

Amend 2 Cal. Code Regs., Section 18360.1 to read:

§ 18360.1. Eligibility Requirements and Considerations for Campaign Violations – Streamline (Tiers One and Two), ~~Warning Letters~~ and the Political Reform Education Program (PREP).

(a) General. If eligible, filers may voluntarily resolve violations of the Political Reform Act (the “Act”) by ~~accepting a Warning Letter~~, completing the Political Reform Education Program (“PREP”), paying a Tier One Streamline penalty, or paying a Tier Two Streamline penalty, ~~or paying a Mainline penalty.~~

(1) The Chief of Enforcement will determine the appropriate form and amount of penalty to offer in settlement for a violation depending on the circumstances unless an exclusion applies, in which case the Executive Director of the Commission, after receipt of a recommendation by the Chief of Enforcement, will determine the appropriate form and amount of penalty. Mitigating circumstances result in consideration of ~~issuance of a Warning Letter~~ or participation in PREP instead of a Streamline penalty or a Tier One Streamline Penalty. Aggravating circumstances result in the consideration of either a Tier Two Streamline penalty or a Mainline penalty. A violation that is otherwise ineligible for PREP or a particular Streamline Tier may be considered for inclusion if another agency has already imposed a penalty or fee for the same violation. The Chief of Enforcement has the discretion to decline to charge particular counts after determining that an overall case is eligible for PREP or Streamline resolution.

(2) A Mainline penalty is generally higher, and the stipulation for a Streamline penalty need not include a full description of the violation and surrounding events but it shall include sufficient information to identify the specific violation(s) being charged and demonstrate why a Streamline penalty is appropriate under the terms of this regulation.

1 (3) Nothing in this regulation shall limit the authority of the Chief of Enforcement to
2 issue a warning letter where a violation of the Act is found but the seriousness of the offense is
3 low, public harm is minimal, or other mitigating circumstances are present such that a monetary
4 fine is not warranted. A Streamline stipulation may identify counts to which the respondent
5 admits liability without imposition of a monetary fine. Such a stipulation shall have the same
6 legal effect as a warning letter for purposes of determining whether a respondent qualifies for
7 PREP or either Streamline Tier for any subsequent violations of the same type.

8 (4) Nothing in this regulation shall limit the authority of the Commission to impose a
9 Mainline penalty for a particular violation under any Section of the Act or other regulations
10 relating to the Act, regardless of whether the violation is eligible for consideration of PREP or a
11 Streamline penalty, where the seriousness of the offense, the public harm, or other aggravating
12 circumstances are present such that a warning letter, participation in PREP, or a Streamline
13 penalty is not warranted.

14 (b) Types of Campaign Violations Eligible for ~~consideration of a Warning Letter, PREP,~~
15 ~~or a Streamline penalty~~ Resolution Under This Regulation.

16 (1) Late Campaign Statements ~~and~~ or Reports.

17 (2) Unreported Contributions ~~and~~ or Expenditures.

18 (3) Cash Contribution(s) or Expenditure(s) of \$100 or More.

19 (4) Campaign Bank Account.

20 (5) Committee Naming.

21 (6) Advertising and Mass Mailing Disclosures.

22 (7) Slate Mailer Organization Filing Issues.

23 (8) Recordkeeping.

(9) Major Donor Notifications.

(10) Late Campaign Statements and Reports (Major Donor Filers).

(11) Contribution Limits.

(12) Section 84308.

(13) Recurring Contributions.

(c) Penalty Amount. Penalties are not issued for a ~~Warning Letter~~ or completion of PREP. The Streamline penalty amount for each type of violation is found in Regulation 18360.3.

(d) General Requirements for Eligibility, Considerations, and Exclusions.

(1) For purposes of this regulation, “~~City and county small~~ committees” for the purposes of this regulation is defined as city and county committees in jurisdictions with a population of one million or less and state assembly committees, and “~~state large~~ committees” for the purposes of this regulation is defined as city and county committees in jurisdictions with a population of over one million and state committees, including state senate committees.

