

April 21, 2023

Kevin Cornwall, Senior Commission Counsel
Fair Political Practices Commission
1102 Q Street, Suite 3800
Sacramento, CA 95811
kcornwall@fppc.ca.gov

**Re: Comments on Proposed Amendments to Regulations
Implementing Section 84308**

Dear Mr. Cornwall:

Our firm submits these comments in conjunction with the Interested Persons Meeting scheduled for April 21, 2023, regarding the proposed amendments to regulations implementing and interpreting California Government Code section 84308 (the Levine Act).

We appreciate the work of the Fair Political Practices Commission ("FPPC") staff in preparing these regulatory amendments to bring additional clarity to section 84308. We respectfully offer the following comments.

In proposed regulation section 18438.5(a)(2)(B), it appears that the word "principal" was inadvertently inserted in place of the word "participant." We recommend making the edit as follows:

(B) The period beginning on the date the party or ~~principal~~ ~~participant~~ first employed the agent as either a paid employee, contractor, or consultant.

The word "principal" is not used in section 84308, nor is that word used or defined elsewhere in any of the other proposed regulations. The "party or participant" phrasing tracks with section 84308, as well as the language of the preceding section 18438.5(a)(2) and subsequent section 18438(a)(3).

In proposed regulation 18438.5(a)(3) the reference to "an individual who directs and controls the entity or entity's contributions" is not clear. Adding a direction and control standard to proposed regulation 18438.5(a)(3) would require a much more specific definition of what direction and control means

in the context of the proposed aggregation requirements and which entity or entities are covered for purposes of section 84308.

Further, we recommend striking the phrase “or their agents” in proposed regulation 18438.5(a)(3):

(3) All contributions made by a party or participant’s parent or subsidiary entity, otherwise-related business entity, or an individual who directs and controls the entity or the entity’s contributions, ~~or their agents,~~ other than an uncompensated officer or other volunteer of a nonprofit organization.

Aggregating contributions from the “agents” of a party or participant are directly addressed in section 18438.5(a)(2) and an “agent” is clearly defined in section 18438.3. Adding a reference to “their agents” in section 18438.5(a)(3) is therefore unnecessary and, as currently drafted, could be read to conflict with, and thereby undermine, proposed regulation 18438.3. This duplicative reference to “agents” in section 18438.5(a)(3) must be removed to avoid confusion.

Thank you for your consideration of our comments and for the FPPC staff’s work in drafting these amended regulations to further clarify the implementation of section 84308.

Sincerely,


James W. Carson