



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 **May 18, 2023**, 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 to the Commission offices are requested no later than **5:00 p.m.** on **May 16, 2023**.

BACKGROUND/OVERVIEW:

On September 29, 2022, the Governor signed SB 1439 into law. SB 1439 amends Section 84308 of the Political Reform Act and the amendments took effect on January 1, 2023. Section 84308 places limitations on certain public officials' ability to take part in licensing, permitting, and other use entitlement proceedings when a party or participant in the proceeding has contributed more than \$250 to the official; the statute also prohibits officials from receiving contributions exceeding \$250 during such a proceeding and for a defined period after a final decision in the proceeding. SB 1439 broadens the scope of Section 84308 to apply to local elected officials when serving in a position directly elected by the voters and extends the period in which a post-proceeding contribution of more than \$250 is prohibited from three months after the final decision to 12 months after the final decision.

REGULATORY ACTION:

- Amend 2 Cal. Code Regs. Sections 18438.1, 18438.2, 18438.3, 18438.4, 18438.5, 18438.6, 18438.8, 18705
- Repeal and Adopt 2 Cal. Code Regs. Section 18438.7
- Adopt 2 Cal. Code Regs. Section 18438

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.

SCOPE:

Given the expansion of the scope of Section 84308 and the numerous questions the Commission has received regarding the application of Section 84308, Commission staff is proposing the adoption, repeal, and amendment of various regulations pertaining to Section 84308. The scope of the regulatory proposal may include any and all regulations necessary or relevant to the application of Section 84308. Specific proposals the Commission may review and discuss, include but are not limited to the following:

Adopt 2 Cal. Code Regs. Section 18438

Commission staff proposes to adopt regulation specifying that provisions of Section 84308, as amended by SB 1439, do not apply to contributions received or proceedings participated in prior to January 1, 2023, when SB 1439 took effect.

Amend 2 Cal. Code Regs. Section 18438.1

Commission staff proposes to re-organize the regulation, amend the definition of “officer,” amend the exception pertaining to members of the Governor’s cabinet, and add a provision defining “constitutional officer.”

Amend 2 Cal. Code Regs. Section 18438.2

Commission staff proposes to amend the definition of “proceeding involving a license, permit, or other entitlement for use” and amend the definition of “pending” or “pending before.”

Amend 2 Cal. Code Regs. Section 18438.3

Commission staff proposes to re-organize the regulation, amend the definition of “agent,” and move a provision pertaining to the aggregation of contributions made by an agent to Section 18438.5.

Amend 2 Cal. Code Regs. Section 18438.4

Commission staff proposes to amend the definition of “lobbies in person” and amend the definition of “otherwise acts to influence.”

Amend 2 Cal. Code Regs. Section 18438.5

Commission staff proposes to amend provisions pertaining to the aggregation of contributions made by parties, participants, agents, and related entities.

Amend 2 Cal. Code Regs. Section 18438.6

Commission staff proposes to amend to re-organize the regulation, clarify when a person “makes” a contribution for purposes of Section 84308, add a provision clarifying the types of committees through which an officer may receive a contribution, and amend provisions specifying when an officer “solicits” or “directs” a contribution.

Repeal and Adopt 2 Cal. Code Regs. Section 18438.7

Commission staff proposes repealing existing Section 18438.7 and adopting provisions on the determination of an officer's knowledge of a participant's financial interest, an officer's willful or knowing receipt of a contribution, an officer's return of a contribution, and an officer's ability to take part in a proceeding prior to the return of a contribution.

Amend 2 Cal. Code Regs. Section 18438.8

Commission staff proposes to amend disclosure requirements for officers under Section 84308, including specifying requirements in the circumstance where an officer learns of a contribution during, rather than prior to, a proceeding.

Amend 2 Cal. Code Regs. Section 18705

Commission staff proposes to amend to apply provisions pertaining to "legally required participation" to officers otherwise disqualified under Section 84308, in addition to officers otherwise disqualified under Section 87100 (already included within the scope of Regulation 18705).

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: Sections 81002, 81003, 84308, and 87101

CONTACT: Any inquiries should be made to Kevin Cornwall, 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>.