



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **October 15, 2020**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m.** on **October 13, 2020**.

BACKGROUND/OVERVIEW:

The Commission's Streamline Settlement Program ("streamline program") was established for the Enforcement Division's prosecution of those violations with a lesser degree of public harm. A large percentage of cases before the Commission are resolved through the existing streamline program. Since the streamline program regulations were adopted in January 2019, 66% of all cases presented to the Commission were resolved through the program.

Violation types that can qualify for the streamline program currently include:

- Statement of Economic Interests Non-Filer
- Statement of Economic Interests Non-Reporter
- Campaign Statement/Report Non-Filer
- Campaign Statement/Report Non-Reporter
- Lobbyist/Lobbying Firm/Lobbyist Employer/Lobbying Coalition/\$5,000-Filer Report Non-Filer
- Unreported Lobbying Activity
- Cash Contributions or Expenditures of \$100 or more
- Campaign Bank Account
- Committee Naming
- Advertising and Mass Mailing Disclosures
- Recordkeeping
- Gift Limit
- Slate Mailer Organization Filing Issues
- Proper Recusal of a Conflict of Interest
- Major Donor Notification

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 18110 through 18997 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.

The Enforcement Division has discretion to include or exclude any case from the program based upon mitigating and aggravating circumstances. If mitigating circumstances exist, a case will result in a warning letter rather than a fine. If aggravating circumstances exist, the case is handled through the standard administrative process (i.e. Mainline). Penalties in streamline cases start at \$100 - \$200 and can increase based on the amount of activity not properly reported in the case, and the efforts required to gain compliance and resolve a case.

REGULATORY ACTION:

Amend 2 Cal. Code Regs. Sections 18360.1 and 18360.2.

Proposed amendments to Regulations 18360.1 and 18360.2 would:

- Add two categories of violations to the streamline program, namely major donor campaign statement and report filing violations and behested payment report filing violations.
- Establish a second tier for the streamline program with higher base fines for certain violations that do not qualify for the existing streamline program and therefore are currently addressed through the Enforcement Division mainline settlement process.
- Raise the fundraising limit for candidate committees in smaller jurisdictions to qualify for the streamline program for campaign violations.
- Create a default fundraising limit for candidates in special districts to qualify for the streamline program for campaign violations where the special district does not know, or does not provide, the district population to the FPPC.
- Increase the base penalty for lobbying entities that fail to timely file lobbying reports where the activity during the reporting period exceeds \$50,000.
- Delete a provision excluding a committee from qualifying for a streamline penalty for failure to report campaign activity when the unreported activity was 20% or more of the total contributions or expenditures during the reporting period.
- Eliminate stepped increases in the percentage multipliers for penalties currently determined based on when in the administrative process the case is resolved.
- Establish a penalty structure for violations qualifying for the proposed second tier of the streamline program

Further, in considering Regulations 18360.1 and 18360.2, the Commission may consider any issues pertaining to the revision of the Streamline Settlement Program including, but not limited to, the following:

- Types of violations included in the program.
- Factors for participation in the programs such as mitigating or aggravating circumstances.
- Penalty amount and structure.

Adopt 2 Cal. Code Regs. Section 18360.3.

Proposed Regulation 18360.3 would identify qualifying violations and establish eligibility requirements for the second tier of the streamline program.

SCOPE: The Commission may adopt the language noticed herein or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY: Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

REFERENCE: Section 83116.5, Government Code.

CONTACT: Any inquiries should be made to Dave Bainbridge, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; dbainbridge@fppc.ca.gov; or (916) 322-5660. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.