~~(2) General Eligibility Considerations for Issuance of a Warning Letter:~~

~~(A) Low level of experience and sophistication of the party.~~

~~(B) Lack of experience or knowledge of the Act's requirements caused multiple violations with minimal public harm that were corrected upon contact.~~

~~(C) Self-reported violations before public discovery.~~

~~(D) Violations resulted in minimal public harm, including low activity during the missing or late reporting period, low amount raised and spent for the election, and amount was a small percentage of overall activity.~~

~~(E) Committee has terminated.~~

~~(F) Unsuccessful or never obtained the office.~~

1 ~~(G) Illness, incapacitation, death, or otherwise unable to perform duties.~~

2 ~~(H) Fraudulent activity of another caused the violation.~~

3 ~~(I) Activity was reported by other participant in the transaction.~~

4 ~~(J) Activity was reported timely on another campaign statement or report of the filer.~~

5 ~~(K) The same candidate, committee, or principal officer has not been issued a Warning~~
6 ~~Letter for the same type of violation occurring within the last five years.~~

7 (23) A Respondent is excluded from PREP if they do not meet all of the following
8 eligibility criteria: General Eligibility Requirements for PREP:

9 (A) Respondent meets all the requirements listed in the PREP agreement, and

10 (B) Respondents ~~has~~ve not participated in PREP or been ordered to pay a penalty for the
11 same type of violation listed in subsection (b) within five years of the date the current violation
12 occurred ~~occurring within the last five years.~~

13 ~~(C) Respondent has little or no experience with the section of this title that they violated.~~

14 (34) A Respondent is excluded from both Streamline Tiers if they do not meet all of the
15 following eligibility criteria: General Eligibility Requirements for both Streamline Programs:

16 (A) Sign and submit to the Commission a Streamline Stipulation, decision, and order on a
17 form provided by the Commission,

18 (B) Pay a proposed penalty by cashier's check, electronic payment, or money order in an
19 amount as determined in Regulation 18360.3, and

20 (C) The same candidate, committee, or principal officer has not ~~paid~~ been ordered to pay
21 a prior penalty to the FPPC for the same type of violation in the same ~~tier~~ Streamline Tier
22 occurring within the last five years.

(45) A respondent is excluded Exclusions from a Warning Letter, PREP and both Streamline Tiers if evidence shows respondent Programs:

(A) ~~Any evidence of an i~~Intended to conceal or deliberately violate the Act or regulations relating to the Act;

(B) Presented the FPPC false or altered evidence or made false statements to the FPPC regarding material facts;

(C) ~~Evidence of I~~ntentionally interfered~~nee~~ with a witness in the FPPC matter;

(D) Committed a violation where, considering the totality of the circumstances, T~~he~~ extent and gravity of the public harm is more than minimal, or;

(E) Has other related violations under review for prosecution that are not eligible for ~~Warning Letter, PREP,~~ or a Streamline penalty.

(5) Compliance. Respondents must correct the underlying violation(s) by coming into compliance with the requirements of the Act prior to completing PREP or executing a Streamline stipulation. The Executive Director of the Commission, after receipt of a recommendation by the Chief of Enforcement, has discretion to waive this requirement where:

(A) The violation relates to non-filing, unreported information, or an advertising disclosure, and the FPPC determines that the outstanding information has been sufficiently disclosed in the stipulation or other public filings,

(B) One of the respondents is a committee, and the committee is being or has been administratively terminated,

(C) Failure to come into compliance would result in minimal public harm, or

(D) Other circumstances do not make it feasible for the respondents to come into compliance.

1 (e) Specific Requirements for Eligibility.

2 (1) Late Campaign Statements ~~and or~~ Reports. ~~Respondents who failed to timely file a~~
3 ~~campaign statement or report must file the late statement or report with the appropriate agency~~
4 ~~unless the relevant information was reported by the person elsewhere or the FPPC determines~~
5 ~~that the information has been sufficiently disclosed in the stipulation and/or other filings.~~

6 (A) ~~Considerations for a Warning Letter include:~~

7 (i) ~~Activity was unrelated to the election that triggered filing requirements.~~

8 (ii) ~~The late statement or report was filed more than three days prior to the relevant~~
9 ~~election.~~

10 (iii) ~~The candidate or candidate's wholly owned business was the source of 75% or more~~
11 ~~of the funds disclosed on the late statement or report.~~

12 (iv) ~~The statement or report was filed in the wrong jurisdiction.~~

13 (v) ~~The committee raised or spent not more than \$10,000 for the election.~~

14 (vi) ~~Contributions and expenditures on the late statement or report totaled not more than~~
15 ~~\$5,000 for city and county committees or not more than \$10,000 for state committees.~~

16 (AB) A violation for late filing of a campaign statement or report, other than a 24 Hour-
17 Report required to be filed by a committee as defined in Section 82013(a) and (b), is excluded
18 from PREP and Tier One Streamline if ~~Violations eligible for possible inclusion in PREP and~~
19 ~~Tier One Streamline:~~

20 (i) ~~Failure to timely file a statement excluding 24 Hour Reports as defined in Section~~
21 ~~82013(a) and (b) where the late filing at issue reported contributions and expenditures totaling~~
22 more than \$25,000 or less for city and county small committees, or more than \$50,000 or less for
23 state large committees.

