



NOTICE AND AGENDA Commission Meeting¹

San Diego City Administration Building
202 C Street, 12th Floor, Council Committee Room
San Diego, CA 92101

Thursday, May 16, 2019
10:00 A.M.

Under Government Code section 11123(a), all meetings of a state body are open and public, and all persons are permitted to attend any meeting of a state body, except as otherwise provided in that article. The section further states that the portion of the teleconferenced meeting that is required to be open to the public must be audible to the public at the location specified in the notice of the meeting. The Commission may take action on any item listed on this agenda.

Welcome

Richard C. Miadich, Chair

Public Comment

1. Public Comment for Items not on Agenda. During this comment period, any person is invited to speak on any topic that is not listed on this agenda. Action may not be taken on any matter raised during this public comment period until the matter is specifically listed on a future agenda. Those who wish to comment on an item that has been listed on this agenda may comment when that item has been opened for consideration by the Commission and before any action is taken.

2. San Diego Ethics Commission Presentation.

¹You can obtain further information about the meeting by contacting the Commission Assistant, 1102 Q Street, Suite 3000, Sacramento, CA, 95811, Tel. (916) 322-5745. Written comments on agenda items should be submitted to the Commission no later than 12:00 p.m. the day before the meeting in order to afford the Commissioners adequate time to fully consider the comments. Email comment letters directly to CommAsst@fppc.ca.gov.

The agenda and related documents are posted on the FPPC website at www.fppc.ca.gov. Materials submitted by the public regarding each agenda item will be made available on the website.

Members of the public may listen to the meeting by phone by calling (877) 411-9748; access code 723284; or watch the meeting via Webinar at [YouTube](https://www.youtube.com/watch?v=...).

The meeting location is accessible to the disabled. Persons who, due to a disability, need assistance in order to participate in this meeting should, prior to the meeting, contact the Commission Assistant at (916) 322-5745 (voice), CommAsst@fppc.ca.gov (e-mail) and ADACoordinator@fppc.ca.gov. TTY/TDD and Speech-to-Speech users may dial 7-1-1 for the California Relay Service to submit comments on an agenda item or to request special accommodations for persons with disabilities. Please allow three business days between the request and the meeting date.

Approval of Commission Minutes

3. Approval of March 2019 Commission Hearing Minutes.

Enforcement Consent Calendar 4-6

Items on the consent calendar will be taken up and voted on as a group. A Commissioner may request that an item be removed from consent, in which case it will be discussed separately in the meeting.

Campaign Late Filer

4. In the Matter of the Committee to Elect Gus Kramer and Gus Kramer; FPPC No. 17/142. Staff: Senior Commission Counsel Bridgette Castillo and Supervising Special Investigator Jeffrey Kamigaki. This matter arose from an audit performed by the Franchise Tax Board's Political Reform Audit Program. The respondent was represented by Thomas A. Willis of Remcho, Johansen & Purcell. Gus Kramer was a successful candidate for re-election for Contra Costa County Assessor in the June 3, 2014 Primary Election. Committee to Elect Gus Kramer was his candidate-controlled committee. The Committee and Kramer failed to timely file nine 24-Hour Reports, in violation of Government Code Section 84203 (1 count); and failed to properly disclose a loan on a semiannual campaign statement for the reporting period of July 1, 2013 through December 31, 2013, in violation of Government Code Section 84211, subdivisions (f), (g), and (k) (1 count). **Total Proposed Penalty: \$5,500.**

5. In the Matter of Citizens for Oakland, Harold Smith, and Robert Spears; FPPC No. 16/20098. Staff: Senior Commission Counsel Christopher Burton and Special Investigator Jay Martin. Citizens for Oakland was a primarily formed committee to support and oppose certain candidates for Mayor of Oakland in the November 4, 2014 General Election. Robert Spears was the Committee's principal officer and Harold Smith was the Committee's treasurer. The Committee, Spears, and Smith failed to identify the Committee as primarily formed on its Statement of Organization, and failed to fulfill the naming requirements for primarily formed committees, in violation of Government Code Sections 84101 and 84102, and Regulation 184502, subdivision (c)(3) (1 count); and failed to timely file a 24-Hour Report for 15 late contributions received, in violation of Government Code Section 84203 (1 count). **Total Proposed Penalty: \$5,000.**

Gift Over-the-Limit

6. In the Matter of George Dotson; FPPC No. 17/575. Staff: Senior Commission Counsel Christopher Burton and Special Investigator Garrett Micheels. George Dotson, a member of the Inglewood City Council, accepted a gift in excess of the annual gift limit from the Los Angeles Rams in 2016, in violation of Government Code Section 89503, subdivision (a) (1 count). **Total Proposed Penalty: \$2,000.**

Default Proceedings

Notice of Intent to Present Default Decision and Order at the June Commission Meeting

