



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)<sup>1</sup> 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 **September 15, 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 **September 14, 2022**.

### BACKGROUND/OVERVIEW:

Three regulations are proposed for minor amendments: Regulation 18960, 18225.7 and 18728.5 to respond to recent legislation, remove unnecessary language, and clean-up outdated citations.

**Regulation 18960: Direct Personal Benefit Defined.** The Legislature recently amended Section 89521 to define and establishes penalties for an expenditure of campaign funds that violates the campaign fund “personal use” provisions and results in an “egregious personal benefit.” (Stats. 2021, Ch. 315.) Section 89521(b) defines an egregious personal benefit as a “direct personal benefit” with a total value of \$10,000 or more to a candidate, elected officer, or any individual or individuals with authority to approve the expenditure of a committee’s campaign funds.

Currently, Regulation 18960 defines the term, “direct personal benefit,” but only for purposes of a previously enacted statute, Section 89511, which defines a “substantial personal benefit” as a “direct personal benefit” with a value of \$200 or more to the same list of persons authorized to expend a committee’s campaign funds.

Because the term “direct personal benefit” now affects both definitional sections, it is essential to amend Regulation 18960 to apply to both sections and to delete the unnecessary \$200 threshold attached to the definition of a direct personal benefit. It will also be beneficial to comprehensively apply the definition to individual(s) with authority to make committee expenditures, as reflected by both sections, and delete the unnecessary term “actually” in the requirement that one make personal use of an asset obtained as the result of an expenditure to have a “direct personal benefit.”

**Regulation 18225.7: Made at the Behest: Independent versus Coordinated Expenditures.** There are four contexts under the Act in which the term “made at the behest” is used. This

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<sup>1</sup> 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.

regulation addresses the term's use in the context of independent and coordinated expenditures, and includes a referral to Regulation 18215.3, a regulation repealed by the Commission in 2021, for rules regarding behested payments for a charitable, legislative, or governmental purpose. The reference is no longer valid, and the referral is not needed.

**Regulation 18728.5:** Reporting of Commission Income and Incentive Compensation. The Act requires a public official or designated employee to file statements of economic interest which includes a disclosure of income. (Sections 87203 and 87302.) Regulation 18728.5 sets forth rules on disclosing the source of a public official's "commission income" and "incentive income." It came to staff's attention that the reference to the definition of each term contained was outdated, to Regulation 18703.3, whereas Regulation 18700.1 now holds the definitions of "commission income" and "incentive income."

**REGULATORY ACTION: Amend 2 Cal. Code Regs. Section 18960; 18225.7, and 18728.5.**

Commission staff proposes to amend Regulation 18960(a) to apply to both Section 89511 and 89521, delete the \$200 threshold, and the term "actually."

Staff proposes to amend Regulation 18225.7(a) to delete the referral to repealed Regulation 18215.3.

Staff proposes amendments to correct the citations in Regulation 18728.5(a) to reflect the correct regulation, Regulation 18700.1, stating the definition of "commission income" and "incentive income."

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

**FISCAL IMPACT STATEMENT:**

<u>Fiscal Impact on Local Government.</u>	None.
<u>Fiscal Impact on State Government.</u>	None.
<u>Fiscal Impact on Federal Funding of State Programs.</u>	None.

**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:** 89511 and 89521; 82041.3, 82015, 82025, 82031, 84224, 85310 and 85500; and 82030, 87207 and 87302.

**CONTACT:** Any inquiries should be made to L. Karen Harrison, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; email: [KHarrison@FPPC.CA.Gov](mailto:KHarrison@FPPC.CA.Gov); 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-notice.html>.