1 ~~(Bii)~~ A violation for late filing of a 24 Hour-Report required to be filed by a committee as
2 defined in Section 82013(a) and (b) is excluded from PREP and Tier One Streamline unless:

3 ~~Failure to timely file a 24-Hour Report by a committee as defined in Section 82013(a) and (b)~~
4 ~~where~~

5 (i) The committee disclosed the contribution(s) or expenditure(s) on another statement or
6 report filed by the committee before the election.,

7 ~~(iii) Failure to timely file a 24-Hour Report required to be filed by a committee as defined~~
8 ~~in Section 82013(a) and (b) before the election where~~ Another committee disclosed the
9 contribution(s) or expenditure(s) on a timely-filed statement or report earlier than the last 16 days
10 before the election, and the late filing at issue reported contributions and expenditures totaling no
11 more than total amount the committee failed to timely report was \$25,000 or less for city and
12 county small committees, or no more than \$50,000 or less for state large committees.,

13 (iii) The committee raised or spent no more than \$10,000 in connection with the total
14 campaign, or

15 (iv) The committee was a candidate-controlled committee and the late-reported
16 contribution(s) or expenditure(s) were made entirely from the controlling candidate's own
17 personal funds.

18 ~~(C) (iv) Failure to timely file a 24-Hour Report required to be filed by a committee as~~
19 ~~defined in Section 82013(a) and (b) during the last 16 days before the election and was not filed~~
20 ~~before the election but~~ It shall be a factor for consideration of possible inclusion in PREP or Tier
21 One Streamline if the amount required to be reported during the last 16 days before the election
22 was de minimis in relation to the total campaign.

1 (DC) A violation for late filing of a campaign statement or report, other than a 24 Hour-
2 Report required to be filed by a committee as defined in Section 82013(a) and (b), is excluded
3 from Violations eligible for possible inclusion in Tier Two Streamline: if the late filing at issue
4 reported contributions and expenditures totaling more than

5 ~~(i) Violations where the committee's activity for the reporting period at issue totaled less~~
6 ~~than \$50,000 for city and county small committees; or less more than \$100,000 for state large~~
7 ~~committees.~~

8 (E) A violation for late filing of a 24 Hour-Report required to be filed by a committee as
9 defined in Section 82013(a) and (b) is excluded from Tier Two Streamline if the late filing at
10 issue reported contributions and expenditures totaling more than \$25,000 for small committees
11 or more than \$50,000 for large committees.

12 ~~(2) Unreported Contributions and or Expenditures. Respondents who failed to timely~~
13 ~~complete a campaign statement or report must file the necessary amendments with the~~
14 ~~appropriate agency unless the relevant information was reported by the person elsewhere or the~~
15 ~~FPPC determines that the information has been sufficiently disclosed in the stipulation and/or~~
16 ~~other filings.~~

17 ~~(A) Considerations for a Warning Letter include:~~

18 ~~(i) The unreported contributions or expenditures per campaign statement or report totaled~~
19 ~~not more than \$5,000 for city and county committees or totaled not more than \$10,000 for state~~
20 ~~committees.~~

21 ~~(ii) Activity was unrelated to the election that triggered filing requirements.~~

22 (AB) A violation for unreported contributions or unreported expenditures is excluded
23 from Violations eligible for possible inclusion in PREP and Tier One Streamline if:

1 ~~(i) The unreported contributions or unreported expenditures per campaign statement or~~
2 report totaled ~~not~~ more than \$10,000 for ~~city and county~~ small committees or ~~totaled not~~ more
3 than \$25,000 for ~~state~~ large committees.

4 ~~(B) A violation for unreported contributions or unreported expenditures is excluded~~
5 ~~from Violations eligible for possible inclusion in Tier Two Streamline: if~~

6 ~~(i) the unreported contributions or unreported expenditures per campaign statement or~~
7 ~~report Violations where the committee's activity for the reporting period at issue totaled more~~
8 ~~than \$10,000 or more but less than \$50,000 for city and county small committees; or \$25,000 or~~
9 ~~more but less more than \$100,000 for state large committees.~~

10 (3) Cash Contribution(s) or Expenditure(s) of \$100 or More. For purposes of this
11 regulation, "cCash" means legal tender, ~~and~~ cashier's checks, or similar instruments which are
12 not drawn on the contributor's account and that does not include the name of the contributor on
13 its face. ~~Refund to the source of the contribution or the State of California General Fund, if the~~
14 ~~source of a contribution cannot be located or is otherwise unavailable to receive the returned~~
15 ~~contribution. Disclose the source of the contribution(s) or recipient(s) of the expenditure(s) on~~
16 ~~the appropriate campaign statement(s) or report(s).~~

17 ~~(A) Considerations for a Warning Letter include:~~

18 ~~(i) The total amount of cash of \$100 or more received or spent for the reporting period~~
19 ~~was not greater than \$500.~~

20 ~~(AB) A violation for cash contribution(s) or expenditure(s) of \$100 or more is excluded~~
21 ~~from PREP and both Streamline Tiers if the Enforcement Division possesses evidence that:~~

22 (i) The majority of the cash of \$100 or more was not timely disclosed on a campaign
23 statement or report.

