



STATE OF CALIFORNIA  
**FAIR POLITICAL PRACTICES COMMISSION**  
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**To:** Chair Silver, Commissioners Brandt, Ortiz, and Wilson

**From:** Dave Bainbridge, General Counsel, Legal Division  
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**Subject:** **Prenotice Discussion, Proposed 18450.12 and Amendments to Regulation 18401**

**Date:** April 6, 2026

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### **Executive Summary**

To help provide greater transparency when artificial intelligence (“AI”) is used to create campaign advertisements, AB 2355, approved by the Governor on September 17, 2024, added Government Code Section 84514 to the Political Reform Act.<sup>1</sup> It requires any qualified political advertisement, that is generated in whole or in part using AI, to include a disclaimer stating that fact. Specifically, Section 84514 provides definitions for “artificial intelligence,” “generated or substantially altered using artificial intelligence,” and “qualified political advertisement” and requires specific disclosure for qualifying political advertisements.

Staff proposes a new Regulation 18450.12, clarifying the circumstances under which a campaign advertisement is “substantially altered using artificial intelligence,” thus requiring disclosure under Section 84514. Staff also proposes amendments to Regulation 18401, which makes explicit the application of existing recordkeeping requirements to all committee advertisements. Staff presents these proposed amended regulations for pre-notice discussion, with adoption proposed for the June 2026 Commission meeting.

### **Reason for Proposed Regulatory Action**

These proposed amendments arose from complaints received by the Enforcement Division. The complaints allege that campaign advertisements included images altered with AI but did not include the required disclaimer disclosing that fact. To assist the Enforcement Division in enforcing the new provisions of Section 84514 and, in light of the advancements in AI, staff has determined that additional guidance is necessary to better define when disclosure would be required for advertisements that are substantially altered using artificial intelligence. Legal Division staff also propose amending the comprehensive listing of recordkeeping requirements of Regulation 18401 to make explicit the duty to maintain a full and accurate copy

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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 18104 through 18998 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.

of any advertisements, and original versions of materials used to create advertisements that have been modified using AI to ensure compliance with the Act.

## Background

Advancements in AI technology have made it increasingly simple to produce false and misleading synthetic media that closely resemble authentic content (colloquially known as *deepfakes*). Moreover, platforms like social media have facilitated the rapid dissemination of deceptive media to large audiences at minimal cost. Given these developments, the potential threat posed by manipulated media to the integrity of future elections may be more significant than in the past. Though the public is broadly familiar with the concept of AI, many people report limited exposure to and direct experience with generative AI technologies and often struggle to discern whether images, audio, or video have been created with AI.<sup>2</sup>

The main defense against deceptive synthetic media depends in large part on the human observer’s perceptual detection capabilities—their ability to visually or auditorily identify AI-generated content. Yet the growing realism of synthetic media impedes this ability, heightening people’s vulnerability to synthetic content. Moreover, recent research shows that people overestimate their ability to identify synthetic media, with this misplaced confidence making them more susceptible to misinformation.<sup>3</sup>

### Attempts at Regulating AI in Election-Related Media

Slightly more than half of U.S. states have enacted statutes governing the use of AI in campaign advertisements, with legislation pending in several others. Most of these statutes require disclosure, while some prohibit the use of AI in campaign advertisements under specified conditions. The vast majority of other state statutes create civil penalties, while some also allow for criminal prosecution, including prison and/or a fine. While most other approaches use relatively similar language to define AI-generated media that would require disclosure, several statutes from other jurisdictions, as well as the two related pieces of California AI legislation discussed below, make clear that depictions of an individual doing or saying something that the individual did not do or say would require disclosure. Section 84514, however, does not include such specific language.

California recently enacted three bills in an effort to curb the spread of deceptive election-related content created or substantially altered using AI. The bills, AB 2655, AB 2839, and AB 2355, were intended to strengthen protections against digitally altered synthetic media in political communications and advertisements. The first two, AB 2655 and AB 2839, included definitions of “deepfakes,” a common term for a specific type of AI-generated or altered media, as part of their broader attempt to regulate AI-generated media by requiring online platforms to remove

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<sup>2</sup> “Labeling AI-generated media online.” *PNAS Nexus*, Volume 4, Issue 6, June 2025. [https://bpb-us-e1.wpmucdn.com/sites.mit.edu/dist/9/583/files/2026/01/labelingai-generated\\_2025.pdf](https://bpb-us-e1.wpmucdn.com/sites.mit.edu/dist/9/583/files/2026/01/labelingai-generated_2025.pdf)

<sup>3</sup> “People are overconfident about spotting AI faces, study finds” <https://techxplore.com/news/2026-02-people-overconfident-ai.html>

election-related material created by AI and prohibiting the use of AI to create deceptive election-related materials.<sup>4</sup> While the third, AB 2355, amended the Act by adding Section 84514, by requiring disclosure of the use of AI in campaign advertisements.