- 7. In the Matter of Eric Payne For SCCCD 2016 Trustee Area 2 and Eric Payne; FPPC No. 16/19917.** Staff: Assistant Chief Counsel Angela Brereton, and Associate Governmental Program Analyst Dominika Wojenska. Eric Payne has been a member of the Board of Trustees for the State Center Community College District (“SCCCD”) since his election in 2012, and was a successful candidate for re-election in the November 8, 2016 General Election. Eric Payne for SCCCD 2016 Trustee Area 2 was his candidate-controlled committee. Payne was the Committee’s treasurer during the 2016 campaign.
- Payne’s Violations:** Payne failed to timely file the Statement of Intention to be a Candidate prior to the 2016 re-election campaign, in violation of Government Code Section 85200 (1 count); failed to timely file and disclose sources of income and business positions on his 2012, 2013, 2014, 2015 and 2016 Annual Statement of Economic Interests, and his 2016 Candidate Statement of Economic Interests, in violation of Government Code Sections 87200, 87207, and 87209 (6 counts); and misused campaign funds to purchase campaign, business, or casual clothing, in violation of Government Code Section 89513, subdivision (d) (1 count). **Proposed Penalty: \$37,000.**
- The Committee and Payne’s Violations:** The Committee and Payne failed to timely amend their Statement of Organization to re-designate the Committee, in violation of Government Code Section 84103 (1 count); failed to timely file two semiannual campaign statements, in violation of Government Code Section 84200 (2 counts); failed to timely file two pre-election campaign statements, in violation of Government Code Section 84200.5 and 84200.8 (2 counts); failed to timely file four 24-Hour Reports, in violation of Government Code Section 84203, subdivision (a) (4 counts). The Committee and Payne failed to accurately report all contributions and expenditures on two pre-election campaign statements, in violation of Government Code Section 84211, subdivisions (a) - (d), (f), and (i) - (k) (1 count). The Committee and Payne received prohibited cash contributions and made prohibited cash expenditures, in violation of Government Code Section 84300, subdivision (a) and (b) (2 counts); and the Committee and Payne failed to maintain supporting records for contributions received and expenditures made, in violation of Government Code Section 84104 (1 count). **Total Proposed Penalty for the Committee and Payne: \$29,000.**
- 8. In the Matter of Santa Ana Committee for Safe Neighborhoods and Safe Access Supporting Measure BB and Opposing Measure CC, and Van Ton; FPPC No. 15/1004.** Staff: Commission Counsel Theresa Gilbertson, Special Investigator Marshall Miller, and Associate Governmental Program Analyst Dominika Wojenska. Santa Ana Committee for Safe Neighborhoods and Safe Access Supporting Measure BB and Opposing Measure CC was a local primarily formed ballot measure committee. Van Ton was the Committee’s treasurer. The Committee and Ton failed to timely file eight semiannual campaign statements, in violation of Government Code Section 84200 (8 counts); failed to timely file a pre-election campaign statement, in violation of Government Code Section 84200.5 (1 count); failed to timely file a 24-Hour Report, in violation of Government Code Section 84203 (1 count); and failed to accurately report expenditure information on a pre-election campaign statement and contributor information on a semiannual campaign statement, in violation of Government Code Section 84211 (2 counts). **Total Proposed Penalty: \$43,000.**

General Items 9-23

- 9. Assignment of Hearing to Administrative Law Judge (ALJ): In the Matter of G. Rick Marshall and G. Rick Marshall for School Board 2015; FPPC No. 15/2013.** Staff: Acting Executive Director Loressa Hon, Chief of Enforcement Galena West, and Commission Counsel Ruth Yang. The Acting Executive Director and the Chief of Enforcement are recommending that a hearing be conducted before an ALJ pursuant to Government Code Section 11512, subdivision (a). The ALJ will make a recommendation to the Commission on the findings of fact, law and penalty, if applicable, in the matter. The Commission will then have the opportunity to review the proposed decision and make the final determination on the case. If the Commission agrees with this recommendation, no action is required.
- 10. Proposed Adoption of Amendments to Regulations 18944.1, 18946, 18946.1, and 18942.** Staff: Brian Lau, Assistant General Counsel; and Zachary W. Norton, Senior Commission Counsel, Legal Division. Staff proposes adoption of amendments to Regulation 18944.1 that would clarify and enhance the requirements for written agency ticket distribution policies. Staff also proposes amending Regulation 18946 to clarify the definition of “fair value” where a ticket or pass for a luxury box or suite does not have a value indicated on its face; amending Regulation 18946.1 to replace the term “face value” with “fair value;” and amending Regulation 18942 to change a cross-reference to 18944.1.