1 (ii) The campaign records were insufficient to determine if use of cash concealed other
2 violations, or

3 (iii) The person made personal use of campaign funds. The total amount of cash of \$100
4 or more for the reporting period was less than \$5,000.

5 (B) A violation for cash contribution(s) or expenditure(s) of \$100 or more is excluded
6 from Violations eligible for possible inclusion in PREP and Tier One Streamline if:

7 (i) Committees failed to timely disclose a majority of the cash of \$100 or more on a
8 campaign statement or report, if the total amount of cash was not more than \$10,000.

9 (ii) The total amount of cash for the reporting period was more than \$2,500 \$5,000 or
10 more but was not greater than \$10,000.

11 (C) A violation for cash contribution(s) or expenditure(s) of \$100 or more is excluded
12 from Violations eligible for possible inclusion in Tier Two Streamline if: the total amount of
13 cash of \$100 or more for the reporting period was more than \$5,000.

14 (D) For purposes of coming into compliance under subsection (d)(5), respondents who
15 received a cash contribution from a source other than a controlling candidate's own personal
16 funds should return the amount to the source of the contribution or, if the source of a contribution
17 cannot be located or is otherwise unavailable to receive the returned contribution, to the State of
18 California General Fund. Exclusions from a Warning Letter, PREP and both Streamline
19 Programs:

20 (i) The campaign records were insufficient to determine if use of cash concealed other
21 violations.

22 (ii) The person made personal use of campaign funds.

1 (4) Campaign Bank Account. ~~Disclose the contribution(s) or expenditure(s) on the~~
2 ~~appropriate campaign statement(s) or report(s).~~

3 ~~(A) Considerations for a Warning Letter include:~~

4 ~~(i) The contribution(s) or expenditure(s) was reported timely on the correct campaign~~
5 ~~statement or report of the committee.~~

6 ~~(ii) The candidate or the candidate's wholly owned business was the source of 50% or~~
7 ~~more of the committee's overall contributions.~~

8 ~~(iii) The activity was isolated to the beginning of the campaign.~~

9 ~~(AB) A violation of the campaign bank account requirement is excluded from~~ Violations
10 ~~eligible for possible inclusion in PREP and both Tier One Streamline Tiers if the Enforcement~~
11 ~~Division possesses evidence that:~~

12 ~~(i) The contributions or expenditures not deposited into or made from the campaign bank~~
13 ~~account were not reported prior to the relevant election,~~

14 ~~(ii) The campaign records were insufficient to determine if use of a non-campaign bank~~
15 ~~account concealed other violations, or~~

16 ~~(iii) The person made personal use of campaign funds.~~

17 ~~(B) A violation of the campaign bank account requirement is excluded from PREP and~~
18 ~~Tier One Streamline if the total amount of contributions or expenditures not deposited into or~~
19 ~~made from the campaign bank account was more than \$10,000, except that it may still be a factor~~
20 ~~for possible inclusion in PREP and Tier One Streamline if~~

21 ~~(i) The total amount raised and spent for the campaign was not greater than \$10,000 and~~
22 ~~the activity was reported prior to the relevant election.~~

1 ~~(ii) The total amount raised and spent for the campaign was more than \$10,000 and the~~
2 ~~activity outside the campaign bank account of more than \$10,000 but no greater than \$25,000~~
3 ~~was timely reported on campaign statements and was the result of the candidate utilizing their~~
4 ~~personal funds the total contributions not deposited in the campaign bank account during the~~
5 ~~reporting period was less than 10% of the total contributions received for that period.~~

6 ~~(iii) The total amount raised and spent for the campaign was more than \$10,000 and the~~
7 ~~total expenditures not made from the campaign bank account during the reporting period was~~
8 ~~less than 10% of the total expenditures made for that period.~~

9 (C) A violation of the campaign bank account requirement is excluded from Violations
10 eligible for possible inclusion in Tier Two Streamline:

11 ~~(i) The total contributions not deposited in the campaign bank account during the~~
12 ~~reporting period was greater than 10% but was not more than 40% of the total contributions~~
13 ~~received for that period. if the total amount of contributions or expenditures not deposited into or~~
14 ~~made from the campaign bank account was more than \$25,000, except that it may still be a factor~~
15 ~~for possible inclusion in Tier Two Streamline if the activity outside the campaign bank account~~
16 ~~of more than \$25,000 was timely reported on campaign statements and was the result of the~~
17 ~~candidate utilizing their personal funds.~~