[AB 2655](#), *“Defending Democracy from Deepfake Deception Act of 2024”*

This legislation would have regulated “any materially deceptive and digitally modified or created content” and created certain removal obligations on large online platforms during the 120 days prior to an election, along with disclosure requirements beyond that period. The bill also required platforms to develop procedures for state residents to report content that has not been blocked or labeled in compliance with the law and authorized affected parties the ability to seek injunctive relief against a platform for noncompliance. The bill exempted content that was satire or parody. A Federal court invalidated this statute, finding that it violates Section 230 of the federal Communications Decency Act, a 1996 law that protects platforms from civil liability for what is posted to them. The court did not offer an opinion on the plaintiffs’ free speech arguments, finding it unnecessary to invalidate the statute. This decision has been appealed to the Ninth Circuit Court of Appeals.

[AB 2839](#), *“Elections: deceptive media in advertisements”*

This legislation would have prohibited the distribution of campaign advertisements and other election communications that contain media that has been digitally altered in a deceptive manner, and allowed courts to issue injunctive relief prohibiting the distribution of such content, and permits any recipient of this content to sue for general or special damages. Although the title of the bill referred to “advertisements,” it covered all “election communication,” including political satire. A Federal court invalidated this legislation as a violation of the First Amendment, writing that it serves as “a blunt tool that hinders humorous expression and unconstitutionally stifles the free and unfettered exchange of ideas which is so vital to American democratic debate.” The State has not appealed this decision.

While both bills were struck down by the court on grounds unrelated to the issues presented here, these bills, along with disclosure statutes in several other jurisdictions, serve to provide a clarifying definition of AI-generated media that would require disclosure. For instance, AB 2655 and AB 2938 both apply where the media in question portrays a candidate or elected official as doing or saying something that the candidate or elected official did not do or say. Michigan law requires disclosure when the media at issue “depicts an individual engaging in speech or conduct in which the depicted individual did not in fact engage.”<sup>5</sup> And Oregon law

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<sup>4</sup> Audio or visual media that is digitally created or modified such that it would falsely appear to a reasonable person to be an authentic record of the actual speech or conduct of the individual depicted in the media.

<sup>5</sup> MCL - Section 168.932f. <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-168-932f>

applies to a “depiction that a reasonable person would believe is of a real individual in appearance, speech or conduct but that did not actually occur in reality.”<sup>6</sup>

While AB 2355 was intended to address the same basic issue as AB 2655 and AB 2839. It differs from the other two bills in that it is more narrowly tailored, as it applies only to paid political advertisements, and merely requires the candidates or committees that pay for these advertisements to include disclosure language when AI is used to generate content. Also, it does not prohibit speech, or create liability for third party online platforms, which were the reasons the court struck the other two bills. Presumably, for these reasons AB 2355 has not faced a similar legal challenge.

[AB 2355](#), “*Political Reform Act of 1974: Political Advertisements: Artificial Intelligence*”

This legislation enacted Section 84514, which institutes baseline protections in political advertisements. It requires clear and conspicuous disclosure when an image, audio, or video in a political advertisement is generated or substantially altered using AI. It includes a definition of “artificial intelligence” and “qualified political advertisement,” which it defines as an advertisement that contains any image, audio, or video that is generated or substantially altered using artificial intelligence.

Section 84514 requires disclosure for content that is either: entirely created using AI and would falsely appear to a reasonable person to be authentic or materially altered by AI such that the alteration would cause a reasonable person to have a fundamentally different understanding of the altered media when comparing it to an unaltered version.

Under the first prong, the media must be entirely created with AI and cause a reasonable person to believe the content is genuine, thus establishing a clear, bright-line rule.

