



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **July 21, 2022**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **July 19, 2022**.

BACKGROUND/OVERVIEW:

Commission staff has identified a need to clarify the duties of filing officers and requirements for referrals to the Enforcement Division, as well as to clarify and increase transparency around the Commission's practices when responding to public requests for information and records concerning a pending Enforcement Division matter.

The proposed regulatory changes would provide a comprehensive list of information filing officers must include when making referrals to the Commission's Enforcement Division, as well as steps filing officers should take to avoid submitting referrals missing critical information. Additional amendments would shorten the delay period between providing notice to the subject of an Enforcement matter and making information and records available to the public; clarify when the Commission will comment on the specifics of a pending Enforcement matter; and make other clarifying changes to make clear to the public and regulated community how the Commission responds to public requests for information and records. The proposed changes include amendments to Regulations 18115 and 18360.

REGULATORY ACTION:

Amend 2. Cal. Code Regs. Section 18115 – Duties of Filing Officers and Filing Officials - Statements of Economic Interests.

The Commission may consider amendments to Regulation 18115, which defines the terms filing officer and filing official and sets forth the duties of both with respect to Statements of Economic Interests ("SEI") submitted in paper or electronic format. Despite the duties laid out in Regulation 18115, referrals of statement of economic interests non-filers from filing officers often lack information to process a referral. Other issues with referrals include filing officers sending Leaving

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Office SEI notifications to non-filers' agency email addresses after the non-filer has left the position and no longer has access to the email account. Proposed amendments would require:

- Filing officers to send at least one notice to the filer's personal email or personal mailing address and to obtain updated contact information including the filer's personal email address, mailing address, and telephone number.
- A filing official notify the filing officer when a filer's lack of filing has been due a leave of absence and when the filer's expected return date would be.

Amend 2 Cal. Code Regs. Section 18360 – Complaints Filed with the Commission

The Commission may consider amendments to all provisions of current Regulation 18360, which addresses how the Commission handles the complaints and referrals it receives, as well as the matters it pursues proactively. The regulation's provisions include how to file a complaint or referral, the procedural rights of a sworn complainant, handling of Commission-initiated cases, and handling of complaints rejected without notice to the respondents.

Regulation 18360, subdivision (a) details the requirements for filing a complaint or referral with the Commission's Enforcement Division. Nevertheless, campaign referrals often lack information to process a campaign referral. Proposed amendments would provide a comprehensive list of information filing officers must include in both campaign and statement of economic interests (SEI) non-filer referrals, as well as steps filing officers should take to avoid submitting referrals missing critical information.

Regulation 18360, subdivision (d) details how the Commission responds to public requests for information and records regarding a pending Enforcement Division matter. Generally, subdivision (d) identifies the information and records the Commission can provide to the public and the circumstances in which it may be provided. In accordance with due process principles and the California Public Records Act, the Commission may consider amendments to increase transparency and specify the Commission's practices when responding to public requests for information and records concerning a pending Enforcement Division matter.

At a minimum, Commission staff anticipates proposing the following:

- Requiring filing officers to include, as part of information regarding attempts to obtain compliance, the email address, mailing address, and phone number at which the referred person or entity was contacted;
- Specifying what a filing officer must include in a referral to the Enforcement Division for both campaign and SEI referrals;
- Requiring a filing officer who receives a filing from a referred candidate, committee, or statement of economic interests filer to notify the Enforcement Division within 7 days of receipt of the filing;
- Shortening the period between providing notice to a complainant or the subject of a complaint and making information and records available to the public when notice is provided via email;

- Expressly providing that, aside from certain records and general information or confirming the current step or result of a step in the administrative process, the Commission will not comment on the specifics of a pending Enforcement matter;
- Requiring Enforcement Division staff to include a request for a read receipt when sending notice via email.

SCOPE: The Commission may adopt the language noticed herein or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY: Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE: Section 83115

CONTACT: Any inquiries should be made to Kevin Cornwall or Toren Lewis, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.