

California Political Attorneys Association

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January 19, 2011

Chairman and Commissioners
Fair Political Practices Commission
428 "J" Street, Suite 620
Sacramento, CA 95814

Re: Proposed Amendments to Regulation 18313.5

Dear Chairman Schnur and Commissioners:

The California Political Attorneys Association ("CPAA") urges the Commission to decline to adopt the amendments to Regulation 18313.5. The Commission staff and Chairman Schnur have been open and helpful in holding an interested persons meeting and taking seriously the comments of CPAA and other members of the public. The CPAA, however, remains concerned about the posting of complaints. As the staff report points out in rejecting the posting of responses, we are concerned that complaints could result in the FPPC "website becoming a Commission facilitated medium for campaign messages." As previously noted, we are also concerned with the chilling effect on political actors and volunteer public officials who may be subject to negative publicity based on accusations that have not been reviewed and analyzed. Indeed, it is easy to imagine such complaints becoming a forum for defamatory statements, which under the FPPC's proposed posting policy, would be protected by the official proceeding defense under Civil Code section 47.

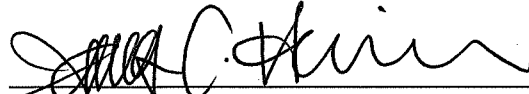
Frequently, in our discussions about the posting of complaints, the staff has rejected concerns about the possible ill-effects of publicizing uninvestigated complaints by arguing that no major problems have resulted from the publicizing of incomplete investigations. For instance, it is true that no one has made defamatory statements in a complaint, had that complaint posted on the website and then used the official proceeding defense to argue that he or she has no liability for disseminating the defamatory statements. (*See* Civil Code, §§ 45-47.) It is also true that the posting of the complaints have not yet become the centerpiece of a campaign strategy.

Just because neither of these things have happened in the course of the few months the complaints have been posted does not mean they are not worthy of consideration. It seems prudent to hold off on adopting the final regulation until the Commission has proceeded

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through a full election cycle and had the opportunity to consider the effects of posting the complaints before codifying the policy in a regulation.

Very truly yours,



On behalf of the CPAA Executive Committee:

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