Under the second prong, the media must be materially altered using AI, and that alteration must cause a reasonable person to have a fundamentally different understanding of that media as a result of the alteration to trigger the disclosure requirement. Staff believes the term “fundamentally different understanding of the altered media” is susceptible to varying interpretations and for that reason is proposing a regulation that limits the applicability of that term consistent with the intent of the legislation. Similarly, while the statute creates exceptions from the disclosure requirement when the use of AI is for “a cosmetic adjustment, color edit, cropped image, or resized image,” staff believes there are other common tools that utilize AI technology that the legislation did not intend to capture which would benefit from clarification in regulation.

These three bills represent an attempt by the Legislature to regulate “materially deceptive” audio and visual materials that portray a candidate in a way that looks and appears remarkably real to even the most discerning person. Collectively, these three pieces of legislation sought to address “deepfakes” and similar AI manipulated media. According to the author of AB 2355,

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<sup>6</sup> OR Rev Stat § 260.268 (2025)  
<https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureDocument/SB1571/A-Engrossed>

“[i]n a world where fabricated material is easier to create than ever before, protections are needed to ensure that content created by digital tools is properly labelled. Sensible regulation of this type of digital content balances free speech protections with the need to protect and uphold faith in our electoral democracy by updating the disclosure requirements in the PRA.”

### *Recordkeeping Requirements*

The Act requires candidates, treasurers, principal officers, and elected officers to maintain detailed accounts, records, bills, and receipts necessary to prepare campaign statements, to establish that campaign statements were properly filed, and to otherwise comply with the provisions of the Act. (Section 84104). Regulation 18401 specifies the types of records that candidates and committees must maintain to satisfy Section 84104. While a committee should maintain copies of all advertisements it produces in order to show it has complied with the Act’s advertising disclosure requirements, Regulation 18401 does not specify the record retention requirements for committee advertisements. Staff proposes amending Regulation 18401 to provide specific guidance on the application of the Act’s recordkeeping requirement to committee advertisements.

This proposal adds provisions requiring committees to maintain copies of all advertisements it produces, as well as the original versions of materials used to create advertisements that have been modified using AI, to help ensure compliance with Section 84514.

## **Proposed Regulatory Action**

### *18450.12. Artificial Intelligence Disclosure*

This regulation provides further clarification that “qualified political advertisement” does not include advertisements generated with the assistance of artificial intelligence that is explicitly programmed with rules or tools solely designed to assist with grammar, spelling, or word suggestions without generating human likeness or voice. This provision makes clear that ordinary use of standardized editing software or programs, that would not result in a fundamentally different understanding of the media, would not require disclosure.

This regulation also interprets Section 84514 by clarifying that media is materially altered by artificial intelligence and that it will cause a reasonable person to have a fundamentally different understanding of the altered media when it depicts an individual saying or doing something the individual did not say or do, or contains a realistic depiction of something that did not occur. This clarifying definition is intended to avoid overly broad application of Section 84514.

### *18401. Required Recordkeeping for Chapters 4 & 5.*

The existing regulation requires candidates and committees to maintain detailed accounts, records, bills, and receipts as necessary to prepare campaign statements and comply with the reporting provisions of the Act. It contains specific requirements for the maintenance of original source documentation, including all communications caused to be sent by the candidate or

committee, including original copies of all mass mailings and electronic mass mailings. This amendment makes it clear that the recordkeeping requirements of Section 84104 extend to all committee advertisements. It also includes a requirement to maintain copies of any original versions of materials used to create advertisements that have been modified using AI.

### **Conclusion**

Additional guidance on when disclosure would be required for advertisements that are substantially altered using artificial intelligence, as well as further clarification on when standardized editing would not require disclosure, provides clarity to the regulated community, the general public, and Commission staff on a new law addressing a new problem. Staff also believes that further guidance implementing the requirements of Section 85414 will help to avoid over-disclosure, where all advertisements with relatively minor and non-substantive AI alterations include disclaimer language, rendering the effect of the warning inconsequential. Explicit clarification that the Act's recording requirements also apply to all committee advertisements, and adding a requirement to maintain copies of any original versions of materials used to create advertisements that have been modified using AI will help to ensure proper disclosure and compliance with the Act.

### **Attachments:**

**Proposed Regulation 18450.12**

**Proposed Amended Regulation 18401**