Staff Memo

Proposed Repeal of Regulation 18944.1

Proposed Amendments to Regulation 18944.1

Proposed Amendments to Regulation 18946

Proposed Amendments to Regulation 18946.1

Proposed Amendments to Regulation 18942

- 11. Prenotice Discussion of Proposed Repeal and Adoption of Regulation 18329, Formal Written Advice and Informal Assistance.** Staff: Brian Lau, Assistant General Counsel; and Karen Harrison, Commission Counsel, Legal Division. Proposed amendments to Regulation 18329 to update and clarify the existing regulation concerning formal advice and informal assistance practices. It also proposes processes for Commission actions in responding to written requests, and details the Commission’s oversight role in the advice process. The proposed amendments are currently presented for discussion and direction by the Commission, and will be presented for adoption at a subsequent meeting.

Staff Memo

Proposed Regulation 18329 for Repeal

Proposed Regulation 18329 for Adoption

- 12. Prenotice Discussion of Amendments to Regulation 18702.1** Staff: Brian Lau, Assistant General Counsel; and Matthew F. Christy, Counsel, Legal Division. Staff proposes amendments to Regulation 18702.1 that would establish new bright-line materiality standards applicable to a governmental decision’s effect on an public official’s financial interest in a business entity in order to improve the regulation’s clarity and guidance. The proposed amendments are currently presented for discussion and direction by the Commission, and will be presented for adoption at a subsequent meeting.

Staff Memo

Proposed Repeal to Regulation 18702.1

Proposed Amendments to Regulation 18702.1

Chart of Amended Regulation 18702.1's Application to Various Business Sizes

- 13. Prenotice Discussion of Amendments to Regulation 18702.3** Staff: Brian Lau, Assistant General Counsel; and Kevin Cornwall, Commission Counsel. Staff proposes amendments to Regulation 18702.3 that would clarify the materiality standards in conflict of interest cases involving sources of income. The proposed amendments would establish bright-line materiality standards pertaining to source of income interests in nonprofit organizations and government entities, and would also broaden the “nexus” test to apply to an official’s spouse, amongst other proposed changes. The regulation is currently presented for discussion and direction by the Commission, and will be presented for adoption at a subsequent meeting.

Staff Memo

Proposed Regulation 18702.3

Repealed Regulation 18702.3

Materiality Threshold Examples: Gross Receipts or Assets/Liabilities

Materiality Threshold Examples: Expenses

- 14. Request for Regulations from the California Political Attorneys Association.** The Commission will discuss a letter from the California Political Attorneys Association dated April 1, 2019 requesting that the Commission make specific additional regulatory changes in 2019.

Letter from CPAA

- 15. Approval of Commissioner Compensation Request.** Staff: Loressa Hon, Acting Executive Director. Consideration of Commissioner’s requests for compensation exceeding 40 hours in a calendar month as required by the Commission’s Compensation and Reimbursement Policy.

Staff Memo

- 16. Committee Updates**

Budget and Personnel Committee Update.

Law and Policy Committee Update.

- 17. Budget Update.** Staff: Loressa Hon, Acting Executive Director.

Expenditure Report for 18/19 Third Quarter

- 18. Anti-Nepotism Policy.** Staff: Loressa Hon, Acting Executive Director and John Feser, Attorney IV. The Commission may discuss and approve the proposed Anti-Nepotism Policy. The policy is intended to uphold the merit principle of civil service by preventing preferential and unfair treatment of FPPC employees based on considerations of family or personal relationships. This policy is being presented to match current State rules.

Anti-Nepotism Policy

19. Cal-Access Replacement System Project. Staff: Phillip Ung, Legislative and External Affairs Director. The Commission will receive an update from staff on the status of the Cal-Access Replacement System Project. The Commission will discuss the project and may take action or adopt a policy position on the Cal-Access Replacement System Project, including actions on potential legislation.

Staff Memo

20. Legislative Update. Staff: Phillip Ung, Legislative and External Affairs, Director. The Commission will review and discuss recommendations from the Law & Policy Committee. The Commission will review and may take action on pending legislation.

Staff Memo

21. Advice Letter Report and Commission Review. Staff: Brian Lau, Assistant General Counsel. The Commission may review and discuss advice letters that have been issued since the March Executive Staff Report. The Commission may act to withdraw the advice provided.

Advice Letter Report

22. Executive Staff Reports.

Enforcement Division. Galena West, Enforcement Chief
Legal Division. Brian Lau, Assistant General Counsel
Executive Division. Jay Wierenga, Communications Director

Executive Staff Report

23. Commissioner Comments and Proposed Future Agenda Items.

Note: While a Commissioner may identify a topic of interest, the Commission may not substantially discuss or take action on any matter raised during the meeting that is not included on this agenda, except to decide to place the matter on the agenda of a future meeting. (Government Code Sections 11125 & 11125.7(a).)