

The FPPC Streamline Program: How It Works

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Part One: Overview of Enforcement Division Procedures and the Streamline Program



Purpose of this Presentation Series

- Today: General Overview of the Enforcement Division and the Streamline Program
- October: Violations eligible for streamline: Campaign
- November: Violations eligible for streamline: Ethics and Lobbying



The Enforcement Division - Organization

Chief of Enforcement & Chief Aide	Intake Team	Prosecutions Team	Investigations Team
	2 Managers 5 Attorneys 8 Analysts	1 Manager 9 Attorneys 3 Analysts	2 Managers 10 Investigators 1 Analyst 2 Interns



Intake: Complaints Filed with the Commission

- Sworn Complaints
 - Given under penalty of perjury
 - Complainant will receive a notice regarding the status of the complaint
 - Complainant will receive a notice when the case is resolved
 - Enforcement has 14 days to respond to the complaint
- Nonsworn Complaints
 - Complainant is identifiable
- Anonymous complaint



Intake: Alternative Case Origins

- Commission-Initiated Cases
 - Spinoff cases
 - Press coverage
 - Law Enforcement Tips
 - AdWATCH



Intake: Referrals

- Referrals from Filing Officers
 - Majority of submissions are SEI or campaign referrals from filing officers who have already attempted to gain compliance
 - Filing officers can include California Secretary of State, County Clerks, City Clerks, Special Districts, and the FPPC's SEI unit
 - Reports from the Franchise Tax Board's Political Reform Division and the FPPC's Audits and Assistance Division



Role of Intake

- Intake staff work to evaluate complaints and referrals to determine if a case should be opened. Staff will consider:
 - The information in the submission, including any material attached
 - Any additional information provided by the respondent, complainant (if identifiable), or filing officer after the initial submission
 - Publicly available information
- Intake staff and attorneys have a caseload
 - Cases that can be analyzed without a full investigation
 - Typically eligible for Streamline or PREP



Role of Prosecutions Staff

- More complex cases that need investigation by a Special Investigator
- Cases that require a Probable Cause Report because the case did not settle after attempts were made
- Other cases as necessary to ensure appropriate balance of caseloads



Types of Resolutions

- Mainline Stipulation
 - Admission of the violations
 - Agreement on relevant facts
 - Can require amendment/filing for disclosure
 - Public disclosure through a narrative
 - Monetary fine, typically higher penalties, full payment required prior to notice on agenda
 - Noticed and approved by the Commission



Types of Resolutions (cont.)

- Default Judgment
 - Max or near max penalty for all or most identified violations
- Judgment after an Administrative Hearing
- Civil Action
- Referral to Attorney General/District Attorney
- Closure Letters (e.g. Advisory, No Action)



Types of Resolutions (cont.)

- Streamline
 - Warning Letter
 - PREP (Political Reform Education Program)
 - Streamline Settlement
 - Admission of the violations
 - Respondents must sign a standardized form
 - Full payment required
 - Can require amendment/filing for disclosure



History of the FPPC's Streamline Program

- Program Started in 1999
 - Identified cases to resolve in an expedited manner: major donor nonfilers, SEI nonfilers, late 24-hour Contribution Reports (previously referred to as “Late Contribution Reports”)
- 2015 – Streamline Memorandum Approved by the Commission
 - SEI late filer and late reporter, campaign late filer and late reporter, lobbying late filer, and annual fee
 - Strict, bright-line eligibility requirements
- 2018/19 – Adopted Regulation, Added nine types of violations
 - Executed by Chief, the Commission does not vote on the stipulations
 - Nine violation types added



History of the FPPC's Streamline Program (cont.)