18 ~~(ii) The total expenditures not made from the campaign bank account during the reporting~~
19 ~~period was greater than 10% but was not more than 40% of the total expenditures made for that~~
20 ~~period.~~

21 ~~(iii) The total amount of activity not deposited into or made from the campaign bank~~
22 ~~account was greater than \$10,000 but was not more than \$25,000.~~

23 (D) ~~Exclusions from a Warning Letter, PREP and both Streamline Programs:~~

1 ~~(i) The campaign records were insufficient to determine if use of cash concealed other~~
2 ~~violations.~~

3 ~~(ii) The person made personal use of campaign funds.~~

4 (5) Committee Naming. ~~Committee name must be amended to comply with committee~~
5 ~~naming requirements.~~

6 ~~(A) Considerations for a Warning Letter include:~~

7 ~~(i) Name included essentially all required elements and was not misleading.~~

8 ~~(AB) A violation of the committee naming requirement is excluded from~~ Exclusions from
9 PREP and Tier One Streamline if the Enforcement Division possesses evidence that:

10 ~~(i) The incorrect N~~name was misleading or ambiguous,;

11 (ii) ~~The f~~incorrect name caused advertisements to be incorrect and when included on an
12 advertisement, the incorrect name was ~~is~~ likely to result in confusion regarding the identity of the
13 committee responsible for the advertisement, or

14 ~~(iii) The f~~incorrect name failed to disclose a at least one sponsor.

15 ~~(B) It shall be a factor for consideration of possible inclusion in PREP or Tier One~~
16 Streamline if

17 ~~(iv) T~~he committee had ~~activity~~ contributions or expenditures of over \$10,000 or less for
18 the reporting period during which the committee's name was incorrect.

19 ~~(CB) A violation of the committee naming requirement is excluded from~~ Violations
20 ~~eligible for possible inclusion in~~ Tier Two Streamline the Enforcement Division possesses
21 evidence that:

22 ~~(i) The name was misleading or ambiguous.~~

1 ~~(ii) The incorrect name caused advertisements to be incorrect, which resulted in~~
2 ~~confusion regarding the identity of the committee responsible for the advertisement.~~

3 ~~(iii) The incorrect name failed to disclose a single more than one sponsor.~~

4 ~~(iv) The committee having activity over \$10,000 but not more than (D) It shall be a factor~~
5 ~~for consideration of possible inclusion in Tier Two Streamline if the committee had contributions~~
6 ~~or expenditures of \$50,000 or less for the reporting period during which the committee's name~~
7 ~~was incorrect.~~

8 (6) Advertising and Mass Mailing Disclosures. ~~Correction of the advertisement or mass~~
9 ~~mailing, if feasible, was done.~~

10 ~~(A) Violations eligible for possible inclusion in PREP and Tier One Streamline:~~

11 ~~(i) Failure to include “paid for by” or “ad paid for by” in the same manner and~~
12 ~~immediately adjacent to a committee name.~~

13 ~~(ii) Disclosures in a font type, color, position, or size that does not comply with a~~
14 ~~requirement but was as legible as the requirement.~~

15 ~~(iii) Disclosures that include a committee name that does not match the name as stated in~~
16 ~~the statement of organization but clearly identifies the source of the advertisement.~~

17 ~~(iv) Failure to include a street address but other identifying information, such as a website~~
18 ~~address, was included.~~

19 ~~(v) Inadvertent failure to list top contributors in proper order but they are all included.~~

20 ~~(vi) Required size or duration of disclosure was not correct, but the disclaimer was~~
21 ~~identifiable, and the remainder of the disclosure was correct.~~

22 ~~(vii) Failure to use the precise disclaimer language but the remainder of the disclosure~~
23 ~~was correct.~~

1 (B) ~~Exclusions from~~ A violation is excluded from PREP and Tier One Streamline if the
2 Enforcement Division possesses evidence that:

3 (i) The violation was likely to result in confusion regarding the identity of the candidate
4 or committee responsible for the advertisement; or

5 (ii) The advertisement or mass mailing contained two or more of the following missing
6 or incorrect disclosures: (1) the committee name requirement, (2) top contributor information
7 (top contributor must be substantially correct), or (3) the statement that the advertisement was
8 not authorized by a candidate or committee controlled by a candidate. Each missing or incorrect
9 top contributor is considered a single “missing or incorrect disclosure.”

