



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

To: Chair Silver, Commissioners Brandt, Ortiz, and Wilson

From: Dave Bainbridge, General Counsel, Legal Division
Zachary W. Norton, Senior Counsel, Legal Division

Subject: **Adoption of Proposed 18450.12 and Amendments to Regulation 18401**

Date: August 10, 2026

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.¹ 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 presents for adoption new Regulation 18450.12, clarifying the circumstances under which visual or audio media would falsely appear to a reasonable person to be authentic, or would cause a reasonable person to have a fundamentally different understanding of altered media as the result of the use of AI, thus requiring disclosure under Section 84514. Staff also proposes amendments to Regulation 18401, which make explicit the application of existing recordkeeping requirements to all committee advertisements. Staff presented these proposed amended regulations for pre-notice discussion at the May 2026 Commission meeting. They were also discussed by the Law and Policy Committee in July 2026. The version of Regulation 18450.12 presented for adoption reflects public comment from the regulated community and members of the Law and Policy Committee.

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 provide more clarity and 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 would be helpful to better define when disclosure would be required for advertisements that are entirely created or

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 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.

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 of advertisements, and, for qualified political advertisements, to retain authentic source or reference media in the same file format and condition as provided to the artificial intelligence system. Preserving the source and reference media in this form will assist the Commission in evaluating compliance with the Act.

Background

Advancements in AI technology have made it easy to produce campaign advertisements with minimal effort, cost, and time, allowing candidates and committees to easily communicate their messages. These advances have also made it 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.²

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.³

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.

² “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

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

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. AB 2655 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. AB 2839 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 would have allowed courts to issue injunctions prohibiting their distribution.

Both of these bills 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 election-related material created by AI and prohibiting the use of AI to create deceptive election-related materials.⁴ While the third bill and the focus regulatory proposal before the Commission, AB 2355, amended the Act by adding Section 84514, requiring disclosure of the use of AI in campaign advertisements. 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.

AB 2655 was struck down in Federal District Court because it conflicted with a federal statute, and AB 2839 was struck down by the same court for violating the First Amendment. However, 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 2839 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.”⁵ And Oregon law 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.”⁶

While AB 2355 was intended to address the same basic issue as the other two bills, 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. When first introduced, the initial language in the bill was much broader than the final version, and would have applied to a broader class of advertisements generated in whole or in part with AI. The Assembly Elections Committee expressed concerns over the disclaimer requirement being too broad and that incidental use of technology, such as AI-enabled autofocus for photographs, would trigger disclosure requirements. The Assembly

⁴ 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.

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

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

Judiciary Committee clarified that the focus of the statute should be limited to instances where the AI use was deceptive.

Significantly, Section 84514 does not prohibit political speech or create liability for third-party online platforms, which were the reasons the court struck down the other two bills. Section 84514 also applies to a much narrower category of speech than the other two bills. Presumably, for these reasons, Section 84514 has not faced a similar legal challenge.

Section 84514

Section 84514 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.

A threshold inquiry requires a determination of whether a committee has created, originally published, or originally distributed a qualified political advertisement.

Under the first prong, the media must be entirely created using AI and would falsely appear to a reasonable person to be authentic.

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 that whether visual or audio media would falsely appear to a reasonable person to be authentic, or would cause a reasonable person to have a fundamentally different understanding of the altered media is susceptible to varying interpretations and, for that reason, is proposing a regulation that clarifies the meaning of these terms consistent with the intent of the legislation. The reasonable person standard will necessarily depend on the election and jurisdiction, as campaign advertisements are, by their very nature, intended to be persuasive, and an alteration may have a different meaning depending on the context. The statute creates bright-line exceptions from the disclosure requirement when the use of AI is for “a cosmetic adjustment, color edit, cropped image, or resized image.”

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.

To help ensure compliance with Section 84514, this proposal adds provisions requiring committees to maintain copies of all advertisements it produces, as well as any authentic image, video or audio used to generate visual or audio media included in a qualified political advertisement.

Proposed Regulatory Action

18450.12. Artificial Intelligence Disclosure

These clarifying definitions are intended to provide guidance to the regulated community and avoid overly broad application of Section 84514. This regulation interprets Section 84514 by clarifying that:

Visual or audio media would falsely appear to a reasonable person to be authentic, or would cause a reasonable person to have a fundamentally different understanding of the altered media if the media depicts an identifiable person saying or doing something the person did not say or do, contains a realistic depiction of something that did not exist, occur, or appear as depicted, or presents the appearance or voice of an identifiable person in a way that is materially distinct from the unaltered media.

Visual or audio media entirely created or substantially altered using artificial intelligence is still subject to the disclaimer requirements even if it is also altered without the use of artificial intelligence. For example, using non-AI editing techniques to add text or make minor adjustments to a wholly AI-generated image for use in a mail piece would not alter the advertisement's characterization.

Disclosure is not required solely for AI visual media that is obviously animated or cartoonish.

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 requires a committee, when an authentic image, audio, or video is used as a source or reference input to an artificial intelligence system to generate visual or

audio media included in a qualified political advertisement, to retain the source or reference media in the same file format and condition as provided to the system, including any metadata contained in the file.

Summary of Public Comments

Staff contacted local San Francisco, Los Angeles, and San Diego ethics commissions to solicit feedback after the initial versions of the regulations were proposed in prenotice. In general, staff indicated they have not yet encountered specific problems related to AI advertisement disclosure, and provided general comments on the proposed language that have been addressed in the current version of the regulation. Michael Canning, Policy and Legislative Affairs Manager, San Francisco Ethics Commission, expresses support for the proposed recordkeeping amendment to Regulation 18401, stating that, beyond the AI disclaimer benefits, this amendment may also be valuable for their Audit and Enforcement divisions.

The proposed Regulation 18450.12 and Amendments to Regulation 18401 were presented to the Commission for prenotice discussion at the May 14, 2026, Commission meeting. They were also discussed at the July 16, 2026, Law and Policy Committee Meeting. Extensive public comment was provided in a “round table” discussion format at this meeting concerning disclaimer requirements for campaign advertisements utilizing AI. Participants in that meeting from the regulated community and other interested persons included: Hillary Lehr, Managing Director at Higher Grounds Labs, American Association of Political Consultants; Ashlee Titus, Partner, Bell, McAndrews & Hiltachk, LLP; K.C. Jenkins, Associate, Bell, McAndrews & Hiltachk, LLP; Matt Rexroad, Political Strategist; and Ken Wang, California Initiative for Technology and Democracy, a project of California Common Cause. That discussion can be viewed here: <https://www.fppc.ca.gov/events/law-and-policy/2026/july-16-2026-committee-agenda/>

Education and Outreach Efforts

Commission staff will distribute the regulation to interested parties by means of the “Newly Adopted, Amended or Repealed Regulations” email list, update the “Newly Adopted, Amended or Repealed Regulations” page on the website. Staff will also update training and educational materials to reflect these regulatory proposals.

Conclusion

Additional guidance on determining when visual or audio media would falsely appear to a reasonable person to be authentic, or would cause a reasonable person to have a fundamentally different understanding of the altered media, thus requiring 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 84514 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. The amendments to Regulation 18401 also explicitly clarify that the Act’s record keeping requirements apply to all committee advertisements, and add a requirement for

committees to retain source or reference media used with artificial intelligence to generate visual or audio media in a form that can assist the Commission in evaluating compliance with the Act.

Attachments:

Proposed Regulation 18450.12

Proposed Amended Regulation 18401

Section 84514 & Regulation 18450.12 Flow Chart