

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18320. Requests for Opinions.

(a) Opinion requests may be submitted to the Commission by any person whose duties under the Act are in question or by that person's representative.

(1) The identity of the person whose duties are in question shall be provided with the opinion request. If the opinion request is submitted by the representative of several persons similarly situated, the identity of at least one such person shall be provided with the opinion request.

(2) The immunity provided by Government Code section 83114 shall extend only to the person or persons identified in the opinion request.

(b) Opinion requests shall present all material facts as concisely as possible and shall state the question or questions based on the facts.

(c) The Commission staff shall maintain a master file containing all opinion requests. This file shall be open to public inspection.

(d) The Executive Director shall determine whether to grant or deny opinion requests.

(e) Within 14 days after the request is submitted, the person making the opinion request shall be notified in writing of the decision of the Executive Director. If the opinion request is denied, the notification shall state the reason for the denial and shall advise the person submitting the request of his right to appeal to the Commission pursuant to 2 Cal. Code Regs. section 18321.

(f) Among the criteria upon which denial of an opinion request may be based are the following:

(1) The question raised is covered by Commission regulations.

(2) The question raises no substantial question of interpretation and, therefore, requires only a routine reply more appropriately made by staff.

(3) The person who made the request does not have sufficient interest (standing) in the question to justify an opinion being issued.

(4) The question is hypothetical. However, opinion requests may be granted if the hypothetical facts stated represent an intended course of conduct which is contingent on the Commission's opinion.

(5) The question is overbroad in that it asks for an interpretation of the Act in general terms.

(6) The request does not present material facts and does not state a question based on the facts presented.

(7) The question is outside the scope of the Political Reform Act.

Note: Authority cited: Section 83112, Government Code. Reference: Section 83114, Government Code.

HISTORY

1. New section filed 8-1-75; effective thirtieth day thereafter (Register 75, No. 31).

2. Repealer and new section filed 5-10-76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 20).

3. Amendment of section heading filed 10-29-81; effective thirtieth day thereafter (Register 81, No. 44).

4. Amendment filed 7-14-83; effective thirtieth day thereafter (Register 83, No. 29).

5. Amendment of subsection (d) filed 6-29-84; effective thirtieth day thereafter (Register 84, No.

26).

6. Change without regulatory effect amending subsections (a)(2) and (e) filed 10-6-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 41).