10 (C) ~~Violations eligible for possible inclusion in~~ It shall be a factor for consideration of
11 possible inclusion in Tier Two Streamline if:

12 (i) The violation resulted from a lack of committee formation through ignorance of the
13 requirements and the committee raised not more than \$25,000 and spent not more than \$25,000; or

14 (ii) The violation ~~was inadvertent or negligent and~~ was disclosed on a campaign
15 statement or report of the committee but was likely to result in confusion regarding the identity
16 of the candidate or committee responsible for the advertisement; or

17 (iii) The advertisement or mass mailing contained no more than three of the following
18 missing or incorrect disclosures: (1) top contributor information (top contributor must be
19 substantially correct), (2) the statement that the advertisement was not authorized by a candidate
20 or committee controlled by a candidate, or (3) the committee name requirement. If there are two
21 or more missing or incorrect top contributors, the advertisement or mass mailing does not meet
22 the requirements of this inclusion.

1 (7) Slate Mailer Organization Filing Issues. ~~Slate Mailer Organizations qualify for~~
2 ~~possible participation in Tier One Streamline if they have~~ It shall be a factor for consideration of
3 possible inclusion in Tier One Streamline if a slate mailer organization timely filed campaign
4 statements and reports as a committee under the Act disclosing essentially all the information
5 required to be reported by the late filed slate mailer organization campaign statements and
6 reports.

7 (8) Recordkeeping. Violations shall be charged by calendar year unless discretion is used
8 by the Chief of Enforcement.

9 ~~(A) Considerations for a Warning Letter include:~~

10 ~~(i) The missing records do not rise to the level to be considered a material violation.~~

11 ~~(AB) Exclusions~~ A violation of the recordkeeping requirements is excluded from PREP
12 and Tier One Streamline if the Enforcement Division possesses evidence that:

13 (i) The lack of recordkeeping inhibited a FPPC or FTB audit ~~efforts.~~

14 (ii) The lack of recordkeeping made it impracticable to determine if the committee
15 substantially complied with the Act's campaign reporting requirements., or

16 (iii) The lack of recordkeeping may have inhibited discovery of other violations.

17 ~~(C) Violations eligible for~~ It shall be a factor for consideration of possible inclusion in
18 Tier Two Streamline if the violation was:

19 ~~(i) The inadvertent or negligent lack of recordkeeping inhibited audit efforts.~~

20 ~~(ii) The inadvertent or negligent lack of recordkeeping made it impracticable to determine~~
21 ~~if the committee substantially complied with the Act's campaign reporting requirements.~~

22 ~~(iii) The inadvertent or negligent lack of recordkeeping may have inhibited discovery of~~
23 ~~other violations.~~

(9) Major Donor Notifications.

(A) Considerations for a Warning Letter include:

(i) ~~The committee has been in existence not more than one year.~~

(ii) ~~The committee has not previously been required to send out the major donor notification.~~

(iii) ~~All persons who would have received the notifications timely filed campaign statement(s) or report(s) as a major donor committee, if required.~~

(B) ~~Violations eligible~~ It shall be a factor for possible inclusion in Tier One Streamline if the ÷

(i) ~~C~~committee failed to timely send out major donor notifications required by Section 84105.

(10) Late Campaign Statements and Reports (Major Donor Filers). ~~Respondents who failed to timely file a campaign statement or report as a major donor committee must file the late statement or report with the appropriate agency unless the relevant information was reported by the person elsewhere or the FPPC determines that the information has been sufficiently disclosed in the stipulation and/or other filings.~~

(A) Considerations for a Warning Letter include:

(i) ~~First-time major donor filer and the respondent was not sent the major donor notification as required.~~

(ii) ~~Contributions for the calendar year were \$50,000 or less.~~

(iii) ~~24-Hour Report(s) was filed prior to the relevant election and disclosed the contributions.~~

~~(BA) Violations eligible for possible inclusion in~~ A violation for late filing of a campaign statement or report by a major donor filer is excluded from PREP or Tier One Streamline if either:

(i) ~~The c~~Contributions for the calendar year ~~were not greater~~ totaled more than \$75,000, ~~or,~~

(ii) ~~The c~~Contributions required at least one 24-Hour Reports to be filed within the last 16 days before the relevant election and neither the donor nor the recipient of the contribution(s) timely filed a 24-Hour Report before the relevant election the required report(s).