- 2020/21 Revision
 - Added Tier Two
 - Added two new violation types: Major donor filers and Behested payment reports
- 2023/24 Reorg & Revision
 - Changed how the size of the jurisdiction impacted eligibility
 - Changed the penalty structure and amounts
 - Added three new violation types: Contribution Limits, Section 84308, and Recurring Contributions



Streamline Program Requirements

- Respondents must sign and submit to the Commission a Streamline Stipulation, Decision, and Order on a form provided by the Commission
- Pay a proposed penalty by cashier's check, electronic payment, or money order in an amount as determined by the Regulation
- Respondent's prior history will impact eligibility
- For example, if previously paid Tier 1 penalty, future violation must be a Tier 2 if otherwise eligible for streamline



Excluded from the Streamline Program

- Violations Not Included in the Streamline Program
 - Cases where there is evidence of a violation that is not included in the Streamline Program
 - For example, Conflicts of Interest, Campaign Money Laundering, Personal Use of Campaign Funds, Campaigning at Public Expense, etc.
- The extent and gravity of the public harm is more than minimal
- Intent to Conceal or Deliberate Conduct
- False Evidence, Altered Evidence, False Statements
- Intentional Interference with a Witness
- Penalties in streamline exceed what would be assessed in a mainline



Additional Considerations for Eligibility

- Jurisdiction size will impact eligibility for some campaign-related violations
- “City and County” Committees
 - Committees in cities and counties with populations of one million or less
 - State Assembly committees
- “State” Committees
 - Committees in cities and counties with populations over one million
 - State committees, including state senate committees



Process: Evaluating a Streamline Case

- A standardized evaluation process for eligibility
 - Identify potential violations
 - Assess supporting evidence
 - Evaluate case as a whole
 - Evaluate individual violations, per violation type
 - Calculate the penalty
 - Comparable cases
- Peer Cross Review
- Supervisor Review
- Chief Review



Resolutions Within the Streamline Program

- Warning Letter
 - Low public harm, minor violations
 - Inexperienced candidates, treasurers, officials
 - Small committees, new committees, terminated committees
- PREP (Political Reform Education Program)
 - Respondents file all outstanding statements/reports, amend statements/reports as required to provide full transparency
 - Respondents complete an educational course provided by the PREP team
 - The case is closed with no further action
 - If Respondents violate in the same way in the next five years, the Respondent will not qualify for PREP again



Resolutions Within the Streamline Program (cont.)

- Streamline Settlement – Penalty
 - Tier One
 - Lower-level violations
 - Penalty range is typically \$100-500 or \$200-600
 - Penalty range will vary depending on the violation type
 - Some violation types carry higher penalties
 - Tier Two
 - A more serious violation
 - Potentially involve much higher penalties
 - Penalty range is typically \$600-1,000 or \$800-1,200



Streamline Penalties

- Base Penalty
 - Most violations have a base penalty range
- Penalty increase based on activity
 - Some violations have penalties that will elevate the base penalty based on the activity that was not timely reported
- Penalty Factors
 - The base penalty can vary in \$100 increments based on:
 - the extent and gravity of the public harm caused by the specific violation
 - the level of experience of the Respondents
 - the level of diligence to come into compliance
 - the level of cooperation during the investigation and in reaching settlement



Violation types Currently Included in the Streamline Program

- 18360.1 concerns campaign violations
 - Late Campaign Statements and Reports
 - Unreported Contributions and Expenditures
 - Cash Contribution(s) or Expenditure(s) of \$100 or More
 - Campaign Bank Account
 - Committee Naming
 - Advertising and Mass Mailing Disclosures
 - Slate Mailer Organization Filing Issues
 - Recordkeeping
 - Major Donor Notifications
 - Late Campaign Statements and Reports (Major Donor Filers)
 - Contribution Limits



Violation types Currently Included in the Streamline Program (cont.)

- 18360.2 concerns ethics and lobbying violations
 - Late Statement of Economic Interests
 - Unreported Economic Interest(s) on a Statement of Economic Interests
 - Late Lobbying Reports
 - Unreported Lobbying Activity
 - Gift Limit
 - Proper Recusal for a Conflict of Interest
 - Late Behested Payment Reports



Questions?

