



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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NOTICE

**Fair Political Practices Commission Interested Persons Meeting
October 17, 2022, 10:00 a.m.
1102 Q Street, Suite 3800 Hearing Room
Sacramento, CA 95811**

Fair Political Practices Commission staff will hold an Interested Persons meeting on October 17, 2022, at 10:00 a.m. to solicit public input on regulatory proposals regarding lobbyist prohibitions. The proposals pertain to the Political Reform Act's lobbyist prohibition provisions, Sections 86203, 86205(a) and 86205(f).

With respect to lobbyist prohibition, current law makes it unlawful for a lobbyist or lobbying firm to make a gift, or arrange for the making of a gift, of more than \$10 in a calendar month to a public official. In addition, the law prohibits a lobbyist or lobbying firm from placing an official under personal obligation. Finally, the law currently prohibits a lobbyist or lobbying firm from accepting or agreeing to accept any payment contingent upon a specific outcome of any legislative or administrative action.

The Commission is interested in addressing multiple issues related to the lobbyist prohibition provisions through regulations. Regulatory proposals will be considered for adoption or amendment on or after November 17, 2022, the Commission's scheduled November meeting. Below are the regulatory proposals that the Commission may pursue, for which the Commission is soliciting public comments.

Proposed Regulations for Amendment:

- Regulation 18624. Lobbyist Arranging Gifts

Regulation 18624 implements the provisions of Section 86203. In a 1982 opinion, the Commission considered several factual scenarios, most involving a lobbyist making recommendations and providing information to the lobbyist's employer concerning gifts (luncheon/dinner) to public officials, to determine whether the hypothetical activities fell within the criteria the Commission established for when a lobbyist arranges the making of a gift by another. The opinion concluded those activities did not fall within the established criteria. In 1985, the Commission adopted Regulation 18624 and changed the criteria set forth in the 1982 opinion by defining when a lobbyist arranges for the making of a gift to include six specific activities that all involve communication by a lobbyist with the recipient of the gift. The proposed amendments to Regulation 18624 would simply clarify the hypothetical activities that the opinion concluded did not constitute a lobbyist arranging for the making of a gift under the opinion's criteria would likewise not fall within the current definition set forth in Regulation 18624.

- Regulation 18625. Placing Official Under Personal Obligation

Section 86205(a) prohibits a lobbyist or lobbying firm from placing officials under personal obligation which, under current Regulation 18265, includes providing loans to state or legislative officials. The prohibition helps to avoid the perception that through such activity, the official actions of state or legislative officials can be controlled. In a prior Enforcement matter, a lobbyist was alleged to have violated Section 86205(a) after he provided consulting services to candidates for the State Legislature who failed to pay the full contractually agreed upon amount. The lobbyist, who was registered to lobby the Legislature, was alleged to have placed the officials under personal obligation by not sufficiently attempting to collect the money owed after they were successfully elected. The respondent in the matter ultimately acknowledged that his conduct violated the prohibition. The proposed amendments to Regulation 18625 would clarify the application of Section 86205(a) to debt owed by an official to a lobbyist or lobbying firm.

Proposed Regulation for Adoption:

- Regulation 18626. Contingency Fees Prohibition

Section 86205(f) prohibits a lobbyist or lobbying firm from accepting or agreeing to accept “any payment in any way contingent” on a specific outcome of any legislative or administrative action. While there has never been a regulation interpreting this provision, the proposed regulation would provide a definition for the quoted phrase to clarify the broad application of the statutory prohibition. In addition, Section 86205(f) applies to a lobbying contract itself in that it prohibits a lobbyist or firm from *agreeing* to accept contingency fees in return for their lobbying services. Therefore, the proposed regulation would provide that a contract for lobbying services does not, in itself, violate the contingency fee prohibition if it contains the expressly agreed upon terms of compensation to be accepted and provides no discretion to make the agreed upon compensation dependent to any degree on a specific outcome of the legislative or administrative action.

ADDITIONAL INFORMATION:

Proposed language for the above regulations is attached for review and can also be found at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.

You may participate in this meeting in person at the Commission’s offices. You may also listen to and participate in this meeting by teleconference by calling: (877) 411-9748; access code 723284.

The Commission staff invites written comments addressing these topics. Address comments regarding the topic of this notice to Senior Commission Counsel Jack Woodside by email: commasst@fppc.ca.gov or to the address above. For questions about the meeting, you may contact Amanda Apostol at (916) 322-5660.