may disclose the action the Enforcement Division intends to take on
3 a complaint or referral two days after providing notice of the intended action to the sworn
4 complainant via email or five days after providing notice via physical mail. However, if the
5 Enforcement Division intends to take no action, the Commission may disclose that fact
6 immediately.

7 (3) The Commission may disclose the scheduling or result of any step in an
8 administrative action.

9 (4) The Commission may not comment on specific facts or provide analysis relating to an
10 Enforcement matter when responding to requests for information regarding a pending
11 Enforcement matter. The Commission may provide general information regarding the provisions
12 of the Act and Section 1090 without analyzing the potential application of those provisions to the
13 facts of a specific Enforcement matter.

14 ~~(3) (5) Protected Information.~~ The Commission may withhold any document, the identity
15 of any person providing information, or the existence of ~~an~~ a complaint or case if the
16 Enforcement Division Chief determines that disclosing the information would jeopardize the
17 matter, or the information is privileged, private or confidential.

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

23 (f) When sending a form of notice to a respondent or complainant via email, Enforcement
24 Division staff shall include a request for a read receipt. A returned read receipt is not required

- 1 prior to providing information to other parties as specified in this regulation.
- 2 Note: Authority cited: Section 83112, Government Code. Reference: Section 83115, Government
- 3 Code.