~~(BC) Violations eligible for possible inclusion in~~ A violation for late filing of a campaign statement or report by a major donor filer is excluded from Tier Two Streamline if either the :

(i) ~~The c~~Contributions for the calendar year ~~were not~~ totaled more than \$150,000, ~~or,~~

(ii) ~~The c~~Contributions totaled more than \$100,000 and required at least one 24-Hour Reports to be filed within the last 16 days before the relevant election and neither the donor nor the recipient of the contribution(s) did not timely filed the required report(s). ~~a 24-Hour Report before the relevant election and the contributions did not total \$100,000 or greater.~~

(11) Contribution Limits. ~~Respondents who violated Sections 85301, 85302, 85303, 85316, or 85702 by making or receiving contributions over the limit or prohibition must refund the amount over the contribution limit or unlawfully obtained contribution(s) back to the source of the contribution(s) or the State of California General Fund, if the source of a contribution(s) cannot be located or is otherwise unavailable to receive the returned contribution.~~

~~(A) Considerations for a Warning Letter include:~~

(i) ~~The contribution(s) was reported timely on the correct campaign statement or report of the committee.~~

~~(ii) The contributions from that source totaled not more than \$50 over the applicable limit or ban.~~

~~(iii) The contribution was returned or attributed outside the 14 days of receiving the contribution but before the relevant election.~~

~~(iv) The contribution was outside the 90-day period preceding the relevant election.~~

~~(AB) Exclusions~~ A violation of the contribution limits is excluded from PREP and Tier One Streamline if :

~~(i) The contribution(s) was not reported timely on the correct campaign statement or report of the committee.~~

~~(ii) The contribution(s) from that source totaled more than \$500 over the applicable limit or ban.~~

(B) It shall be a factor for consideration of possible inclusion in PREP or Tier One Streamline if:

(i) The contribution was reported timely on the correct campaign statement or report of the committee, or

~~(iii) The contribution was within~~ outside the 90-day period preceding the relevant election.

(C) A violation of the contribution limits is excluded from ~~Violations eligible for possible inclusion in~~ Tier Two Streamline if :

~~(i) Committees failed to timely disclose a contribution over the limit on the correct campaign statement or report but only if the total amount over the limit was not greater than \$500.~~

1 ~~(ii) The contribution(s) from that source totaled more than \$51,000 over the applicable~~
2 ~~limit but was not greater than \$1,000 over the applicable limit or ban.~~

3 ~~(D~~iii~~) It shall be a factor for consideration of possible inclusion in Tier Two Streamline if~~
4 ~~the circumstances of the violation were limited to either of the following:~~

5 ~~(i) The contribution was not reported timely on the correct campaign statement or report~~
6 ~~of the committee, but only if the total amount over the limit was not more than \$500, or~~

7 ~~(ii) The contribution(s) being was within the 90-day period preceding the relevant~~
8 ~~election, but only if the total amount over the limit was not greater more than \$500.~~

9 ~~(E) For purposes of coming into compliance under subsection(d)(5), Respondents who~~
10 ~~violated Sections 85301, 85302, 85303, 85316, or 85702 by making or receiving contribution(s)~~
11 ~~over the limit or ban must refund the amount over the contribution limit or unlawfully obtained~~
12 ~~contribution(s) back to the source of the contribution(s) or, if the source of a contribution(s)~~
13 ~~cannot be located or is otherwise unavailable to receive the returned contribution, to the State of~~
14 ~~California General Fund.~~

15 ~~(12) Section 84308. Respondents who failed to timely disclose a contribution(s) of more~~
16 ~~than \$250 must disclose the contribution(s) to the appropriate agency unless the FPPC~~
17 ~~determines that the information has been sufficiently disclosed in the stipulation and/or other~~
18 ~~filings. Respondent officers must refund the amount greater than \$250 back to the source of the~~
19 ~~contribution(s) or the State of California General Fund, if the source of a contribution(s) cannot~~
20 ~~be located or is otherwise unavailable to receive the returned contribution.~~

21 ~~(A) Considerations for a Warning Letter include:~~

22 ~~(i) An untimely disclosure was untimely by 30 days or fewer and prior to a decision being~~
23 ~~rendered in the proceeding.~~

1 ~~(ii) A party that submitted an incomplete or otherwise inaccurate disclosure made a good~~
2 ~~faith effort to determine and include the required information, and any missing or inaccurately~~
3 ~~reported contribution(s) totaled fewer than \$250.~~

4 ~~(iii) A contribution that violated Section 84308 was greater than the limit by less than~~
5 ~~\$250, for a total contribution of less than \$500.~~

6 ~~(iv) A participant violated Section 84308 as a result of making a good faith, but inaccurate~~
7 ~~determination that they did not qualify as a “participant” or that the officer did not qualify as an~~
8 ~~“officer of the agency.”~~

9 (A) A violation is excluded from PREP and both Streamline Tiers if no disclosure was
10 made prior to a decision being rendered in the proceeding.

11 ~~(B) Violations eligible for possible inclusion in~~ A violation is excluded from PREP and
12 Tier One Streamline if :

13 ~~(i) An untimely disclosure was made prior to a decision being rendered in the proceeding.~~

14 ~~(ii) An untimely return of a contribution was untimely by 30 days or less and returned~~
15 ~~prior to a decision being rendered in a proceeding.~~

16 ~~(iii) A the contribution that violated Section 84308 was greater than the limit by less than~~
17 ~~\$500 or more, for a total contribution of less than \$750.~~

18 (C) It shall be a factor for consideration of possible inclusion in PREP or Tier One
19 Streamline if:

20 (i) An untimely disclosure was made prior to a decision being rendered in the proceeding,

21 (ii) An untimely return of a contribution was late by 30 days or less, or

22 ~~(iii) An officer violated Section 84308 as a result of making a good faith, but inaccurate~~
23 ~~determination that a person did not qualify as a “participant.”~~

1 ~~(D) Violations eligible for possible inclusion in~~ A violation is excluded from Tier Two
2 Streamline if the:

3 ~~(i) An untimely return of a contribution was late by more than 30 days but was returned~~
4 ~~prior to a decision being rendered in a proceeding.~~

5 ~~(ii) A contribution that violated Section 84308 was greater than the limit by less than~~
6 ~~\$1,000 or more, for a total contribution of less than \$1,250.~~

7 (E) It shall be a factor for consideration of possible inclusion in Tier Two Streamline if an
8 untimely return of a contribution was late by more than 30 days.

9 (13) Recurring Contributions. ~~Respondents who received recurring contributions~~
10 ~~unlawfully under Section 85701.5 must refund the amount of the unlawfully obtained~~
11 ~~contribution(s) back to the source of the contribution(s) or the State of California General Fund,~~
12 ~~if the source of a contribution(s) cannot be located or is otherwise unavailable to receive the~~
13 ~~returned contribution.~~

14 ~~(A) Considerations for a Warning Letter include:~~

15 ~~(i) The contribution(s) was reported timely on the correct campaign statement or report of~~
16 ~~the committee.~~

17 ~~(ii) Affirmative consent was incomplete or incorrect but was corrected.~~

18 ~~(iii) Some receipts were incomplete or incorrect but were corrected.~~

19 ~~(iv) All the necessary information to cancel the recurring contribution was not included in~~
20 ~~each communication with the contributor that concerned the contribution but was included in the~~
21 ~~majority of the communications.~~

22 ~~(v) A request to cancel or return was not completed timely but within 30 days.~~

1 ~~(AB) Violations eligible for possible inclusion in~~ A violation of the recurring contribution
2 requirements of the Act is excluded from Tier One Streamline if ÷

3 ~~(i) The recurring contribution solicitation required affirmative consent from the person~~
4 ~~making the recurring contribution but was not sent with the initial solicitation but was sent in~~
5 ~~later solicitations and the recurring contributions, from that source in the aggregate, were totaled~~
6 ~~more than \$1,000 but not more than \$10,000.~~

7 (B) It shall be a factor for consideration of possible inclusion in Tier One Streamline if
8 the circumstances of the violation were limited to any of the following:

9 (i) The recurring contribution solicitation required affirmative consent from the person
10 making the recurring contribution but was not sent with the initial solicitation but was sent in
11 later solicitations,

12 (ii) The recurring contribution solicitation did not provide all necessary information to
13 cancel the recurring contribution in the majority of the communications with the contributor that
14 concerned the contribution, ~~and the recurring contributions, from that source in the aggregate,~~
15 ~~were more than \$1,000 but not more than \$10,000.~~

16 (iii) The recurring contribution was accepted in response to a solicitation that did not
17 require affirmative consent, was returned to the contributor after 14 days but before 60 days of
18 the earlier of receipt of a request from the contributor to return the contribution or the date on
19 which the candidate or committee becomes aware that the solicitation of the recurring
20 contribution was in violation, or ~~and the recurring contributions, from that source in the~~
21 ~~aggregate, were more than \$1,000 but not more than \$10,000.~~

22 (iv) The recurring contribution was accepted after a contributor requested to cancel a
23 recurring contribution and not returned within 14 days but before 60 days of the request to cancel

1 the recurring contribution ~~and the recurring contributions, from that source in the aggregate,~~
2 ~~were more than \$1,000 but not more than \$10,000.~~

3 (C) For purposes of coming into compliance under subsection(d)(5), Respondents who
4 received recurring contributions unlawfully under Section 85701.5 should refund the amount of
5 the unlawfully obtained contribution(s) back to the source of the contribution(s) or, if the source
6 of a contribution(s) cannot be located or is otherwise unavailable to receive the returned
7 contribution, to the State of California General Fund.

8 NOTE: Authority cited: Section 83112, Government Code. Reference: Section 83116.5,
9 Government Code.